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## **FOREWORD**

This pamphlet has been compiled in order to afford the applicant some of the basic information necessary to qualify for a license as a producer of property and casualty insurance. While the pamphlet should prove helpful to licensees and candidates for a license, it is not intended and should not be employed as a substitute for a thorough study of insurance laws and principles.

A knowledge of the Insurance Laws of the State of New Jersey and the principles of insurance, in practice and theory is necessary for the benefit and protection of the insurance buying public. However, it is not possible to include all of the laws in one publication such as this pamphlet.

The Department wishes to express its appreciation for the cooperation received from the Property and Casualty Insurance Advisory Council, interested persons, agents and brokers associations, and insurance companies which have participated in the preparation of our insurance programs.

**RICHARD C. McDONOUGH**  
*Commissioner of Insurance*

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# PART I

## INFORMATION PERTINENT TO APPLICANTS FOR PROPERTY AND CASUALTY INSURANCE AGENTS', BROKERS' AND SOLICITORS' LICENSES

In making application to obtain a license as a producer of property and casualty insurance information in this pamphlet should be considered, including excerpts of the laws pertaining to the licensing of insurance agents, brokers and solicitors. A schedule of tentative examination dates and a list of approved schools may be obtained from the Department. Application forms are furnished upon request from the License Division, New Jersey Department of Insurance, 201 East State Street, Trenton, New Jersey 08625. Instructions to complete the application are contained in the form itself. Completed applications should be mailed to the License Division together with appropriate fees (See Schedule of Fees).

### GENERAL

The following property and casualty insurance licenses are issued:

**Agent:**

- Automobile Physical Damage
- Bail Bond
- Company Employee
- Credit
- Fire, Casualty and Marine
- Health
- Mortgage Guaranty
- Ticket

**Broker**

Solicitor

Surplus Lines Agent

Surplus Lines Certificate of Eligibility

Each of the above licenses is briefly described under respective headings. Information is also provided with respect to the manner in which application must be made, educational requirements, examination requirements, fees required for examinations and licenses, preferences granted veterans, requirements for non-residents, use of business or trade names, partnerships, corporations, temporary licenses and office locations.

**Agent (Fire, Casualty and Marine)**

An applicant may obtain a license to solicit, negotiate and effect all kinds of fire, casualty and marine insurance, but not life insurance or annu-

ities, as a representative of an admitted property and casualty insurance company. The applicant must either be a resident of New Jersey or maintain his principal office in this State. Reciprocity is not granted to non-residents. A record of the contracts countersigned or issued by the Agent must be kept in a bona fide office located in this State which must be open to the general public. In addition to a license with authority to write fire, casualty and marine insurance, the following restricted insurance licenses may be obtained:

- Automobile Physical Damage
- Automobile (Combined-Physical Damage and Liability)\*
- Bail Bond
- Casualty\*
- Credit
- Fire\*
- Health
- Marine\*
- Mortgage Guaranty

\*These restricted licenses are issued on a renewal basis only.

A licensee can represent any number of admitted insurance companies as an agent by entering into written agreements with the companies granting such authority to act as their representative. The statutes permit agents to represent admitted insurance companies only. Authority is not vested in the licensee until the company has formally filed a certificate of appointment with the Department for the kind or kinds of insurance to be solicited and effected on behalf of the company in accordance with N.J.S.A. 17:22-6.14. Once filed, the certificate of appointment remains in effect until cancelled by the company or revoked by the Department as long as the licensee holds a valid agent's license.

**Broker**

A broker's license enables a producer to act as a representative or agent of the insured or prospective insured in the solicitation, negotiation or effectuation of insurance contracts. This license grants authority to write all kinds of property and casualty insurance, including health but not life insurance or annuities. Only qualified individuals who have attained 18 years of age may hold a

broker's license. A broker, or for that matter any individual may not act as an agent for an insurance company unless he is specifically licensed as an insurance agent and duly appointed by the company he represents.

Non-residents may also apply for brokers' licenses. Those non-residents currently holding a qualifying license in a foreign state may obtain a broker's license in this State without examination providing such foreign state reciprocates in the granting of a license to licensees of New Jersey.

#### **Solicitor**

Applicants seeking employment with an agent or broker must become licensed as solicitors. An employee of an agent or broker must work solely on behalf of such agent or broker in the solicitation and negotiation of insurance contracts and may not hold any other license. Solicitors are permitted to solicit and negotiate but may not effect contracts of insurance. The same authority as to kinds of insurance must be obtained under a solicitor's license as is held under the employer's license.

Non-residents may become solicitors for non-resident brokers and if such non-resident solicitor currently holds a qualifying license in a foreign state, he may obtain a solicitor's license in this State without an examination providing such state reciprocates in the granting of a license to licensees of New Jersey. A non-resident may become a solicitor for a resident agent or broker providing he meets the requirements of a resident licensee.

When a solicitor terminates his employer-employee relationship, he should obtain a letter of severance from his employer. Upon seeking another type of license or employment with another agent or broker, the letter of severance must be forwarded to the Department along with the application form.

Officer-employees of a corporation and members of a partnership that actively solicit, negotiate or effect contracts of insurance must become licensed in the same manner as the firm.

#### **Agent-Salaried Employee**

This is a restricted form of license issued to a regular salaried officer or employee of an insurance company authorized to do business in this State. Although this license permits the licensee to countersign policies, business may be solicited only from, for or in conjunction with a licensed insurance agent or broker. Applications for a company employee license must be accompanied by a letter from the company requesting such license and the

company must also file the certificate of appointment required by N.J.S.A. 17:22-6.14.

#### **Ticket Agent**

This license is issued to ticket selling agents of a railroad company, steamship company, carrier by air or public bus carrier. Licensees may act as insurance agents only with respect to the issuance of accident insurance tickets or insurance on personal effects while being carried as baggage in connection with transportation provided by a trip ticket. Regularly licensed agents with full property and casualty authority can write insurance in connection with ticket sales without a special license providing the insurance company files a certificate of appointment in accordance with N.J.S.A. 17:22-6.14.

#### **Surplus Lines Agent and Surplus Lines Certificate of Eligibility**

Any resident New Jersey licensed property and casualty insurance broker who is determined by the Commissioner to have had sufficient experience in the insurance business to be competent for the purpose, may be licensed as a surplus lines agent, upon filing the necessary bond in the amount of \$10,000 and upon taking and successfully passing a written examination as to surplus lines insurance. A New Jersey partnership or corporation licensed as an insurance broker may become licensed as surplus lines agent upon filing the necessary bond (in the amount of \$10,000 for partnerships and \$20,000 for corporations) and provided all members of the partnership or all of the officers of the corporation, as the case may be, who are actively engaged in the surplus lines business of the partnership or corporation possess the requisite experience and successfully pass the written examination mentioned above. The Commissioner will issue a certificate of eligibility to all such actively engaged members or officers who qualify.

### **PREREQUISITES TO EXAMINATION**

(Applicable to all residents or applicants who will work from offices located within the State of New Jersey)

#### **Property and Casualty Agent, Broker or Solicitor**

1. Evidence of the completion of a course of instruction in a school approved by the Department of Insurance in the form of a Certificate of Completion accompanying the application

form is required. Lists of approved schools are available from the Department upon request. The following courses have been approved by the Department:

Type of Course	Required Classroom Hours of Instruction
Property and Casualty Insurance Agent, Broker or Solicitor:	
Including Health Insurance	121
Excluding Health Insurance	109
Health Insurance Agent (Casualty Company Representative), Broker or Solicitor	24
Automobile Physical Damage Insurance Agent	30
Bail Bond Agent	16
Credit Insurance Agent	24
Mortgage Guaranty Insurance Agent	24

The educational requirement may be waived by the Commissioner if the applicant held a license (other than temporary) with the same authority requested in this or any other State. In the latter case, a letter of certification from the foreign state, setting forth the type of license held and the authority the licensee was granted thereunder, is required.

Courses approved by the Department do not qualify a Disabled Veteran under the provision of N.J.S.A. 17:22-6. See section on "Preference Granted Veterans" for details.

Holders of a Chartered Property and Casualty Underwriters designation or applicants who have completed courses in a duly recognized college or university which are equivalent to the programs of studies established by the Commissioner may be considered for a waiver of the educational requirement. If the evaluation of a course as described by a college or university discloses that it substantially conforms to the established minimum course outline, it will constitute compliance with the educational requirement under Chapter 69, Laws of 1958. The Commissioner may also grant a waiver of the educational requirement if the applicant has during the 10 year period immediately preceding the date of application attained a minimum of 5 years of broad and responsible experience in the field of insurance being applied for. In order to be considered for a waiver of the educational requirement on the basis of experience the applicant must submit detailed

documentation of his employment record including names and addresses of previous employers.

An applicant granted a waiver of the educational requirement on the basis of experience or by reason of having previously held a salaried company employee license issued pursuant to N.J.S.A. 17:22-6.10 will be permitted to take the examination twice, after which, if unsuccessful, such applicant will be required to satisfactorily complete a course of instruction approved by the Department.

An applicant for a property and casualty license who is presently entitled to hold a license with health authority will be granted a partial waiver of the educational requirement. Such an applicant will only be required to take the 109 hour course of instruction which does not include health insurance. A partial waiver for health insurance also extends to the examination. (See Schedule of Examinations.)

2. Payment of the prescribed examination fee and license fee (See Schedule of Fees) may be made only by checks or money orders made payable to the State of New Jersey—General Treasury.
3. Proper application form (Agent, Broker or Solicitor) must be completed in its entirety. Every question must be given a specific answer before it is filed to expedite the processing of the application. The application should be mailed to the License Division, Department of Insurance, 201 East State Street, Trenton, N.J. 08625, together with the Certificate of Completion from an approved school and the checks or money orders for the examination fee and license fee. If a waiver of the educational requirement is requested on the basis of being previously licensed in another state or on the basis of completing a course of insurance in a recognized college, a certification or transcript, respectively, should also accompany the application form. Non-residents working out of an office in New Jersey must also forward an executed Power of Attorney form with the application.

#### **Surplus Lines Agent's License and Certificate of Eligibility**

1. In addition to qualifying for a broker's license an applicant for a surplus lines agent's license must file a bond in the minimum amount of \$10,000. for individuals and partnerships, and \$20,000. for corporations.

2. Properly completed applications and bond where required must be filed together with the prescribed examination and license fees before an examination is scheduled.

## EXAMINATIONS

Upon receipt of the application form, together with the necessary attachments and fees, it is

processed by the License Division. If it conforms to the requirements of the License Law, it is approved and the candidate is scheduled for examination. Examinations are held in the Newark, Trenton and Camden areas on the dates set forth in a tentative schedule which is available from the License Division upon request. Following is a breakdown of the time allowed and the number of questions included in each type of examination:

Type of Examination	Hours	Number of Questions*	Authority Code Designation
Property and Casualty Agent, Broker and Solicitor: Including Health Insurance	3	150	345
**Excluding Health Insurance	2 1/2	125	345
Health Insurance Agent	1	50	2
Automobile Physical Damage Insurance Agent	1	50	8
Bail Bond Agent	1	50	9
Surplus Lines Agent	1	50	***
Credit Insurance Agent	1	50	6
Mortgage Guaranty Insurance Agent	1	50	23

\*Subject to change.

\*\*Only available to applicants who have previously qualified for health insurance.

\*\*\*Authority restricted to kinds of insurance permitted under surplus lines law.

The examination is of the objective type, usually multiple choice. Samples of questions asked on previous examinations may be found under Part III.

Examinations are given in writing upon forms furnished by the Department of Insurance. The questions are of the objective type and may be true or false or multiple choice. They are not designed to be confusing or difficult. The examination is intended to determine the knowledge of the applicant and not his ability to memorize answers. In some objective type questions more than one choice may seem correct though there is only one choice which best answers the question. Instructions in the proper manner of answering questions will be given the applicant at the time he makes his appearance for the examination.

Applicants are permitted to take the examination as often as necessary in order to pass, except that applicants granted a waiver on the basis of being previously licensed as a salaried company employee or on the basis of experience will only be permitted to take the examination twice. If not successful in passing the examination after two

attempts then the applicant must meet the educational requirements.

Examinees that fail may review their examination papers by making an appointment within a reasonable time after taking the examination. Appointments may be made by addressing the request to the Educational and Examination Section, License Division, New Jersey Department of Insurance, 201 East State Street, Trenton, New Jersey 08625 or by phoning Area Code 609-292-5075.

