

CHAPTER 153

AN ACT concerning certain insurance producers and amending P.L.1970, c.217.

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

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

C.17:22-6.14a Rates of commission to be set forth in contracts; exceptions; termination of contracts.

1. a. 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.

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

c. Contracts between insurance companies and agents for the appointment of the agent as the representative of the company shall set forth the rate 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:

- (1) Reinsurance.
- (2) Life insurance.
- (3) Annuities.
- (4) Accident and health insurance.
- (5) Title insurance.
- (6) Mortgage guaranty insurance.

(7) Hospital service, medical service, health 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 hereinafter provided. Failure to achieve such mutual consent shall require that the agent's contract be terminated as hereinbelow provided. The rate of commission 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.

d. 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 Banking and Insurance. No new business or changes in liability on renewal or in force business, except as provided in subsection l. of this section, shall be written by the agent for the company after notice of termination without prior 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 12 months from the effective date of such termination, provided the former agent has not been replaced as the broker of record by the insured, and 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 agency contract in effect at the time notice of termination was issued. Said commission can be paid only to the holder of a valid New Jersey insurance producer'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.

e. The agency termination provisions of this act shall not apply to those contracts:

- (1) 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 Banking and 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 Banking and Insurance; or

(2) which are entered into between a qualified insurer and a UEZ agent pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4).

f. The Commissioner of Banking and 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.

g. 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.

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

i. 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 term specified in the original contract, but in no event to be less than one year.

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

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

l. A company which terminates its contractual relationship with an agent subject to the provisions of subsection d. of this section shall, at the time of the agent's termination, with respect to insurance covering an automobile as defined in subsection a. of section 2 of P.L.1972, c.70 (C.39:6A-2), notify each named insured whose policy is serviced by the terminated agent in writing of the following: (1) that the agent's contractual relationship with the company is being terminated and the effective date of that termination; and (2) that the named insured may (a) continue to renew and obtain service through the terminated agent; or (b) renew the policy and obtain service through another agent of the company.

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

The company shall pay a terminated agent who continues to service policies pursuant to the provisions of this subsection a commission in an amount not less than that provided for under the agency contract in effect at the time the notice of termination was issued. A terminated agent who continues to service automobile insurance policies pursuant to this subsection shall be deemed to be an insurance producer as defined in section 3 of P.L.2001, c.210 (C.17:22A-28), and not an agent of the company, except that the terminated agent shall have the authority to bind coverage for renewals, additional or replacement vehicles, and for changed limits of

liability as provided in this subsection to the same extent as an active agent for the company. The company shall provide the terminated agent with a written copy of its current underwriting guidelines during the time the agent continues to service policies pursuant to this subsection.

If a terminated agent who is continuing to service policies pursuant to the provisions of this subsection violates the written underwriting guidelines of the company in such a manner or with such frequency as to substantially affect the company's ability to underwrite or provide coverage, the company may discontinue accepting renewal and service requests from, and paying commissions to, the terminated agent; provided, however, that the company provides the terminated agent with at least 45 days' written notice which shall include a detailed explanation of the reasons for discontinuance. A copy of this notice, along with supporting documentation providing evidence that the terminated agent received proper notice of discontinuance pursuant to this subsection and evidence in support of the company's action, shall be sent by the company to the Division of Enforcement and Consumer Protection in the Department of Banking and Insurance.

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

m. A qualified insurer which terminates its contractual relationship with its UEZ agent pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4) shall terminate its relationship in accordance with the following provisions:

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

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

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

n. In any case of a transfer by an insurance company of any kind or kinds of insurance specified in its certificate of authority to another company, pursuant to the provisions of R.S.17:17-10 or section 72 of P.L.1990, c.8 (C.17:33B-30), the policies transferred shall continue to be serviced by the agent of record and the company to which the business is transferred shall offer contracts to the agents of the transferring company which contain terms and conditions concerning the use, control and ownership of policy expirations and payment of commissions that are no less favorable than the terms and conditions of their current contracts. Nothing in this subsection shall prohibit a company from offering contracts to agents of the transferring company that limit the agents' right to produce new business or prohibit subsequent modification of the rate of commission set forth in the agency contract in accordance with subsection c. of this section. This subsection shall not apply if the company seeking to transfer policies pays its agents on a salary basis without commission or if its agents represent the company exclusively.

2. This act shall take effect immediately.

Approved August 15, 2003.