

ASSEMBLY, No. 5649

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

SYNOPSIS

Eliminates New Jersey Automobile Insurance Risk Exchange.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT eliminating the New Jersey Automobile Insurance Risk
2 Exchange and revising various parts of the statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.1988, c.118 (C.17:29A-5.6) is amended to
8 read as follows:

9 1. As used in this act:

10 a. "Actual investment income" means that portion of income
11 generated by investment of policyholder-supplied funds.
12 Policyholder-supplied funds are the assets that offset the insurer's
13 total New Jersey private passenger automobile insurance unearned
14 premium and loss reserves without regard to whether those funds
15 came from private passenger automobile insurance policyholders or
16 other policyholders or were from policyholder funds from the last
17 seven calendar years or earlier years.

18 b. "Actuarial gain" means the remainder obtained by
19 subtracting the allowance for profit and contingencies from
20 underwriting income, which remainder may be positive or negative.

21 c. **["AIRE charges" and "AIRE compensation" mean,**
22 **respectively, amounts paid to or received from the New Jersey**
23 **Automobile Insurance Risk Exchange pursuant to section 16 of**
24 **P.L.1983, c.362 (C.39:6A-22).]** (Deleted by amendment,
25 P.L. ___, c. __) (pending before the Legislature as this bill)

26 d. "Anticipated investment income" means the amount obtained
27 by multiplying earned premium by the percentage of premium
28 representing investment income and used in the insurer's approved
29 rate filings or filings made pursuant to section 29 of
30 P.L.1988, c.119 (C.17:29A-42), during the period of the three
31 calendar-accident years being calculated, to calculate the allowance
32 for profit and contingencies.

33 e. "Calendar-accident year" means the period from January 1 to
34 December 31, during which, in the appropriate context:

- 35 (1) premium or investment income was earned; or
36 (2) expenses were incurred**];** or
37 (3) accidents occurred which resulted in losses, loss adjustment
38 expenses or AIRE compensation**].**

39 f. "Car year" means the unit of exposure equivalent to the
40 insuring of one automobile for 12 months, two automobiles for six
41 months each, three automobiles for four months each, and so forth.

42 g. "Commissioner" means the Commissioner of Banking and
43 Insurance.

44 h. "Development adjustment," for a given calendar-accident
45 year, means the difference obtained by subtracting:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 (1) The sum of

2 **[(a) Losses]** losses and loss adjustment expenses for that
3 calendar-accident year, developed to an ultimate basis and
4 evaluated as of March 31 of the year preceding the year in which
5 the profits report required by section 2 of this act is due**];** plus

6 (b) AIRE compensation for that calendar-accident year,
7 developed to an ultimate basis and evaluated as of March 31 of the
8 year in which the profits report is due**];** from

9 (2) The sum of

10 **[(a) Losses]** losses and loss adjustment expenses for that
11 calendar-accident year, developed to an ultimate basis and
12 evaluated as of March 31 of the year in which the profits report is
13 due**];** plus

14 (b) AIRE compensation for that calendar-accident year,
15 developed to an ultimate basis and evaluated as of March 31 of the
16 year preceding the year in which the profits report is due**].**

17 i. "Excess investment income" means the remainder obtained
18 by subtracting the anticipated investment income from the actual
19 investment income earned by the insurer, which remainder may be
20 positive or negative.

21 j. "Insurer" means an entity authorized or admitted to transact
22 private passenger automobile insurance business in New Jersey.

23 k. "Private passenger automobile insurance business" means
24 direct insurance on private passenger automobiles as defined in
25 subsection a. of section 2 of P.L.1972, c.70 (C.39:6A-2), excluding
26 personal excess liability insurance and insurance on commercial
27 vehicles.

28 l. "Total actuarial gain" means the sum of the actuarial gains
29 for the seven calendar-accident years immediately preceding the
30 due date of the profits report required by section 2 of this act, less
31 the development adjustments submitted at the option of the insurer
32 for the calendar-accident years beginning with the eleventh
33 calendar-accident year immediately preceding the due date of the
34 profits report and ending with the eighth calendar-accident year
35 immediately preceding the due date of the profits report.