### LICENSES REQUIRING NO EXAMINATION

Examinations are not required to be given to applicants for a license as a Ticket Agent or a Company-Employee Agent. Applicants for a Ticket Agent's license must complete a special Ticket Agent's application form. Applicants for a Company-Employee Agent's license make application under the regular agent's application form, which must be accompanied by a letter of authorization signed by an officer of the company's home office. Such licenses are restricted only to such authority as granted by N.J.S.A. 17:22-6.10.

Chartered Property and Casualty Underwriters may obtain a license without examination provided they furnish evidence of having received the CPCU designation. Chartered Life Underwriters may obtain a license restricted to health insurance without examination by furnishing evidence of

having received the CLU designation.

Disabled Veterans meeting certain requirements may obtain a license without examination. All Veterans may reinstate their licenses without examination at any time. See section entitled "Preference Granted Veterans."

### FEES AND EXPIRATION DATES OF LICENSES

Type of Property and/or Casualty License	Examination Fee*	Annual License Fee	Expires Periodically On	Licenses Will Be Issued On A Bi-ennial Basis Effective**
Agent	\$15.00	\$15.00	April 30	May 1, 1974
Broker	\$15.00	\$35.00	Oct. 31	November 1, 1973
Solicitor	\$15.00	\$35.00	Oct. 31	November 1, 1973
Agent-Company Employee	—	\$15.00	April 30	May 1, 1974
Ticket Agent	—	\$10.00	April 30	May 1, 1974
Surplus Lines Agent	\$10.00	\$100.00	Oct. 31	November 1, 1973
Surplus Lines Certificate of Eligibility	\$10.00	\$10.00	Oct. 31	November 1, 1973

\*Examination Fee is non-refundable once applicant has been scheduled to appear for an examination.

\*\*Chapter 108, Laws of 1972 requires that all licenses be issued bi-ennially.

Separate checks or money orders should be made out for the examination fee and the license fee. Such checks or money orders should be made payable to the State of New Jersey—General Treasury as currency cannot be accepted in payment of fees.

All members of a partnership or all officers of a corporation active in the production of insurance on New Jersey risks must become licensed as an agent or broker (as the case may be) as well as the partnership or corporation itself. In addition, all employees of an individual or partnership, or non-officer employees of a corporation who are actively engaged in soliciting or negotiating insurance on New Jersey risks must become licensed as solicitors.

#### PREFERENCE GRANTED VETERANS

##### Disabled Veterans

N.J.S.A. 17:22-6 provides that a property and casualty insurance agent's, broker's or solicitor's license may be issued without examination and without cost to a citizen of this State who while serving in the military or naval forces of the United States in any war was wounded or disabled in the line of duty, honorably discharged, and who has completed a course of instruction prescribed

by the Federal Government or approved by the Department of Education.

Before the privileges contained in the Statutes can be obtained, however, it will be necessary for the applicant to submit proof of the following facts:

1. That he is a citizen of this State.
2. That he served in the military or naval forces of the United States in any war.
3. That he was honorably discharged.
4. That he was wounded or disabled in the line of duty.
5. That he has obtained a certificate from the Veterans Administration certifying that he has completed a vocational course as set forth in the Act qualifying him as aforesaid under the authorization of the Veterans Administration.
6. That the vocational course has the approval of the New Jersey State Department of Education.

Under present requirements a minimum of 16 semester credit hours must be completed in a recognized college or university. The course of instruction required by the Department under N.J.S.A. 17:22-6.6 and described under "Prerequisites to Examination" does not qualify a

Disabled Veteran under N.J.S.A. 17:22-6 to obtain a license without examination or without a fee.

### **All Veterans**

If the application is for a license as an insurance agent, broker or solicitor and the applicant is a citizen of this State and has served in the Armed Forces of the United States in any war, and has been honorably discharged or released under conditions other than dishonorable, and was the holder at any time of an agent's certificate of authority or license, broker's or solicitor's license, in this State, the Commissioner may waive examination for license for the same kind or kinds of insurance the applicant was previously authorized to transact.

Applicant must submit proof that:

1. He is a citizen of New Jersey.
2. He served in the military or naval forces of the United States in any war.
3. He was honorably discharged.

### **REQUIREMENTS FOR NON-RESIDENTS**

If the applicant for a broker's or solicitor's license is a non-resident, the applicant shall, by a duly executed Power of Attorney filed with the Commissioner, constitute the Commissioner and his successors in office as his true and lawful attorney, upon whom any original process in any action or legal proceedings against him may be served.

A non-resident applicant for a broker's license must show that he is the holder of an unexpired license (other than temporary) as an insurance broker in the state of his residence or in which he maintains his principal office for the conduct of his insurance business. If the domiciliary state does not issue a broker's license, an agent's license with full fire, casualty and marine authority will be recognized if reciprocity is granted licensees of New Jersey by such foreign state.

A broker's license issued to a non-resident is limited to the lines of authority for which the applicant is licensed in his home state or in which he maintains his principal office for conduct of business.

The Commissioner may waive the personal examination of such non-resident applicant provided the state in which the applicant is licensed requires no like examination of licensed brokers or solicitors of the State of New Jersey and provided a reciprocal agreement is in effect.

Should a non-resident ultimately establish residence in New Jersey or work from an office in this State he must then qualify in the same manner as a resident.

### **USE OF BUSINESS OR TRADE NAME**

If the name under which an applicant intends to do business as an individual proprietorship is other than that of the individual, he is required to attach a certified copy of the Certificate of Trade Name that has been filed with the proper County Clerk or other official in the State of New Jersey, showing that he has complied with the requirements of N.J.S.A. 56:1-1 through N.J.S.A. 56:1-5.

A partnership must furnish the Insurance License Division with a certified copy of the Partnership Business Name Certificate filed with the County Clerk of one of the counties in New Jersey.

Before a Certificate of Trade Name is filed with the County Clerk's office the fictitious name should be referred to the License Division to ascertain if it is acceptable. Identical or misleading fictitious names are not permitted. Names including the word "Insurance" or a synonym must contain other words such as agency or brokerage that properly describe the nature of the operation.

Non-resident applicants should note that they are not to file a certified copy of Business Name or Trade Name Certificate from a State other than New Jersey unless such Certificate has been filed with a County Clerk's office in this State, in which case it must be certified by an official of such County Clerk's office in New Jersey.

### **CORPORATIONS AND PARTNERSHIPS**

A license may be issued to a corporation or partnership to operate as a property and casualty insurance agent or insurance broker provided all officers of the corporation or all members of the partnership actively engaged as an agent or broker in the writing of insurance on New Jersey risks are also properly licensed as agents or brokers. All non-officer employees of the corporation or partnership actively soliciting and negotiating contracts of insurance must become licensed as solicitors.

Where the request is for a license in the name of a foreign corporation for the sole purpose of conducting business as a property and casualty insurance broker, the applicant may be licensed without first obtaining a license under the General Corporation Act.

## TEMPORARY LICENSES

In the event of death or serious disablement resulting in the inability of an agent or broker to further conduct his or her business and no other authorized agent or broker is available to carry on, the Commissioner may issue a temporary license to another person to conduct the insurance business of such agent or broker.

A temporary license may be issued for a period of up to six months in duration. If a temporary licensee wishes to conduct an insurance business after the expiration of his license he or she must qualify for a regular license in the manner prescribed herein.

A doctor's certificate in the case of serious disablement and a death certificate in the case of death must accompany the application form together with the appropriate license fee. In addition a written request for a temporary license from the licensee who is disabled or the administrator or executor of the licensee's estate in the event of death must also be furnished to the Department. All licenses held by the deceased at the time of death must be returned for cancellation.

## OFFICE LOCATIONS

Agents and resident brokers must maintain a bona fide office open to the general public during regular business hours in which records of insurance contracts are kept. Applicants for agents' or brokers' licenses that contemplate using office facilities jointly with another licensee must provide the Department with written statements that the insurance businesses will be separate, distinct and apart and that separate records and bank accounts will be maintained in connection therewith. Such a statement must also be provided by any other agent or broker using the same office location.

Licensees may conduct operations from a branch office providing the staff at the branch office is properly licensed. A duplicate copy of the license may be obtained for display purposes by forwarding such request to the License Division, together with a check or money order in the amount of \$1.00, made out to the State of New Jersey - General Treasury.

\* \* \*

Inquiries and requests for application forms may be directed to the License Division, Department of Insurance, 201 East State Street, Trenton, New Jersey 08625. It is requested that all inquiries be made by letter; however, if the matter requires immediate attention you may call Area Code 609-292-5075.

# PART II SYLLABI

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  3. Policy, including endorsements and attached papers constitutes the entire contract
  4. Changes
  5. Representations, warranties and concealment
  6. Assignment clause
  7. Policy limitations, exclusions and reductions
  8. Probationary period
  9. Waiting period
  10. Co-insurance
  11. Deductible provisions
  12. Proration of benefits
  13. Cancellation
- D. Types of coverage
1. Individual and family
    - a. Commercial, industrial, limited contracts and life riders
    - b. Noncancellable and guaranteed renewable contracts
  2. Group
    - a. Eligibility requirements
    - b. Contributory and non-contributory
    - c. Conversion privilege
    - d. Franchise
    - e. Blanket
    - f. Association
  3. Basic types of contracts
    - a. Expense coverages
      - Hospital and nursing benefits
      - Surgical and medical insurance

*(Health Insurance – continued)*

- Major medical and comprehensive insurance
- Indemnity contracts and service contracts
- b. Income coverages
  - Partial and total disability
  - Dismemberment and loss of sight
  - Accidental death
  - Non-disabling injuries benefit
  - Double indemnity
  - Waiver of premium
  - Hospital income
- 4. Types of insurance carriers
  - a. Mutual
  - b. Stock
  - c. Fraternal
  - d. Blue Cross and Blue Shield Plans

**II. FUNDAMENTAL ELEMENTS OF HEALTH INSURANCE UNDERWRITING**

- A. Underwriting considerations
  - 1. Application
  - 2. Physical conditions
  - 3. Occupation
  - 4. Moral hazard and morale hazard
  - 5. Over-insurance
  - 6. Malingering
  - 7. Substandard risks
  - 8. Prevalence rates of disability-incidence (frequency)
    - Severity
- B. Contract benefits
  - 1. Indemnification for expenses incurred
  - 2. Compensation for loss of earning power

**III. POLICY PROVISIONS AND REQUIREMENTS**

- A. General requirements
  - 1. Consideration must be expressed in the policy
  - 2. Effective date and termination date must be stipulated
  - 3. Only one person may be covered except that such person's spouse and dependent children under nineteen may also be covered
  - 4. The type used in the policy must be at least 10 points and may not give undue prominence to any portion of the text

**B. Required provisions**

- 1. Entire contract
- 2. Incontestability
- 3. Grace period
- 4. Reinstatement
- 5. Notice of claim
- 6. Claim forms
- 7. Proofs of loss
- 8. Payment of claims
- 9. Physical examinations and autopsy
- 10. Legal actions
- 11. Change of beneficiary

**C. Elective provisions**

- 1. Change of occupation
- 2. Misstatement of age
- 3. Other insurance with insuring company
- 4. Insurance with other insurers
- 5. Relation of earnings to insurance
- 6. Unpaid premium
- 7. Cancellation
- 8. Conformity with state statutes
- 9. Illegal occupation
- 10. Intoxicants and narcotics

**IV. AGENTS' DUTIES AND RESPONSIBILITIES**

- A. Agency-Principal relationship
- B. License requirements
- C. Fiduciary responsibility
- D. Grounds for penalty action
  - 1. Violation of insurance laws
  - 2. Intentional misstatements on application
  - 3. Misappropriation or conversion of monies
  - 4. Non-availability to do business with the general public
  - 5. Conviction of a crime involving moral turpitude
  - 6. Splitting of commissions
  - 7. Unworthiness, bad faith, dishonesty or incompetency
- E. Trade practices
  - 1. Misrepresentation and incomplete comparisons
  - 2. Twisting
  - 3. Rebating
  - 4. False information and advertising
  - 5. Defamation
  - 6. Boycott, coercion and intimidation
  - 7. Unfair discrimination

