

CHAPTER 38

AN ACT concerning the calculation of net premiums on certain policies of life insurance for the purposes of certain assessments on insurers and amending P.L.1995, c.156 and P.L.1983, c.320.

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

C.17:1C-20 Certification of expenses incurred, apportionment.

1. Section 2 of P.L.1995, c.156 (C.17:1C-20) is amended to read as follows:

2. a. The Director of the Division of Budget and Accounting in the Department of the Treasury shall, on or before August 15 in each year, ascertain and certify to the Commissioner of Banking and Insurance by category the total amount of expenses incurred by the State in connection with the administration of the special functions of the Division of Insurance in the Department of Banking and Insurance relative to the financial regulation, supervision and monitoring of insurers and health maintenance organizations during the preceding fiscal year. Those expenses shall include, in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of employee benefits and the workers' compensation paid for and on account of personnel, rentals for space occupied in State-owned or State-leased buildings and all other direct and indirect costs of the administration of those functions of the department, as well as any amounts remaining uncollected from the special purpose apportionment of the previous fiscal year. Certification made pursuant to this subsection shall be made by the Director of the Division of Budget and Accounting in consideration of revenues paid by insurers and health maintenance organizations pursuant to all other special purpose assessments made pursuant to applicable law in effect on the effective date of this act.

b. (1) Upon receipt of the certification made by the Director of the Division of Budget and Accounting pursuant to subsection a. of this section, but no later than September 1 in each year following the close of the previous fiscal year, the commissioner shall issue, in accordance with the provisions of this section, a special purpose apportionment for the amount of the expenses incurred by, or on behalf of, the department for those special purposes recognized in this act.

(2) Special purpose apportionments made pursuant to this section shall be distributed among all of the companies engaged in business pursuant to subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.), subtitle 3 of Title 17B of the New Jersey Statutes (N.J.S.17B:17-1 et seq.), and P.L.1973, c.337 (C.26:2J-1 et seq.), in this State in the proportion that the net written premiums received by each of them for such insurance written or renewed on risks, in this State during the calendar year immediately preceding, bears to the sum total of all such net written premiums received by all companies writing that insurance or coverage within the State during that calendar year, as reported.

"Net written premiums received" means gross direct premiums written, less return premiums thereon and dividends credited or paid to policyholders as reported on the company's annual financial statement. For the purpose of calculating the apportionment amount for companies engaged in business pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), "net written premiums received" means direct premiums as reported on the annual financial statement submitted pursuant to section 9 of P.L.1973, c.337 (C.26:2J-9). In determining the apportionment amount pursuant to this section, the net written premiums received by a company, other than a domestic insurer as defined in subsection a. of N.J.S.17B:17-7 that sells life insurance as defined in N.J.S.17B:17-3, including annuities as defined in N.J.S.17B:17-5, shall not exceed \$100,000,000 on any one contract of insurance.

For the purpose of calculating the special purpose apportionment, any such premium excluded from the reporting of "net written premiums received" by virtue of the preceding sentence shall be allocated among those domestic insurers as defined in subsection a. of N.J.S.17B:17-7 that sell life insurance as defined in N.J.S.17B:17-3 to be included with the "net written premiums received" reported by those companies. Such excluded premium shall be allocated among those domestic insurers as defined in subsection a. of N.J.S.17B:17-7 that sell life insurance as defined in N.J.S.17B:17-3, on a pro rata basis based on the proportion that the net written premiums received by each of them for insurance written or renewed on risks in this State during the calendar year immediately preceding bears to the sum total of all such net written premiums received by those domestic insurers as defined in subsection a. of N.J.S.17B:17-7 that sell life insurance as defined in N.J.S.17B:17-3, within the State during that calendar year.

c. For the purposes of this section, no company shall be required to pay a special purpose apportionment which exceeds .10 percent of its net written premiums received during the calendar year immediately preceding.

d. The commissioner shall certify the amount of the special purpose apportionment issued to each company. Each company shall remit the amount so certified and apportioned to it to the department in accordance with the procedures established in this act. Amounts collected by the department shall be used for reimbursement to the State for expenses incurred in connection with the special functions of the Division of Insurance relative to the financial regulation, supervision and monitoring of insurers and health maintenance organizations, provided that the amount collected for those expenses shall not exceed the amount appropriated by the Legislature for those expenses.

2. Section 8 of P.L.1983, c.320 (C.17:33A-8) is amended to read as follows:

C.17:33A-8 Bureau of Fraud Deterrence.

8. a. (1) There is established in the Department of Banking and Insurance the Bureau of Fraud Deterrence. The bureau shall assist the commissioner in administratively investigating allegations of insurance fraud in consultation with the Office of the Insurance Fraud Prosecutor in accordance with subsection a. of section 9 of P.L.1983, c.320 (C.17:33A-9), and implementing programs to prevent insurance fraud and abuse. When so required by the commissioner and the Attorney General, the bureau shall cooperate with the Attorney General in the investigation and prosecution of criminal violations.