## **MORTGAGE GUARANTY INSURANCE**

*(Mortgage Guaranty Insurance—continued)*

### **I. INTRODUCTION AND RESPONSIBILITIES OF AGENTS**

- A. Definition of insurance
  - 1. Pooling of risks
  - 2. Law of large numbers
  - 3. Insurable interest
- B. Economic and social factors
  - 1. Background and history of mortgage guaranty insurance
- C. Types of insurance carriers
  - 1. Stock
  - 2. Mutual
- D. Contract Law
  - 1. Essential elements
  - 2. Parties to contract
- E. Office operations and record requirements

### **II. LAWS PERTAINING TO THE LICENSING OF AGENTS, BROKERS AND SOLICITORS**

- A. Insurance regulation
- B. Agency-Principal relationship
- C. License requirements
- D. Grounds for penalty action
  - 1. Violation of insurance laws
  - 2. Intentional misstatements on application
  - 3. Misappropriation or conversion of monies or improper accounting of insurance premiums received
  - 4. Non-availability to do business with the general public
  - 5. Conviction of a crime involving moral turpitude
  - 6. Splitting of commissions
  - 7. Unworthiness, bad faith, dishonesty or incompetency
- E. Trade Practices

### **III. PRINCIPLES OF MORTGAGE GUARANTY INSURANCE**

- A. Definitions
  - 1. Mortgage guaranty insurance
  - 2. Authorized real estate security
  - 3. Contingency reserve
- B. Coverage and policy form
  - 1. Peril covered
  - 2. Master policy
    - a. Certificate of insurance
  - 3. Application and commitment

- 4. Term of policy
  - a. Cancellation
  - b. Renewal
- 5. Rates and premium computations
- 6. Loss Adjustment
  - a. Default notice and procedures
  - b. Computation of loss
- C. Types of mortgage loans
  - 1. Insurable mortgage loans
  - 2. Collateral pledge agreements
- D. Assumption of insured mortgage
- E. Open-end refinancing of loans
- F. Amortization and term of mortgage
- G. Interest rates

## **PROPERTY AND CASUALTY INSURANCE**

### **I. INTRODUCTION, DUTIES OF LICENSEE AND INSURANCE LAWS**

- A. Definition of Insurance
- B. Background of Fire, Casualty and Marine Insurance
- C. Economic and Social Influence
- D. Types of Insurance Carriers and Organizations
- E. Law of Contracts
- F. Relationship between Principal and Agent
- G. New Jersey Statutes applicable to Agents, Brokers and Solicitors
- H. Ethics and Responsibilities to Insureds or Prospective Insureds
- I. Office Operations and Records
- J. Chapter 214 (Special Filings), Fair Plan, Assigned Risk Plans
- K. Marketing
- L. Surplus Lines

### **II. PROPERTY INSURANCE**

- A. Standard Fire Insurance Policy
- B. Forms and Clauses
  - 1. Dwelling Forms
  - 2. Building and Contents
  - 3. Extended Coverage
  - 4. Additional Coverage
  - 5. Vandalism and Malicious Mischief
  - 6. Miscellaneous Forms—i.e. Builders Risks, Dwelling Special Forms, Special Building Endorsement
  - 7. General Cover (Reporting Forms)

*(Property and Casualty Insurance—continued)*

8. Actual Cash Value (ACV) and Replacement Costs
  9. Office Contents Form
  10. Commercial Property Form
  11. Allied Lines
    - a. Sprinkler Leakage and Water Damage
    - b. Flood Insurance
- C. Consequential Losses
1. Earnings
  2. Business Interruption
  3. Extra Expense
  4. Leasehold
  5. Rental Value
  6. Additional Living Expense
  7. Valued Use and Occupancy
  8. Demolition Coverage
- D. Rules and Rates
1. Rate Making Organizations
  2. Dwelling Rates (Type of Building Construction)
  3. Town Classification (Protected and Unprotected)
  4. Term Rules and Installment Contracts
  5. Mercantile Class and Specific Rates, N.B.F.U. Codes
  6. Co-Insurance

### III. CRIME PROTECTION

- A. Burglary
1. Residence Coverages
  2. Mercantile Open Stock
- B. Money and Securities
1. Money and Securities Broad Form Policy
  2. Mercantile Safe Burglary
  3. Inside and Outside Robbery
  4. Storekeepers' and Miscellaneous Policies
- C. Specialty Crime Policies
1. Comprehensive Dishonesty, Disappearance and Destruction Policy
  2. Depositors Forgery Bond
  3. Family Forgery Bond
  4. Credit Card Forgery Bond

### IV. FIDELITY AND SURETY

- A. Bail Bonds
- B. Employee Fidelity Bonds
- C. Banker and Broker Bonds
- D. Commercial Blanket Bonds
- E. Public Official Bonds
- F. Judicial Bonds
- G. Surety Bonds—General Principles
- H. Methods of Execution and Use of Financial Statements

### V. MARINE INSURANCE

- A. Definitions
- B. Personal Inland Marine
- C. Commercial Inland Marine and Block Policies
- D. Bailee Forms
- E. Transportation Insurance
- F. Ocean Marine and Admiralty Law
- G. Yachts and Motor Boats (Pleasure)

### VI. PUBLIC LIABILITY AND LAWS OF NEGLIGENCE

- A. Common and Statutory Laws of Negligence, Tort Liability
- B. Owners', Landlords' and Tenants' Liability
- C. Manufacturers' and Contractors' Liability
- D. Comprehensive Personal Liability and Farmers' Comprehensive Personal Liability
- E. Comprehensive General Liability, Including Contractual Liability, Products Liability, Completed Operations Liability, Protective Liability and Personal Injury Liability
- F. Storekeepers' Liability
- G. Professional Liability
- H. Miscellaneous Liability Lines
1. Blanket Catastrophe Excess Liability

### VII. AUTOMOBILE INSURANCE

- A. Concepts:
1. First Party Coverage—No Fault
  2. Third Party Coverage—Tort Liability
- B. New Jersey Automobile Reparation Reform Act
1. Compulsory Insurance
    - a. Required Coverages
      - Personal Injury Protection
      - Medical Expenses—Unlimited
      - Income Continuation Benefits—Up to \$100 Per Week for a maximum of \$5,200.
      - Essential Services Benefits—\$12 Per Day—Maximum \$4,380.
      - Survivor Benefits—Unpaid Claims for Medical Expenses and Loss of Wages—Funeral Expenses Up to \$1,000.
      - Additional Protection and Benefits
      - Exceptions
    - b. Automobile Liability
      - Bodily Injury
      - Property Damage

*(Property and Casualty Insurance – continued)*

- Basic Limits: Bodily Injury \$15,000  
Per Person, \$30,000 Per Accident,  
Property Damage \$5,000.
- Persons and Vehicles Covered
- c. Uninsured Motorist Protection
- 2. Tort Exemption
  - a. Limitation on Right to Damages
    - Soft Tissue Injuries
    - Medical Expenses Less than \$200.
  - b. When Exemption is Not Applicable
- 3. Exclusions
- 4. Statutory Definitions
- C. Non-Ownership Coverage
- D. Garage Liability
- E. Automobile Physical Damage Coverage
  - 1. Comprehensive Physical Damage
  - 2. Collision
  - 3. Garage Keepers' Legal Liability
- F. Types of Policies and Rating Procedures
  - 1. Private Passenger
  - 2. Commercial
- G. Losses and Claims Handling
  - 1. Payment of Personal Injury Protection Benefits
    - a. 30-Day Period
    - b. Overdue Payments Bear Interest at Rate of 10%
  - 2. Other Automobile Claims
- H. Motor Vehicle Security-Responsibility Law, Unsatisfied Claim and Judgment Fund Law and Uninsured Motorist Coverage
- I. Automobile Insurance Plan

### **VIII. WORKMEN'S COMPENSATION AND EMPLOYERS' LIABILITY**

- A. New Jersey Workmen's Compensation Statute, Longshoremens and Harborworkers' Compensation Act and Federal Employer's Liability Act
- B. Scope of Coverage
  - 1. Workmen's Compensation
  - 2. Employers' Liability
- C. Classification and Rates
- D. Experience Rating and Retrospective Rating

### **IX. MISCELLANEOUS COVERAGES**

- A. Boiler and Machinery
  - 1. Direct Damage
  - 2. Legal Liability
  - 3. Indirect Damage

- a. Use and Occupancy
- b. Consequential Damage
- c. Outage
- d. Power Interruption
- B. Glass
  - 1. Hazards Covered
  - 2. Hazards Not Covered
  - 3. Other Provisions
- C. Valuable Papers and Records
  - 1. Hazards Covered
  - 2. Blanket or Specific Coverage
- D. Credit Insurance
  - 1. Definition
  - 2. Classes of Risks
  - 3. Limits
- E. Mortgage Guaranty Insurance
  - 1. Scope of Coverage
  - 2. Definitions and Special Provisions
  - 3. Basic Underwriting Considerations

### **X. MULTIPLE PERIL POLICIES**

- A. Personal
  - 1. Homeowners Package Policies (1 thru 5)
  - 2. Condominium Property Insurance
- B. Commercial
  - 1. Package Policies for Business Risks
    - a. Apartment House Program
    - b. Institutional Program
    - c. Motel-Hotel Program
    - d. Office Program
    - e. Mercantile Program
    - f. Processing or Service Program
    - g. Industrial Program
  - 2. Manufacturers Output Policy

### **XI. HEALTH INSURANCE**

- A. Need for Health Insurance
  - 1. Economic and Social
  - 2. Personal or Family
    - a. Replacement of Earned Income
    - b. Expense Caused by Disability, Including Medical and Hospital Care
    - c. Economic Loss Caused by Accidental Death, Dismemberment, Loss of Sight or Disability
    - d. Dread-Disease and Limited Accident Benefits
  - 3. Business
    - a. Key Man Insurance
    - b. Business Continuation
    - c. Business Overhead Expense
    - d. Creditor Protection

*(Property and Casualty Insurance – continued)*

**B. Fundamental Elements of Health Insurance Underwriting**

1. Underwriting Considerations
  - a. Application
  - b. Physical Conditions
  - c. Occupation
  - d. Moral Hazard and Morale Hazard
  - e. Over-Insurance
  - f. Malingering
  - g. Substandard Risks
  - h. Prevalence Rates of Disability-Incidence (Frequency)
    - Severity
2. Contract Benefits
  - a. Indemnification for Expenses Incurred
  - b. Compensation for Loss of Earning Power
3. Types of Coverage
  - a. Individual and Family
    - Commercial, Industrial, Limited Contracts and Life Riders
    - Noncancellable and Guaranteed Renewable Contracts
  - b. Group
    - Eligibility Requirements
    - Contributory and Non-Contributory
    - Conversion Privilege
    - Franchise
    - Blanket
    - Association
  - c. Basic types of contracts
    - Expense Coverages
      - Hospital and Nursing Benefits
      - Surgical and Medical Insurance
      - Major Medical and Comprehensive Insurance
    - Indemnity Contracts and Service Contracts
    - Income Coverages
      - Partial and Total Disability
      - Dismemberment and Loss of Sight

- Accidental Death
- Non-Disabling Injuries Benefit
- Double Indemnity
- Waiver of Premium
- Hospital Income

**C. Policy Provisions and Requirements**

1. General Requirements
  - a. Consideration Must be Expressed in the Policy
  - b. Effective Date and Termination Date Must be Stipulated
  - c. Only One Person May be Covered Except that Such Person's Spouse and Dependent Children Under Nineteen May Also be Covered
  - d. The Type Used in the Policy Must be at Least 10 Points and May Not Give Undue Prominence to Any Portion of the Text
2. Required Provisions
  - a. Entire Contract
  - b. Incontestability
  - c. Grace Period
  - d. Reinstatement
  - e. Notice of Claim
  - f. Claim Forms
  - g. Proofs of Loss
  - h. Payment of Claims
  - i. Physical Examinations and Autopsy
  - j. Legal Actions
  - k. Change of Beneficiary
3. Elective Provisions
  - a. Change of Occupation
  - b. Misstatement of Age
  - c. Other Insurance with Insuring Company
  - d. Insurance with Other Insurers
  - e. Relation of Earnings to Insurance
  - f. Unpaid Premium
  - g. Cancellation
  - h. Conformity with State Statutes
  - i. Illegal Occupation
  - j. Intoxicants and Narcotics

## PART III — SAMPLE QUESTIONS

### GENERAL

It is the responsibility of the licensee to see to it that his license is renewed. Which of the following renewal dates is incorrect?

1. Property and Casualty Brokers' licenses are renewed as of November 1.
- (2.) Property and Casualty Agents' licenses are renewed as of October 31.
3. Health Agents' licenses are renewed as of May 1.

A broker, under New Jersey law:

1. Represents and places insurance with any company.
- (2.) Represents the insured or prospective insured.
3. Signs policies as an agent for a company.

A schedule policy is:

- (1.) One in which you schedule (or list) one or more items to be covered by the policy.
2. One that starts and expires on schedule.
3. One whose rates are "schedule rates."

When it is said that a company retroceded a portion of its risks, we are speaking of a:

1. Direct writing company.
- (2.) Company that is reinsuring risks that have been assumed under reinsurance contracts by other companies.
3. Reciprocal exchange.

Insurance is a formal social device which pools hazards to:

1. Reduce the number of accidents that occur.
- (2.) Substitute certainty for uncertainty.
3. Eliminate risk in society.

### PROPERTY INSURANCE

The standard provisions of a fire insurance policy issued on a risk located in this State are:

1. Promulgated by the Rating Bureau.
- (2.) Prescribed by Law.
3. Approved by the Commissioner.

Which of the following exclusions in the fire insurance policy may be covered by endorsement to the contract?

1. Accounts.
2. Bills.
- (3.) Bullion.

To make a fire insurance policy valid, an insurable interest must exist at:

1. The inception of the contract.
- (2.) The time of loss.
3. Both at the inception of the contract and at the time of loss.

The purpose of Extra Expense Insurance is:

1. To reimburse for extra expenses for medical care for employees injured by fire.
- (2.) To reimburse the insured for additional expense incurred in continuing business which results from perils named in the policy.
3. To reimburse the insured for extra expenses incurred for additional value put in on rebuilding structure, machinery and equipment.

Pro rata cancellation means:

- (1.) Allowance of return premium in direct proportion to the unexpired term of the policy.
2. The returning of all but the minimum premium for which the policy could be written.
3. Short rate cancellation of the policy.

The fire insurance contract covers direct loss by fire, lightning and by removal from premises endangered by a:

- (1.) Hostile fire.
2. Friendly fire.
3. Friendly fire or hostile fire.

A building valued at \$20,000 is insured for \$8,000 under the 80% coinsurance clause. If a \$10,000 loss occurs, the company's liability is:

- (1.) \$5,000.
2. \$8,000.
3. \$6,400.

If a person has three fire insurance policies on the same property and Company M has \$1,000, Company N has \$2,000 and Company O has \$3,000, a loss of \$300 would be divided as follows. Which amount is correct?

1. Company M pays \$150.
- (2.) Company N pays \$100.
3. Company O pays \$50.

## **CRIME INSURANCE**

Which one of the following losses would be paid by a Money and Securities Broad Form Policy with coverage in and outside the described premises?

- (1.) Cash stolen from cash register by burglar.
2. An employee falsified the books of the insured and embezzled \$1,000.
3. Loss of merchandise due to burglarious entry.

Payment of a loss under the usual Inside and Outside Robbery Policy:

- (1.) Does not affect the amount of insurance or require payment of an additional premium.
2. Does affect the amount of insurance and requires payment of an additional premium.
3. Reduces the amount of insurance, but this is automatically reinstated as to future losses.

The Mercantile Open Stock Policy covers which of the following?

- (1.) Loss to property in an outside showcase totaling \$50.
2. Damage to plate glass, lettering and ornamentation.
3. Manuscripts, records or accounts.

## **FIDELITY AND SURETY**

Which of the following statements does not apply to contract bonds?

- (1.) They do not guarantee that a project will be completed in a specified time.
2. The construction contract becomes a part of the bond.
3. In many instances, they guarantee that labor and materials bills will be paid.

Probate bonds guarantee that the fiduciary will:

1. Invest the income of the estate.
2. Close the estate at once.
- (3.) Conserve the assets of the estate.

Employers are covered by Fidelity bonds for loss of:

- (1.) Any kind of property in which they have a financial interest.
2. Money, securities, raw materials and merchandise only if they are the owners.
3. Money, securities, raw materials and merchandise only if they are legally responsible.

## **MARINE INSURANCE**

Ocean Marine contracts of insurance are to be interpreted in the light of:

1. Expressed warranties only.
2. Implied warranties only.
- (3.) Expressed and implied warranties.

The purpose of the "Bailee Clause" in an Inland Marine Policy is to protect the interests of the:

1. Bailee.
2. Common Carriers
- (3.) Insurance Companies.

**A Jeweler's Block Policy does not cover property:**

- (1.) Sold on the installment plan.
2. Owned by the insured.
3. Which is in the possession of the insured and which belongs to his customer.

**An "All Risks" policy generally includes:**

1. Damage caused by moths and vermin.
- (2.) Damage caused by transportation perils.
3. Damage caused by ordinary wear and tear.

## **PUBLIC LIABILITY**

Which form of Liability Insurance covers loss and expense from claims for damages imposed by law on account of bodily injury, sickness, disease or death arising from the ownership, maintenance or use of buildings and other property?

1. Owners' or Contractors' Protective.
- (2.) Owners', Landlords' and Tenants'.
3. Manufacturers' and Contractors'.

With the exception of clubs, hotels and restaurants, a products liability policy covers:

- (1.) Only the off-premise hazard.
2. Only the on-premise hazard.
3. Both (1) and (2).

You are advised that a particular liability policy has three limits, viz: per person, per accident and aggregate. Select the policy described.

1. Manufacturers' and Contractors' Liability.
2. Owners', Landlords' and Tenants' Liability.
- (3.) Product Liability

The following is included under a Comprehensive Personal Liability Policy:

1. All contractual liability.
- (2.) Coverage on repairs and structural alterations.
3. Injury caused at the direction of the insured.

The lower and upper limits in a liability insurance policy are:

- (1.) Respectively, the limit of liability per person and the limit of liability per accident when more than one person is killed or injured.
2. The minimum and maximum premiums that a policyholder must pay when he has a reporting form policy.
3. Respectively, the limit for property damage liability and the limit for personal injury liability.

## **AUTOMOBILE**

Supplementary payments under the Liability provisions of the standard Automobile Policy are:

1. Limited to \$100.
2. Paid to the extent that they do not exceed the applicable limits when added to the losses payable for bodily injury and property damage.
- (3.) Paid in addition to the applicable liability limits.

Relatives of the named insured who reside in his household are covered for Medical Payments under the standard Automobile Policy if bodily injury is caused as a result of being struck by:

1. An automobile owned by the insured only.
2. An automobile owned by the insured, or not owned by the insured but operated by the insured only.
- (3.) Any automobile.

An insured has an automobile policy with limits of \$15,000 and \$30,000 for bodily injury liability. Which of the following statements explains these limits?

- (1.) \$15,000 each person; \$30,000 each accident.
2. \$15,000 each person; \$30,000 maximum for the policy year.
3. \$15,000 each person; \$30,000 total for just one accident.

The collision insuring agreement under the standard Family Automobile Policy extends coverage to:

1. Owned automobiles only.
2. All non-owned automobiles operated by the insured.
- (3.) Non-owned private passenger automobiles not furnished for regular use which are operated by the insured.

Certain exclusions are specifically set forth in the standard Family Automobile Policy. Which of the following is not expressly excluded?

1. Any automobile while used as a public or livery conveyance.
2. A non-owned automobile while used in the automobile business by the insured.
- (3.) Liability assumed under any contract or agreement.

Liability premium is based on:

- (1.) Territory in which auto will be principally garaged.
2. Occupation of insured.
3. Value of vehicle.

Medical Payments Coverage under the standard Automobile Policy is on:

1. An occurrence basis.
- (2.) An accident basis.
3. Neither.

Under the liability portion of the standard automobile policy the insurer agrees to do certain things in addition to paying for the insured's legal liability. Which of the following is false?

1. It agrees to defend any suit against the insured alleging injury even if such suit is groundless, false or fraudulent.
- (2.) In the event of a suit, the insurer does not reserve the right to investigate, negotiate and settle any such claim or suit out of court if it seems advisable.
3. It agrees to pay all premiums on appeal bonds required in any defended suit.

## **WORKMEN'S COMPENSATION**

The main purpose of Workmen's Compensation Laws is:

- (1.) That benefits are paid to injured employees, or to dependents of employees killed in industry, regardless of who may have been at fault.
2. That benefits be paid to injured employees, or to dependents of employees killed in industry, only if the employee was at fault.
3. That benefits are paid to injured employees, or to dependents of employees killed in industry, only if the employer was at fault.

Which one of the following injuries of persons under the Workmen's Compensation Act would be covered by a Workmen's Compensation Policy?

- (1.) Employee of the insured, a chemist, contracted a disease as a result of using chemicals of a poisonous nature.
2. Engineer of interstate railroad train injured in railroad accident in New Jersey.
3. Employee of the insured, a machine shop owner, injured by a machine. It was established that the employee was intoxicated at the time of the accident.

## **MISCELLANEOUS PROPERTY AND CASUALTY COVERAGES**

What disposition is made of salvage glass?

1. If less than 10 square feet of surface area, it becomes the property of the assured.
2. If more than 10 square feet of surface area, it becomes the property of the company provided it is used to defray part of the expense of setting new glass.
- (3.) All the glass which is replaced becomes property of the company.

Which kind of loss on assured's property is covered by the Basic Boiler and Machinery Policy Form?

- (1.) Loss from direct damage by accident.
2. Loss from delay or interruption of business.
3. Loss from accident caused by fire.

Mortgage guaranty insurance means insurance against financial loss by reason of nonpayment of principal or interest on a note or bond secured by real estate:

- (1.) For any reason.
2. Only in the event of death of the mortgagor.
3. In the event of sickness, accident or death of the mortgagor.
4. Only as a result of a fortuitous event such as an accident.

Credit insurance is designed primarily to afford coverage to:

1. Jobbers, manufacturers and retailers.
2. Jobbers, retailers and wholesalers.
- (3.) Jobbers, Manufacturers and wholesalers.
4. Manufacturers, retailers and wholesalers.

In any case in which the magistrate may admit to bail, he may not authorize the taking of recognizance by the:

1. Chief of Police.
- (2.) Arresting Officer.
3. Court Clerk.

### **MULTIPLE PERIL INSURANCE**

Homeowners forms provide for additional living expense. By order of the Health and Fire Department, authorities ordered all residents to leave their homes as a result of flood damage to the dwelling. Additional living expense would be paid for the following:

1. The time required to repair or replace such damaged or destroyed property.
2. The time required for the insured's household to become settled in permanent quarters.
- (3.) Neither of the above.

In a basic Homeowners Policy Form #2, the insurance company may not be liable per loss for more than:

1. \$500 on money.
2. \$750 on accounts, bills, deeds.
- (3.) \$1000 on manuscripts.

The basic medical payments limits under a Homeowners Policy Form #5 is:

- (1.) \$500.
2. \$100.
3. \$250.

Under a Homeowners Policy Form #1, which one of the following coverages in the answers below is not included?

1. Fire.
- (2.) Mysterious disappearance.
3. Theft.

### **HEALTH INSURANCE**

A \_\_\_\_\_ pays the insured only for his actual loss.

1. Pre-paid contract.
2. Valued policy.

(3.) Contract of indemnity.

4. Service contract.

The statutory grace period for annual premium health insurance is:

1. 7 days.

2. 10 days.

3. 1 month.

(4.) 31 days.

An insurance adjustor works mornings in an office; afternoons he investigates accidents away from the office; evenings he works part-time in an aircraft plant; Sundays he goes fishing for needed relaxation. Which item in the following list would determine his classification for accident insurance?

1. Claim investigation.

(2.) Factory work.

3. Fishing.

In the event of misstatement of age, the benefits under the policy shall be:

1. Voided and the premiums paid refunded.

2. Unchanged if the policy has become incontestible.

(3.) Such as the premium paid would have purchased at the correct age.

Written notice of injury or sickness given to an agent of the company is considered written notice to the company.

(1.) True.

2. False.

3. At the option of the insured.

To which of the following accidents would Double Indemnity apply?

1. Accident in a private airplane.

2. Self-inflicted injury.

(3.) Death resulting from stroke of lightning.

Which one of the following statements is false?

(1.) The Federal Government under its medicare and medicaid programs covers all expenses incidental to injury sustained by accident and sickness.

2. The hazard of disability is universal.

3. Health care costs have risen sharply since World War II.

A policy may be voided by the misrepresentation or concealment of:

(1.) A Material Fact.