(2) In order to achieve administrative efficiencies, and notwithstanding the provisions of section 33 of P.L.1998, c.21 (C.17:33A-17), all civil investigators in the Office of the Insurance Fraud Prosecutor, other than those assigned to the Case Screening, Litigation and Analytical Support Unit, and those additional administrative and clerical support personnel as may be mutually agreed to by the commissioner and the Attorney General, shall be transferred to the Bureau of Fraud Deterrence in the Department of Banking and Insurance. Personnel transferred from the Office of the Insurance Fraud Prosecutor in the Department of Law and Public Safety to the Department of Banking and Insurance pursuant to this paragraph shall be transferred with all tenure rights and any rights or protections provided by Title 11A of the New Jersey Statutes or other applicable statute, and any pension law or retirement system, as provided in the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

b. The commissioner shall appoint the full-time supervisory and investigative personnel of the bureau, including the assistant commissioner, who, except as provided in subsections

a. and d. of this section, shall hold their employment at the pleasure of the commissioner without regard to the provisions of Title 11A of the New Jersey Statutes and shall receive such salaries as the commissioner from time to time designates, and who shall be qualified by training and experience to perform the duties of their position.

c. When so requested by the commissioner, the Attorney General may assign one or more deputy attorneys general to assist the bureau in the performance of its duties.

d. The commissioner shall also appoint the clerical and other staff necessary for the bureau to fulfill its responsibilities under this act. The personnel shall be employed subject to the provisions of Title 11A of the New Jersey Statutes, and other applicable statutes.

e. The commissioner shall appoint an insurance fraud advisory board consisting of eight representatives from insurers doing business in this State. The members of the board shall serve for two year terms and until their successors are appointed and qualified. The members of the board shall receive no compensation. The board shall advise the commissioner with respect to the implementation of this act, when so requested by the commissioner.

f. The Director of the Division of Budget and Accounting in the Department of the Treasury shall, on or before September 1 in each year, ascertain and certify to the commissioner the total amount of expenses incurred by the State in connection with the administration of this act during the preceding fiscal year, which expenses shall include, in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of retirement contributions made and the workers' compensation paid for and on account of personnel, rentals for space occupied in State owned or State leased buildings and all other direct and indirect costs of the administration thereof.

g. The commissioner shall, on or before October 15 in each year, apportion the amount so certified to him among all of the companies writing the class or classes of insurance described in Subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.), and Subtitle 3 of Title 17B of the New Jersey Statutes (N.J.S.17B:17-1 et seq.), within this State in the proportion that the net premiums received by each of them for such insurance written or renewed on risks within this State during the calendar year immediately preceding, as reported to him, bears to the sum total of all such net premiums received by all companies writing that insurance within the State during the year, as reported, except that no one company shall be assessed for more than 5% of the amount apportioned. The commissioner shall certify the sum apportioned to each company on or before November 15 next ensuing. Each company shall pay the amount so certified as apportioned to it to the Department of Banking and Insurance on or before December 31 next ensuing, and the sum paid shall be paid into the State Treasury in reimbursement to the State for the expenses paid.

“Net premiums received” means gross premiums written, less return premiums thereon and dividends credited or paid to policyholders except that, in determining the apportionment amount pursuant to this section, the net premiums received by a company, other than a domestic insurer as defined in subsection a. of N.J.S.17B:17-7 that sells life insurance as defined in N.J.S.17B:17-3, including annuities as defined in N.J.S.17B:17-5, shall not exceed \$100,000,000 on any one contract of insurance.

For the purpose of calculating the apportionment amount pursuant to this subsection, any such premium excluded from the reporting of “net premiums received” by virtue of the preceding sentence shall be allocated among those domestic insurers as defined in subsection a. of N.J.S.17B:17-7 that sell life insurance as defined in N.J.S.17B:17-3, to be included with the “net premiums received” reported by those companies. Such excluded premium shall be allocated among those domestic insurers as defined in subsection a. of N.J.S.17B:17-7 that sell life insurance as defined in N.J.S.17B:17-3, on a pro rata basis based on the proportion

that the net written premiums received by each of them for insurance written or renewed on risks in this State during the calendar year immediately preceding bears to the sum total of all such net written premiums received by those domestic insurers as defined in subsection a. of N.J.S.17B:17-7 that sell life insurance as defined in N.J.S.17B:17-3, within the State during that calendar year.

h. (Deleted by amendment, P.L.2010, c.32).

3. This act shall take effect immediately.

Approved August 31, 2016.