2. A Warranty.

3. A Contingent Beneficiary.

An application must be personally signed by:

1. An Officer of the Company.
2. The Beneficiary
- (3.) The Insured.

The termination of a policy through failure to pay the premium is known as:

- (1.) Lapse.
2. Surrender.
3. Assignment.

Which one of the following signifies the important clause in the policy which is the foundation of a contract of insurance?

1. Death and Dismemberment Clause.
- (2.) The Insuring Clause.
3. Dependent Clause.

A switchman of a railroad who applies for health and accident insurance is rated up because:

1. A railroad man must comply with questionable rules.
- (2.) Of occupational hazards.
3. Railroad men are compelled to work at odd hours.

## **SURPLUS LINES**

When insurance coverage is exported under the Surplus Lines Law, the premium rate used must be:

- (1.) Not lower than the lowest rate filed by an authorized insurer.
2. The same as the rate used by the National Insurance Actuarial Statistical Association or the Insurance Rating Board.
3. The same rate used by Lloyd's of London in the open market.

Failure to make and file quarterly reports, failure to pay tax on surplus lines premium and failure to maintain the bond as required are subject to:

1. Suspension of license.
2. Revocation of license.
3. Refusal to renew license.
- (4.) All of the above.

Coverage may be exported under a \_\_\_\_\_ form of policy designed for use with respect to a particular subject of insurance:

- (1.) Unique.
2. Standard.
3. Common.

## PART IV

### LAWS OF NEW JERSEY PERTAINING TO LICENSING, REGULATION AND SUPERVISION OF INSURANCE AGENTS, BROKERS AND SOLICITORS

#### LICENSE IS REQUIRED TO WRITE INSURANCE

##### **17:17-12 Misdemeanor to do business unless authorized**

No person by himself, or by his brokers, agents, solicitors, surveyors, canvassers or other representatives of whatever designation, nor any such broker, agent, solicitor, surveyor, canvasser, or other representative, shall solicit, negotiate or effect any contract of insurance of any kind, including all kinds of insurance described in chapters seventeen to thirty-three of this Title (17:17-1 et seq.), and including annuities involving life contingencies, or sign, deliver or transmit, by mail or otherwise, any policy, annuity contract involving life contingencies, certificate of membership, or certificate of renewal thereof, on any property or thing, or on the life, health or safety of any person, or receive any premium, commission, fee or other payment thereon, or maintain or operate any office in this State for the transaction of the business of insurance, or in any manner, directly or indirectly, transact the business of insurance of any kind whatsoever, within this State, unless specifically authorized under the laws of this State. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

This section shall not prohibit the granting of annuities by corporations or associations organized without capital stock or not for profit whose funds are derived principally from gifts or bequests and which are used for eleemosynary or charitable purposes, nor shall it prohibit any person or corporation acting as a broker, without being licensed as such, from soliciting or negotiating for others than themselves contracts of insurance against loss or damage on account of encumbrances upon, or defects in, title to real estate with insurance companies duly qualified under the laws of this State to make such insurance.

#### LICENSE LAW

##### **17:22-6. Licensing of war veterans as brokers, agents, or solicitors**

A citizen of this State who has served in the military or naval forces of the United States in any war, has been honorably discharged, and who having been

wounded or disabled in line of duty has completed any of the vocational courses in a college or school prescribed by the Federal Government or approved by the Department of Education of the State of New Jersey qualifying him to operate as an insurance broker, insurance agent or insurance solicitor, may, upon presentation of a certificate certifying that he has completed such a vocational course qualifying him as aforesaid, obtain from the commissioner, without cost, a license to operate as an insurance broker, insurance agent or insurance solicitor, which license shall be the same as other licenses issued under this subtitle.

##### **17:22-6.1 Insurance agent defined**

An insurance agent is hereby defined to be an individual, a resident of this State or whose principal office for the conduct of his insurance business is in this State, authorized in writing by any insurance company lawfully authorized to transact business in this State, to act as its agent, with authority to solicit, negotiate and effect contracts of insurance in its behalf, to collect the premiums thereon, and who has a bona fide office in this State in which is kept a record of the contracts of insurance countersigned or issued by him.

##### **17:22-6.2 Insurance broker defined**

An insurance broker is hereby defined to be an individual who, for a commission or brokerage consideration, shall act or aid in any manner in negotiating contracts of insurance, or soliciting or effecting insurance as agent for an insured or prospective insured, other than himself; or an individual who, being a licensed agent, places insurance in an insurance company which he does not represent as agent.

##### **17:22-6.2a Authorization entitling broker to receive insurance premium on behalf of insurer**

Any insurer which delivers in this State to any insurance broker a contract of insurance (other than a contract of life insurance, or life, accident or health insurance) pursuant to the application or request of such broker, acting for an insured other than himself, shall be deemed to have authorized such broker to receive on its behalf payment of any premium which

is due on such contract at the time of its issuance or delivery or payment of any installment of such premium or any additional premium which becomes due or payable thereafter on such contract, provided such payment is received by such broker within 90 days after the due date of such premium or installment thereof or after the date of delivery of statement by the insurer of such additional premium.

### **17:22-6.3 Insurance solicitor defined**

An insurance solicitor is hereby defined to be an individual, employed and authorized by a duly licensed insurance agent or broker to solicit and negotiate contracts of insurance solely on behalf of such agent or broker.

### **17:22-6.4 Other definitions**

The words "insurance company" wherever used in this act shall be held to include indemnity companies, casualty companies, fidelity companies, surety companies and guaranty companies; the words "insurance," and "insurance policy" or "insurance contract" wherever used in this act shall, without otherwise limiting the meaning of those terms, be held to include contracts of indemnity, casualty, fidelity, surety and guaranty; "licensee" wherever used in this act shall be held to include any person holding a license issued by the commissioner as an agent, broker or solicitor; and the word "commissioner" wherever used in this act shall mean the Commissioner of Insurance.

### **17:22-6.5 Insurance grouping for examination and license purposes**

The commissioner may from time to time make reasonable grouping of the kinds of insurance that may lawfully be written in this State for the purpose of prescribing examinations for agent and solicitor licenses for each group respectively.

### **17:22-6.6 Application for license; age; educational requirement for first-time applicant; waiver**

Any person not now engaged in the insurance business in this State as agent or broker, and hereafter desiring to engage in said business as agent, broker, or solicitor, and any licensed agent or solicitor hereafter desiring to be licensed for an additional group or groups of insurance as may be provided by section 5 of this act, shall apply, in accordance with the pro-

visions of this act, to the commissioner for a license authorizing him to engage in and transact such business, or such group or groups thereof respectively. Every applicant for a broker's license shall be at least 18 years of age and if such applicant be a nonresident he shall show that he is the holder of an unexpired license as an insurance broker or agent in the State of his residence, or in which he maintains his principal office for the conduct of his insurance business, or that he has established a principal office in this State for the transaction of such business. If the application be for a solicitor's license it shall be accompanied by a written request of a licensed agent or broker with whom such solicitor has established a solicitor relationship. All such applications shall be in writing on uniform forms and supplements prepared by the commissioner, and shall be accompanied by a nonrefundable examination fee of \$15.00 for each examination scheduled for such applicant (unless applicant be exempt from examination as set forth in section 10 of this act). The applicant shall make sworn answers to such interrogatories as the commissioner may require, and the application shall include a certificate by a resident representative of an insurance company lawfully authorized to transact business in this State, or by a licensed insurance agent or broker of this State, certifying:

(a) That the applicant is a resident of this State, or if a nonresident has his principal office for the conduct of such business in this State, or that he is an applicant for a nonresident broker's or solicitor's license;

(b) That the applicant is personally known to him;

(c) That the applicant has had experience or instruction in the general insurance business or (if seeking an agent or solicitor license) some group or groups of the kind or kinds of insurance for which he may desire to be specifically licensed;

(d) That the applicant is of good reputation and is worthy of a license.

Before a first-time applicant for an insurance agent's, broker's or solicitor's license shall be admitted to the examination, the applicant shall be required to have taken, and successfully completed a program of studies established by regulation of the commissioner to the end that the applicant shall be reasonably familiar with the groups of insurance for which he desires to be licensed.

The commissioner may waive the educational requirement set forth herein if the commissioner is satisfied that the applicant possesses sufficient knowledge of the group or groups of kinds of insurance for which such applicant desires a license.

**17:22-6.7 Service upon commissioner of process against nonresident license**

If the applicant for a broker's or solicitor's license be a nonresident, the applicant shall, by a duly executed power of attorney filed with the commissioner, constitute the commissioner and his successors in office his true and lawful attorney, upon whom any original process in any action or legal proceedings against him may be served, and therein shall agree that any original process against him which may be served upon the commissioner shall be of the same force as if served on the applicant, and that the authority thereof shall continue in force irrevocable so long as any liability of the applicant remains outstanding in this State. If such applicant shall fail to qualify for a first-time license, such power of attorney shall be returned to him.

**17:22-6.8 Mode of service; fee**

The service of such process shall be made by leaving a copy thereof in the office of the commissioner with a service fee of \$10.00 to be taxed in the plaintiff's cost of suit. Such service upon the commissioner shall be deemed sufficient service upon such nonresident. When any original process is served upon the commissioner as attorney for any such nonresident, and a service fee of \$10.00 paid, he shall forthwith notify such nonresident of such service by letter directed to him at his last known address. He shall within 2 days after such service forward in the same manner a copy of the process served on him to such nonresident. The commissioner shall keep a record of all such process, which shall show the day and hour of service.

**17:22-6.9 Examination of applicant waiver; issuance of license to partnership or corporation; expiration and suspension of license**

After the receipt of such application in due form, properly verified and certified, it shall be the duty of the commissioner or his deputy, or any salaried employee of the department designated by the commissioner, within a reasonable time and in a place reasonably accessible to the applicant, to subject each first-time applicant for license and if the commissioner deems necessary, any applicant for renewal of license, to personal examination in order to determine his trustworthiness and competency to act as such agent, broker or solicitor. If the applicant for a broker's or solicitor's license be a broker, solicitor or agent licensed in another State, the commissioner may waive such examination; provided, the State issuing such license requires no like examination of

licensed brokers, solicitors or agents of this State. The commissioner shall have the power to enter into written reciprocal agreement with other States where he deems same to be necessary. If the application is for license as an insurance agent, either first-time or for an additional group or groups of insurance, the commissioner may waive the examination if, the applicant provides certification that he is a designated chartered property and casualty underwriter, or if at the time, the applicant has previously passed the examination for and holds an unexpired broker's license issued in accordance with the provisions of this act or if the application is for a license as an insurance agent, broker or solicitor and the applicant is a citizen of this State and has served in the Armed Forces of the United States in any war and has been honorably discharged or released under conditions other than dishonorable and was the holder at any time of an agent's certificate of authority or license, a broker's license or a solicitor's license, in this State, the commissioner may waive examination, for license for the same kind or kinds of insurance the applicant was previously authorized to transact. When it is shown from such application and examination, except where waived, that the applicant

(a) Intends in good faith to act as an insurance agent, broker or solicitor, and

(b) Is actively to engage in the general insurance business, or a particular group or groups thereof with the general public, and

(c) Is of good reputation, and

(d) Has had experience or training, or is otherwise qualified by education in the kind or kinds of insurance for which he desires to be licensed, and

(e) Is a resident of this State or has his principal office for the conduct of such business in this State (unless such application be for a nonresident broker's or solicitor's license), and

(f) Is reasonably familiar with the insurance laws of this State, and with the provisions, terms and conditions of the policies or contracts he is proposing to solicit, negotiate or effect, and

(g) He is then engaged in or intends to engage in the business of writing or negotiating insurance as his principal business or occupation or as a substantial part thereof, separate and apart from any connection which he may have with any partnership or corporation whose principal business is lending of money, and

(h) Is not seeking such license principally for the purpose of negotiating or writing insurance on property owned by him, or in which he has an insurable interest, or on property or insurable interests of a relative or his employer, and

(i) Is worthy of a license, and

(j) Has not been convicted of a crime involving moral turpitude, the commissioner shall issue to the applicant a license to transact business in this State as an insurance agent, broker or solicitor, as the case may be. A license may be issued by the commissioner to and in the name of any partnership or corporation engaged in the insurance brokerage business upon written request and payment of the \$35.00 fee prescribed in section 13 of this chapter; provided, all members of the partnership or all of the officers of the corporation, as the case may be, actively engaged in the insurance brokerage business of the partnership or corporation in this State hold an unexpired license as an insurance broker issued in accordance with the provisions of this act. Where the request is for license in the name of a corporation organized under the laws of a foreign State or jurisdiction and it shall appear in the application, by affidavit of the president or other officer of a foreign corporation, that the sole business sought to be transacted by it is that of a broker, as herein defined, the commissioner may grant such license, notwithstanding the corporation has not complied with the provisions of the general corporation act and obtained a license thereunder to transact business in this State, if with the first request for such license the corporation shall file with the commissioner a duly executed power of attorney as is required in section 7 of this act to be filed by a nonresident individual applicant for a broker's license. Licenses so issued shall expire annually as follows:

To agents on April 30; and to brokers and solicitors on October 31, unless sooner revoked by the commissioner for cause as provided in this act. A license so issued to a solicitor shall be suspended upon termination of the required established solicitor relationship but shall be reinstated upon a written request from another licensed agent or broker with whom such solicitor has established a solicitor relationship.

#### **17:22-6.10 Examination not required in certain cases**

No such examination shall be required as prerequisite to the issuance of a license as insurance agent to

(a) any ticket selling agent of a railroad company, steamship company, carrier by air, or public bus carrier, who shall act thereunder as insurance agent only in reference to issuance of accident insurance tickets or insurance on personal effects while being carried as baggage in connection with the transportation provided by any such ticket; or

(b) any regular salaried officer or employee of any

insurance company authorized to do business in this State, provided such officer or salaried employee solicits business only from, for, or in conjunction with a licensed insurance agent or broker.

#### **17:22-6.11 Temporary license**

In the event of the death or the inability further to act, of a licensed insurance agent holding a certificate of authority from any insurance company, where no other agent in the agency, partnership, association or corporation is authorized to represent such insurance company the commissioner may issue a temporary license to another person enabling such other person to represent any such insurance company, upon an application being made in conformity with section six above and containing the additional information required by this section. In the event of the death or the inability further to act of a licensed insurance broker, the commissioner may issue a temporary license to another person to carry on the insurance business of such broker upon an application being made in conformity with section six above and containing the additional information required by this section. Such temporary license shall continue only until the licensee is afforded an opportunity of taking the examination provided in section nine above, but not to exceed a period of six months.

#### **17:22-6.12 Renewal of certificate or license**

Renewal of all certificates of authority and licenses in force on the effective date of this act, as they expire, and renewal of all licenses issued under this act, as they expire, shall be by license issued by the commissioner upon application in writing by the applicant, subject to the conditions of examination of such applicants as set forth in section nine for renewal of license, and upon payment of the annual license fee. Such renewal license shall, in the case of an agent or solicitor, be limited to the group or groups of the kinds of insurance for which applicant was licensed during the preceding year. If the application be for the renewal of a solicitor's license it shall be accompanied by a written request as provided in section six of this act. All present employees of agents or brokers who hold a broker's license shall have such license renewed upon expiration as a solicitor's license, in accordance with the terms and conditions of this act. The holder of a present broker's license may have the same renewed as such if he is an independent contractor.

#### **17:22-6.13 Fees for licenses**

The annual fee to be paid to the commissioner by each person licensed shall be \$15.00 for an agent's license except that the fee shall be \$10.00 for persons exempt from examination under the provisions of section 10(a), and shall be \$35.00 for a broker's license and \$35.00 for a solicitor's license.

#### **17:22-6.14 Appointment of agents; fees**

Any insurance company lawfully authorized to transact business in this State may, by a written certificate of authority, contract with and appoint as its representative in this State, as its agent or agents, any person or persons who holds an unexpired certificate of authority issued prior to the effective date of this act, or a license issued under the provisions of this act. Such company shall file with the commissioner a certificate showing the names and addresses of such appointees and shall pay a fee of \$5.00 for each company appointment so made. If the licensed agent is to be authorized to countersign policies by an attorney or attorneys in fact, the names of person or persons authorized to act as such attorney or attorneys in fact for such agent shall be stated in the certificate of appointment or a separate certificate duly executed by the company and filed in the office of the commissioner. If an agency is operating its business affairs as a partnership or corporation, such certificate of authority may be issued by such company in the name of such partnership or corporation, which certificate shall permit such partnership or corporation to be licensed as an insurance agent under this act; provided, all individuals actively engaged in the insurance business of such agency hold an unexpired agent's license issued in accordance with the provisions of this act. The payment of one agency appointment fee by each insurance company represented by said agency shall cover all of its licensed agents in said agency. Such certificate of authority shall remain in full force and effect until the license as agent is revoked by the commissioner as provided in this act or canceled by the company upon written notice to that effect filed with the commissioner. Any licensed insurance agent who is a stockholder, officer or agent of any such corporation may be authorized by it to act for such corporation. Nothing contained in this act shall vest in any individual stockholder, officer or agent of any such corporation, any vested interest, claim, title or proprietary right in the agency franchise or otherwise, separate and apart from the title, franchise or proprietary right of the said corporation.

#### **17:22-6.14a Canceled policy; disposition of unearned premiums; contracts with agents; commissions; termination; renewal of business; Inquiries by commissioner**

In the event that a policy is canceled by the insurer, either at its own behest or at the behest of the agent or broker of record, the unearned premium, including the unearned commission shall be returned to the policyholder. In the event that a policy is canceled by the insured, any broker of record may retain his portion of the unearned commission, and the balance of the unearned premium including any balance of unearned commission, shall be returned to the policyholder. Contracts between insurance companies and agents for the appointment of the agent as the representative of the company shall set forth the rates of commission to be paid to the agent for each class of insurance within the scope of such appointment written on all risks or operations in this State except:

- (a) Reinsurance.
- (b) Life insurance.
- (c) Annuities.
- (d) Accident and health insurance.
- (e) Title insurance.
- (f) Mortgage guaranty insurance.
- (g) Hospital service, medical service, or dental service corporations, investment companies, mutual benefit associations, or fraternal beneficiary associations.

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

Termination of any such contract for any reason other than one excluded herein shall become effective after not less than 90 days' notice in writing given by the company to the agent and the Commissioner of Insurance. No new business nor increases in liability on renewal or in force business shall be written by the agent for the company after notice of termination without written approval of the company. However, during the term of the agency contract, including the said 90-day period, the company shall not refuse to renew such business from the agent as would be in accordance with said company's current underwriting standards. The company shall during a period of 9 months from the effective date

of such termination, upon request in writing of the terminated agent, renew all contracts of insurance for such agent for said company as may be in accordance with said company's then current underwriting standards and pay to the terminated agent a commission in accordance with the previous agency contract of the terminated agent. Said commission can be paid only to the holder of a New Jersey broker's license. In the event any risk shall not meet the then current underwriting standards of said company, that company may decline its renewal, provided that the company shall give the terminated agent and the insured not less than 60 days' notice of its intention not to renew said contract of insurance.

The agency termination provisions of this act shall not apply to those contracts in which the agent is paid on a salary basis without commission or where he agrees to represent exclusively one company or to the termination of an agent's contract for insolvency, abandonment, gross and willful misconduct, or failure to pay over to the company moneys due to the company after his receipt of a written demand therefor, or after revocation of the agent's license by the Commissioner of Insurance; and in any such case the company shall upon request of the insured, provided he meets the then current underwriting standards of the company, renew any contract of insurance formerly processed by the terminated agent through an active agent, or directly pursuant to such rules and regulations as may be promulgated by the Commissioner of Insurance.

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

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

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

Whenever under this act it is required that the company shall renew a contract of insurance, the renewal shall be for a time period equal to one additional term of the year specified in the original contract, but in no event to be less than 1 year.

#### **17:22-6.14a1 Property and casualty insurers; filing of current underwriting guidelines**

All property and casualty insurers doing business in New Jersey shall, upon request of the Commissioner of Insurance, file with the Department of Insurance a copy of their current underwriting guidelines, together with any amendments thereto or modification thereof. Such guidelines, amendments or modifications shall not be arbitrary, capricious or unfairly discriminatory.

#### **17:22-6.14a2 Notice of nonrenewal; identification of underwriting standards not met; liability for Information to Insurer as to reasons for nonrenewal**

Where a policy of insurance is not renewed because of failure to meet the then current underwriting standards, the notice of nonrenewal shall identify the underwriting standard and specify in detail the factual basis upon said underwriting standard has not been met.

There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner of Insurance or against any insurer, its authorized representative, its agents, its employees, or any firm, person or corporation furnishing to the insurer information as to reasons for nonrenewal, for any statement made by any of them in any written notice of nonrenewal, or in any other communication, oral or written specifying the reasons for nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

#### **17:22-6.14a3 Rules and regulations by Commissioner of Insurance**

The Commissioner of Insurance is authorized to adopt, promulgate and enforce such rules and regulations as he determines to be necessary to implement this act.

#### **17:22-6.14b Severability**

If any section, subsection, subdivision, paragraph, sentence or clause of this act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this act, and to this end the provisions of this act are declared to be severable.

**17:22-6.15 Contracts for insurance to be countersigned by licensed agent; exceptions**

All contracts of insurance for or on behalf of any insurance company, covering any property, or insurable interests, or business activities, located within, or transacted within this State, except as hereinafter provided, shall be countersigned by a licensed agent. A licensed agent may countersign a contract of insurance by an attorney in fact for and on behalf of any insurance company, if an unrevoked certificate authorizing the agent to countersign for the company by an attorney in fact, therein named, is on file in the office of the commissioner. This section shall not apply to insurance covering the rolling stock belonging to and used in the operation of railroad corporations or other common carriers, or property in transit while in the possession or custody of railroad corporations or other common carriers, nor to reinsurance between companies, nor to bid bonds issued by any surety insurer in connection with any public or private building or construction project. Nothing in this section shall be construed to prevent the use, in the discretion of the insurance company assuming the risk, where the business originates and is negotiated outside of this State, of a countersignature endorsement which on its face is identified with the insurance contract for attachment to which it is issued, and which on its face develops information in respect of said contract, including full premium information, sufficient for the countersigning agent's record, and which shall be signed by the countersigning agent. The signing of a countersigning endorsement by any such agent shall not create any responsibility or liability on the part of such agent as to the accuracy or the legality of the contract to which it is attached, but such responsibility and liability shall be assumed by the issuing company.

**17:22-6.16 Revocation of license; grounds; investigatory power of commissioner**

The commissioner, after 10 days' notice in the form of a show-cause order, given in writing to a licensee, and after a hearing held in conformity with said show-cause order, may as an alternative to or in addition to other penalties provided by law, revoke the license of any such licensee, or refuse to renew the same, or suspend same for a limited period of time in the event that investigation by him and such hearing, discloses the fact that the licensee

(a) has willfully violated any provisions of the insurance laws of this State, or

(b) has intentionally made a material misstatement in the application for such license, or

(c) has misappropriated or converted to his own use or illegally withheld money belonging to an insurer or an insured or beneficiary, or

(d) has obtained or has used such license not for the purpose of holding himself out to the general public as an insurance agent, broker or solicitor, but primarily for the purpose of soliciting, negotiating or procuring insurance covering risks or property of his own, risks or property of members or employees of any organization of which the licensee is an officer, risks or property of his relatives or employees, or risks or property of officers or employees of a firm, partnership, or corporation in which the licensee or his mother, father, sister, brother or wife or combination of such persons owns a controlling interest, or

(e) has been convicted after obtaining his license of a crime involving moral turpitude, or

(f) has paid all or any part of commissions on insurance premiums to a person not licensed in this State, or in a State in which the assured has interests which are the subject of the insurance on which the commissions are earned, or

(g) has not been actively engaged in the business of an insurance agent, broker or solicitor for a period of 6 months or longer, or

(h) has otherwise demonstrated unworthiness, bad faith, dishonesty or incompetency to act as a licensee, or

(i) does not possess cash and accounts receivable for insurance premiums owing the licensee in an amount equal to or in excess of the accounts payable by the licensee for insurance premiums. Such accounts receivable shall not include insurance premiums owing the licensee more than 120 days after the last day of the month in which the insurance was effective.

The commissioner shall have the power to conduct investigations, to administer oaths, to interrogate licensees, to issue subpoenas signed by him or in his behalf by his deputy, or by an employee of the department authorized by the commissioner so to do, and to compel witnesses to answer at any hearing. Said subpoenas shall be served in the same manner and the witnesses shall be entitled to the same fees as in the case of subpoenas issued out of the Superior Court of New Jersey. In case of a failure of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the Superior Court, on application of the commissioner, may issue an order requiring the attendance of such person and the giving of testimony or production of evidence. Any person failing to obey the court's order may be punished by the court as for a contempt.

#### **17:22-6.16a Alternative penalty**

In any case in which the commissioner has the power to revoke, refuse to renew or suspend the license of any insurance broker, agent or solicitor, the commissioner shall also have the power to impose as an alternative to such revocation, refusal to renew, or suspension, a penalty which the licensee may elect to pay to the Department of Insurance in lieu of such revocation, refusal to renew, or suspension. The maximum penalty shall be \$1,000.00 for each such separate offense.

#### **17:22-6.17 Review of revocation**

The revocation of a license by the commissioner under section sixteen of this act shall be subject to review in the Superior Court by a proceeding in lieu of prerogative writ.

#### **17:22-6.18 Compensation to persons, etc., not licensed forbidden; exception; insurance contracts not countersigned forbidden; written memorandum specifying amount of compensation.**

No insurance company or licensee shall pay any money or commission or brokerage or give or allow any valuable consideration (except compensation to salaried employees or to supervising general agents, of any insurance company lawfully authorized to transact business in this State), to any person, partnership, association or corporation, other than a licensee, for or because of service rendered or performed in this State in negotiating or effecting in this State a contract of insurance on any property, or insurable interests, or business activities located within or transacted within this State (except reinsurance); provided, however, that any insurer participating in a plan for assignment of automobile bodily injury and property damage liability insurance or workmen's compensation insurance which plan has been approved in writing by the commissioner, may pay a commission or service fee to a duly qualified agent who is authorized to act as agent for any insurer participating in such plan when such agent is designated by the assured as the producer of record under such plan and pursuant to which a policy is issued; nor shall any insurance company effect or issue any such contract of insurance unless it is countersigned or an appropriate countersignature endorsement (except as provided in section 15 of this act) is signed by a duly licensed agent as herein defined.

No insurance broker shall have any right to compensation, other than commissions deductible from premiums on insurance policies or contracts, from

any insured or prospective insured for or on account of the negotiation or procurement of, or other services in connection with, any contract of insurance made or negotiated in this State or for any other services on account of such insurance policies or contracts, including adjustment of claims arising therefrom, unless such right to compensation is based upon a written memorandum, signed by the party to be charged and specifying or clearly defining the amount or extent of such compensation. The amount of any such compensation must bear a reasonable relationship to the nature of the services performed and must not be discriminatory.

In no event shall the amount of compensation specified in such written memorandum be effective or enforceable to the extent that it exceeds the amount that is authorized under or pursuant to any regulation of the Commissioner of Insurance.

#### **17:22-6.19 Contracts outside of state**

Nothing contained in section eighteen nor in this act shall be construed as preventing the free and unlimited right to negotiate outside of this State, contracts of insurance by nonresident brokers, licensed in accordance with the provisions of this act; provided, the policies, renewals, endorsements, or evidence of such contracts, covering properties or insurable interests or business activities in this State (except as provided in section fifteen of this act) are countersigned by a licensed agent as defined in this act. All contracts of insurance negotiated or solicited by any broker shall be placed through a licensed agent as defined in this act.

#### **17:22-6.20 Acting as agent without complying with act forbidden**

It shall be unlawful for any person, without conforming to the provisions of this act, directly or indirectly to represent himself to be the agent of any insurance company, or a broker representing any assured, or the solicitor for any agent or broker, or to solicit, negotiate or effect in this State any contract of insurance or renewal thereof, or to attempt to effect the same on any property, or insurable interests or business activities, located within, or transacted within this State; provided, however, this section shall not apply to the clerical duties of office employees, nor the managerial or supervising duties of general agents or managers.

#### **17:22-6.21 Repealed.**

#### **17:22-6.22 Blank countersignatures unlawful**

It shall be unlawful for any agent to countersign any policy of insurance in blank or to sign any countersignature endorsement in blank.

#### **17:22-6.23 Companies and representatives excepted from act**

The foregoing provisions of this act shall not apply to any insurance company, or the representatives thereof, authorized to transact the business of life insurance, or life, accident and health insurance with respect to such insurances, nor to any insurance company, or the representatives thereof, authorized to transact the business of title insurance with respect to such insurance.

**17:22-6.24** (This section has been repealed and is superseded by Chapter 144, Public Laws 1971 as amended. A separate Reference Manual for Life Insurance, Annuities, Health Insurance and Contracts on a Variable Basis which is available for a nominal fee upon request from the Department contains the statutes pertaining to the licensing of such agents, brokers and solicitors.)

#### **17:22-6.25 Penalties**

Any person, persons or corporation violating any of the provisions of this act shall be liable to a penalty not exceeding \$1,000.00 for the first offense and not exceeding \$2,000.00 for each succeeding offense to be recovered in a summary proceeding as provided in section 17:33-2 of the Revised Statutes.

#### **17:22-6.26 Repeals**

Sections 17:22-1, 17:22-2, 17:22-3, 17:22-4, 17:22-5, 17:23-3, 17:32-6, and 17:32-11 of the Revised Statutes and section one of "An act concerning the licensing of agents for insurance companies in certain cases, supplementing chapter twenty-two of Title 17, and amending section 17:33-1 of the Revised Statutes", approved May sixteenth, one thousand nine hundred and forty-one, and all acts or parts of acts inconsistent herewith are repealed.

#### **17:22-6.27 Partial invalidity**

Should any provision or section of this act be held invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this act, it being the legislative intent that this act shall stand notwithstanding the invalidity of any such provision or section.

#### **17:22-6.28 Effective date**

This act shall take effect May second, one thousand nine hundred and forty-four.

### **LICENSE TO PROCURE INSURANCE FROM UNAUTHORIZED COMPANIES EXCERPTS FROM CHAPTER 32, LAWS OF 1960**

#### **17:22-6.37 Acting for unauthorized companies prohibited; exceptions**

No person shall in this state directly or indirectly act as agent for, or otherwise represent or aid on behalf of another, any insurer not then authorized to transact such insurance in this State, in the solicitation, negotiation, procurement or effectuation of insurance or annuity contracts, or renewals thereof, or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, or fixing of rates, or investigation or adjustment of claims or losses, or collection or forwarding of premiums, or in any other manner represent or assist such an insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this State. Except that, the holder of an insurance broker's license shall have authority on behalf of a prospective assured to negotiate and deal with a surplus lines agent to effect any such transaction, collect the insurance premium therefor from the assured, and receive from the said surplus lines agent a share of any commission or brokerage fee earned by the said surplus lines agent in connection therewith.

This section does not apply to:

(a) Matters authorized to be done by the commissioner under the unauthorized insurers process law, (N.J.S.A. 17:51-1 et seq.);

(b) Surplus lines insurance when written pursuant to the surplus lines law;

(c) Transactions as to which a certificate of authority is not required of an insurer under the insurance laws of the State of New Jersey;

(d) Reinsurance effectuated in accordance with the laws of New Jersey;

(e) Railroad or aviation risks engaged in interstate or international commerce;

(f) Insurance of vessels, crafts or hulls, cargoes, marine builders' risks, marine protection and indemnity or other risks including strikes and war risks commonly insured under ocean or wet marine forms of policy.

No insurance contract entered into in violation of this section shall be deemed to have been rendered invalid thereby.

**17:22-6.38 Violation; misdemeanor; penalties**

Any person who in this State represents or aids an unauthorized insurer in violation of section 3 of this act shall upon conviction thereof be guilty of a misdemeanor.

In addition to the penalty provided for herein such violator shall be liable, personally, jointly and severally with any other person or persons liable therefor, for payment of taxes payable on account of such insurance as if such insurance were independently procured.

**17:22-6.55 Licensing of surplus lines agent**

Any resident New Jersey licensed insurance broker who is determined by the commissioner to have had sufficient experience in the insurance business to be competent for the purpose, may be licensed as a surplus lines agent, upon taking and successfully passing a written examination as to surplus lines, as given by the commissioner. Any New Jersey copartnership or corporation licensed as an insurance broker may become licensed as a surplus lines agent provided all members of the copartnership or all the officers of the corporation, as the case may be, who are actively engaged in the surplus lines business of the copartnership or corporation possess the requisite experience and successfully pass the written examination above set forth. The commissioner shall issue a certificate of eligibility to all such members and officers possessing the requisite experience and successfully passing the written examination.

The examination requirements set forth in paragraph 1 of this section shall not be required in the case of an individual, copartnership or corporation holding a New Jersey surplus lines broker's license on the effective date of this act.

Initial and renewal applications for the said licenses and certificates shall be made to the commissioner on forms as designated and furnished by him.

Such licenses and certificates shall expire at midnight on the October 31 next following date of issuance, and shall be renewable upon written request therefore filed with the commissioner and accompanied by payment of the license fee, prior to expiration.

The following fees shall be paid in advance:

- (a) Surplus lines agent's annual license fee \$100.00
- (b) Annual certificate of eligibility 10.00

(c) Examination fee 10.00

All applicants and licensees must file and maintain the bond required under section 22 of this act.

**17:22-6.56 Bond**

Prior to issuance of license, the applicant shall file with the commissioner, and thereafter for as long as any such license remains in effect he shall keep in force and unimpaired, a bond in favor of the commissioner or his successors in office in the penal sum of not less than \$10,000.00, aggregate liability, with authorized corporate surety or sureties approved by the commissioner; the bond for a corporation licensed as a surplus lines broker shall be \$20,000.00. The commissioner may, in his discretion, require a bond in larger amount commensurate with the volume of surplus lines business transacted or to be transacted by a particular surplus lines agent. The bond shall be conditioned that the surplus lines agent will comply with all the requirements of subtitle 3 of Title 17 of the Revised Statutes.

**17:22-6.61 Suspension, revocation or refusal to renew license; grounds; penalties for violation**

The commissioner may suspend, revoke, or refuse to renew the license of a surplus lines agent and all other licenses and permits held by the licensee under this Title, upon any 1 or more of the following grounds:

- (a) Removal of the licensee's office from the State;
- (b) Removal of the accounts and records of his surplus lines business from this State during the period when such accounts and records are required to be maintained under section 23 of this act;
- (c) Closure of the licensee's office for a period of more than 30 consecutive days, unless granted permission by the commissioner upon showing circumstances warranting such closure for a longer period;
- (d) Failure to make and file his quarterly reports when due as required by section 24 of this act;
- (e) Failure to pay the tax on surplus lines premiums, as provided for in this surplus lines law;
- (f) Failure to maintain the bond as required by section 22 of this act;
- (g) Suspension, revocation or refusal to renew any other license issued by the commissioner;
- (h) Lack of qualifications as for an original surplus lines agent's license;
- (i) Violation of any provision of this surplus lines law;
- (j) For any other cause for which a license could be denied, revoked, suspended or renewal refused under R.S. 17:22-6.6, 17:22-6.16 or 17:22-6.24.

In addition to the foregoing penalties set forth in paragraph 1 of this section, any person, persons or corporation violating any of the provisions of this act shall be liable to a penalty not exceeding \$1,000.00 for the first offense and not exceeding \$2,000.00 for each succeeding offense to be recovered in a summary proceeding as provided in section 17:33-2 of the Revised Statutes.

**17:22-6.62 Revocation for failure to file report or pay taxes; procedure; review**

If any licensed surplus lines agent fails to file the quarterly report required or pay the taxes as required of him under this surplus lines law, the commissioner shall issue an order directed to the licensee requiring the licensee to file such report and pay such tax or to show cause by a day certain to be named therein why the commissioner should not revoke his license. The notice shall provide a return day not sooner than 30 days subsequent to its issuance and shall be served upon the licensee by registered mail at his business post-office address.

The licensee may, not less than 10 days prior to such return day, file his response in writing with the commissioner showing cause why he has not paid such tax, but the only defenses available to the licensee with respect thereto shall be that the commissioner is requiring the payment of a tax greater than that due from the licensee, and such defense will be available only if the licensee shall have filed return purporting to show the tax payable by the licensee, and shall have tendered the amount of tax computed by the licensee to be due.

If on the return day the licensee has not filed such return and paid the tax and has not filed any such defense and made such tender, the commissioner shall revoke the licenses of the licensee.

If the licensee files such defense to the order and makes such tender within the time required, on the return day the commissioner shall hold a hearing with respect to such matters and if the commissioner determines after such hearing that the licensee has failed to pay the tax required, and the licensee does not within 5 days thereafter pay such tax, the commissioner shall enter his order revoking the licenses of such licensee.

The revocation of a license by the commissioner under this section shall be subject to review in the Superior Court by a proceeding in lieu of prerogative writ.

## TRADE PRACTICES

(Repealed insofar as applicable to company authorized to do life insurance, health insurance and annuities business by L. 1971, c. 144.)

**17:29B-1. Declaration of purpose**

The purpose of this act is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

**17:29B-2. Definitions**

When used in this act:

(a) "Person" shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers and adjusters.

(b) "Commissioner" shall mean the Commissioner of Insurance of this State.

**17:29B-3. Unfair methods of competition or unfair acts or practices prohibited**

No person shall engage in this State in any trade practice which is defined in this act as or determined pursuant to this act to be an unfair method of competition or an unfair deceptive act or practice in the business of insurance.

**17:29B-4. Unfair methods of competition and unfair or deceptive acts or practices defined**

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

(1) Misrepresentations and false advertising of policy contracts. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial

condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

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

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

(4) Boycott, coercion and intimidation. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

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

Making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of

such insurer in any book, report or statement of such insurer.

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

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

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

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

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

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

(8) Rebates. (a) Except as otherwise expressly provided by law, knowingly permitting or offering to

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

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

(9) The enumeration in this act of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or any court of review under the provisions of section 9 of this act.

#### **17:29B-5. Power of commissioner**

The commissioner shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in this State in order to determine whether such person has been or is engaged in any unfair method of competition or

in any unfair or deceptive act or practice prohibited by section three of this act.

#### **17:29B-6. Hearings, witnesses, appearances, production of books and services of process**

(a) Whenever the commissioner shall have reason to believe that any such person has been engaged or is engaging in this State in any unfair method of competition or any unfair or deceptive act or practice defined in section four, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than ten days after the date of the service thereof.

(b) At the time and place fixed for such hearing, such person shall have an opportunity to be heard and to show cause why an order should not be made by the commissioner requiring such person to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, the commissioner shall permit any person to intervene, appear and be heard at such hearing by counsel or in person.

(c) Nothing contained in this act shall require the observance at any such hearing of formal rules of pleading or evidence.

(d) The commissioner, upon such hearing, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the inquiry. The commissioner, upon such hearing, may, and upon the request of any party, shall cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the commissioner shall prepare a statement of the evidence and proceeding for use on review. In case of a failure of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the Superior Court, on ex parte application of the commissioner, may compel him to do so.

e) Statements of charges, notices, orders, and other processes of the commissioner under this act may be served by anyone duly authorized by the commissioner, either in the manner provided by law for service of process in civil actions, or by registering and mailing a copy thereof to the person affected

by such statement, notice, order, or other process addressed to his or its residence or principal office or place of business. An affidavit by the person so serving such statement, notice, order, or other process, setting forth the manner of such service, or the return postcard receipt for such statement, notice, order, or other process, registered and mailed as aforesaid, shall be proof of the service of the same.

**17:29B-7. Cease and desist orders and modifications thereof**

(a) If, after such hearing, the commissioner shall determine that the method of competition or the act or practice in question is defined in section four and that the person complained of has engaged in such method of competition, act or practice in violation of this act, he shall make his findings in writing and shall issue and cause to be served upon the person charged with the violation an order requiring such person to cease and desist from engaging in such method of competition, act or practice.

(b) Until the expiration of the time limited for judicial review, if no proceeding for review has been instituted within such time or, if a proceeding for review has been instituted within such time, then until the transcript of the record in the proceeding has been filed in the Superior Court, as hereinafter provided, the commissioner may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

(c) After the expiration of the time limited for judicial review if no such proceeding has been instituted within such time, the commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section, whenever in his opinion the facts or the laws have so changed as to require such action or if the public interest shall so require.

**17:29B-8. Judicial review of cease and desist orders**

An order of the commissioner under section seven shall be subject to review by the Superior Court in a proceeding in lieu of prerogative writ.

No order of the commissioner under this act shall in any way relieve or absolve any person affected by such order from any liability under any other law of this State.

**17:29B-9. Procedure as to unfair methods of competition and unfair or deceptive acts or practices which are not defined**

(a) Whenever the commissioner shall have reason to believe that any person engaged in the business of insurance is engaging in this State in any method of competition or in any act or practice in the conduct of such business which is not defined in section four, and that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than ten days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided for in section six. The commissioner shall, after such hearing, make a determination in writing in which he shall state his findings as to the facts, and he shall serve a copy thereof upon such person.

(b) If such determination charges a violation of this act and if such method of competition, act or practice has not been discontinued, the commissioner may, through the Attorney-General of this State, at any time after ten days after the service of such determination institute an action in the Superior Court to enjoin and restrain such person from engaging in such method, act or practice. The court may proceed in the action in a summary manner or otherwise and may make an adjudication on the record and evidence before the commissioner and such additional evidence before the court or which it directs to be taken before the commissioner, as the court may deem proper. The court may enjoin any method of competition or act or practice which it finds to be unfair or deceptive.

**17:29B-10. Intervenor; action to enjoin violations**

If the determination of the commissioner does not charge a violation of this act, then any intervenor in the proceedings before him may, within thirty days after the service of such determination, institute an action, notwithstanding the determination, in the Superior Court to enjoin and restrain any method of competition, act or practice. The court may proceed in the action in a summary manner or otherwise and may make an adjudication on the record and evidence before the commissioner and such additional evidence taken before it as it deems advisable and may enjoin any method, act or practice which it finds to be a violation of this act.

#### **17:29B-11. Penalty**

Any person who violates a cease and desist order of the commissioner under section seven, after it has become final, and while such order is in effect, shall forfeit and pay to the State of New Jersey a sum not to exceed five thousand dollars (\$5,000.00) for each violation, which may be recovered in a civil action. In determining the amount of the penalty the question of whether the violation was willful shall be taken into consideration. Nothing herein shall be construed as limiting a court in enforcing its own orders.

#### **17:29B-12. Provisions of act additional to existing laws**

The powers vested in the commissioner by this act shall be additional to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive.

#### **17:29B-13. Immunity from prosecution**

If any person shall ask to be excused from testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give such testimony or produce such evidence, he must nonetheless comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence pursuant thereto, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding; provided, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him while so testifying and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury, nor shall he be exempt from refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to the insurance laws of this State. Any such person may execute, acknowledge and file in the office of the commissioner a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement and thereupon the testimony of such person or such evidence in relation to such transaction, matter or

thing may be received or produced before any judge, court, tribunal, grand jury or other officer or body, and if so received or produced such person shall not be entitled to any immunity or privilege on account of any testimony or evidence he may so give or produce.

#### **17:29B-14. Separability provision**

If any provision of this act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

### **CANCELLATION AND RENEWALS**

#### **17:29C-1. Policy provision; written notice**

In addition to the powers conferred upon him by any other law, the Commissioner of Insurance is hereby authorized and empowered to direct, by rule or regulation as hereinafter provided, that insurance companies organized under the laws of this State or organized to do business in this State, shall include provisions in policies of insurance written by any such company in this State, whereby 30 days' written notice shall be given; (1) to the insured, of the cancellation of any such policy; and, (2) to any designated mortgagee not named therein as the insured of the cancellation of any interest in such policy; and, (3) to the insured, of intent not to renew any such policy.

#### **17:29C-2. Direction that specific provisions be included; exception**

The commissioner may direct that any or all of the aforesaid provisions, which he is herein authorized and empowered to direct, be included in any or all types of insurance policies covering any or all insurance risks written in this State or in any part of this State, when, in his discretion, the need for same exists as a result of conditions in the market for such types of insurance; provided, however, that any direction of the commissioner pursuant to this act shall treat all insurance companies writing any particular type or types of insurance in a uniform manner; and, provided further, that the aforesaid provisions shall not apply in the case of cancellation of a policy or of any interest in a policy for the non-payment of premiums or for "moral hazard," as such is defined by the commissioner.

**17:29C-3. Revocation of direction; duration of direction**

The commissioner may revoke the direction of any or all of the aforesaid provisions at any time when, in his discretion, the need for same no longer exists, and no such direction by the commissioner shall be valid for a period in excess of 1 year from the date it is made; provided, however, that any such direction shall remain valid after 1 year upon certification to the Legislature of the continued need for same by the commissioner.

**17:29C-4. Reports from insurers; rules and regulations**

The commissioner may require such reports from insurers and may make any reasonable rules and regulations to carry out the purposes of this act as he shall deem necessary.

**COUNTY OR MUNICIPAL  
LIABILITY INSURANCE**

**17:29C-5. County or municipal liability insurance; moratorium on cancellation**

Notwithstanding the provisions of any other law, no insurance policy which has been issued to a county or municipality covering liability for damages to real or personal property or person for which such county or municipality is liable pursuant to the provisions of chapter 48 of Title 2A of the New Jersey Statutes, shall be cancelled by the insurer, except in the case of nonpayment of premium, and there is hereby declared to be a moratorium on the cancellation of such insurance policies, which moratorium shall be retroactive to June 1, 1968, and shall be in force and effect until October 1, 1968.

**AUTOMOBILE INSURANCE**

**17:29C-6. Definitions.**

As used in this act:

(A) "Policy" means an automobile liability, automobile physical damage or automobile collision policy, or any combination thereof, delivered or issued for delivery in this State, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or

station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or

2. Any other 4-wheel motor vehicle with a load capacity of 1,500 pounds or less which is not customarily used in the occupation, profession or business of the insured;

provided, however, that this act shall not apply (1) to any policy issued under an automobile assigned risk plan, or (2) to any policy insuring more than 4 automobiles, or (3) to any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards.

(B) "Automobile liability coverage" includes only coverage of bodily injury and property damage liability, medical payments and uninsured motorists coverage.

(C) "Automobile physical damage coverage" includes all coverage of loss or damage to an automobile insured under the policy except loss or damage resulting from collision or upset.

(D) "Automobile collision coverage" includes all coverage of loss or damage to an automobile insured under the policy resulting from collision or upset.

(E) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided however, that any policy with a policy period or term of less than 6 months shall for the purpose of this act be considered as if written for a policy period or term of 6 months. Provided, further, that any policy written for a term longer than 1 year or any policy with no fixed expiration date, shall for the purpose of this act, be considered as if written for successive policy periods or terms of 1 year, and such policy may be terminated at the expiration of any annual period upon giving 20 days' notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of this act.

(F) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

**17:29C-7. Notice of cancellation; grounds**

(A) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

- (a) Nonpayment of premium; or
- (b) The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period.

(B) This section shall not apply to any policy or coverage which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(C) This section shall not apply to nonrenewal.

**17:29C-8. Time for notice**

No notice of cancellation of a policy to which section 2 applies shall be effective unless mailed or delivered by the insurer to the named insured at least 20 days prior to the effective date of cancellation, provided, however, that where cancellation is for nonpayment of premium at least 10 days' notice of cancellation accompanied by the reason therefor shall be given. Unless the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than 15 days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation.

This section shall not apply to nonrenewal.

**17:29C-9. Renewal of policy; advance notice of intention not to renew**

No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least 20 days' advance notice of its intention not to renew. This section shall not apply:

(a) If the insurer has manifested its willingness to renew; nor

(b) In case of nonpayment of premium; provided that, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation

which existed before the effective date of such renewal.

**17:29C-10. Proof of notice**

Proof of mailing of notice of cancellation, or of intention not to renew or of reasons for cancellation, to the named insured at the address shown in the policy, shall be sufficient proof of notice.

**17:29C-11. Cancellation or nonrenewal of automobile liability insurance; contents of notice**

When a policy of automobile liability insurance is canceled, other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which section 4 applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance through the automobile liability assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew.

**17:29C-12. Reason for cancellation; request**

Where the reason for cancellation does not accompany or is not included in the notice of cancellation, the insurer shall upon written request of the named insured, mailed or delivered to the insurer not less than 15 days prior to the effective date of cancellation, specify in writing the reason for such cancellation. Such reason shall be mailed or delivered to the named insured within 5 days after receipt of such request.

**17:29C-13. Immunity from liability**

There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner of Insurance or against any insurer, its authorized representative, its agents, its employees, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation, for any statement made by any of them in any written notice of cancellation, or in any other communication, oral or written specifying the reasons for cancellation, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

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