36 m. "Underwriting income" means the remainder obtained by
37 subtracting the sum of all losses developed to an ultimate basis, all
38 loss adjustment expenses developed to an ultimate basis, and all
39 other expenses exclusive of UCJF assessments, from the sum of
40 premiums earned **[and AIRE compensation developed to an**
41 **ultimate basis],** which remainder may be positive or negative.

42 n. "UCJF assessments" means amounts paid by insurers to the
43 Unsatisfied Claim and Judgment Fund pursuant to section 3 of
44 P.L.1952, c.174 (C.39:6-63).

45 o. "UCJF reimbursements" means amounts received by an
46 insurer from the Unsatisfied Claim and Judgment Fund as a result

1 of excess medical expense benefit payments by the insurer pursuant
2 to section 2 of P.L.1977, c.310 (C.39:6-73.1).

3 (cf: P.L.2003, c.89, s.67.)
4

5 2. Section 2 of P.L.1988, c.118 (C.17:29A-5.7) is amended to
6 read as follows:

7 2. a. Each insurer, except those exempt from filing pursuant to
8 section 6 of this act, shall annually file with the commissioner, on
9 or before July 1 of each year, a profits report containing the
10 information and calculations required by this section. The
11 information shall be provided with respect to the insurer's New
12 Jersey private passenger automobile insurance business separately
13 for each of the following coverages and for all these coverages
14 combined:

15 (1) Personal injury protection, including all options;

16 (2) Bodily injury liability, reported at total limits;

17 (3) Other liability, consisting of property damage liability and
18 uninsured and underinsured motorist coverages, all reported at total
19 limits;

20 (4) Physical damage, consisting of comprehensive and collision
21 coverages, including all deductibles.

22 A separate profits report shall be filed for each insurer and each
23 insurer in an insurance holding company system. Each insurance
24 holding company system shall file a separate combined profits
25 report for all insurers in its system. The excess profits computation
26 for an insurance holding company system shall be performed on its
27 combined profits report, except that the commissioner may order an
28 adjustment in the combined profits report if in his judgment, upon
29 examining each insurer's profits report in the insurance holding
30 company system, one or more of the insurers in that system are
31 excessively subsidizing other insurers in that system.

32 b. The profits report shall contain the following information, in
33 a manner and for a time period as prescribed by the commissioner
34 by regulation:

35 (1) Losses paid;

36 (2) Losses developed to an ultimate basis;

37 (3) Loss adjustment expenses paid; and

38 (4) Loss adjustment expenses developed to an ultimate basis**;**

39 (5) **【AIRE compensation received; and】** (Deleted by
40 amendment, P.L. , c.) (pending before the Legislature as this
41 bill)

42 (6) **【AIRE compensation developed to an ultimate basis.】**
43 (Deleted by amendment, P.L. , c.) (pending before the
44 Legislature as this bill)

45 c. The profits report shall contain the following information for
46 the calendar-accident year ending December 31 immediately
47 preceding the date the profits report is due:

- 1 (1) Premiums written;
- 2 (2) Premiums earned;
- 3 (3) All other expenses, itemized separately as follows:
- 4 (a) All commissions and all brokerage fees;
- 5 (b) All taxes, all licenses and all fees;
- 6 (c) ~~【All AIRE charges;】~~ (Deleted by amendment,
- 7 P.L. , c.) (pending before the Legislature as this bill)
- 8 (d) All UCJF assessments;
- 9 (e) All other acquisition costs and all general expenses;
- 10 (f) All policyholder dividends incurred by the insurer, including
- 11 any excess profits refunded or credited to policyholders;
- 12 (g) The net of all catastrophe reinsurance premiums incurred to
- 13 unaffiliated catastrophe reinsurers and all sums paid or owed by
- 14 unaffiliated catastrophe reinsurers for losses that occurred during
- 15 the calendar-accident year, subject to such substantiation of expense
- 16 as the commissioner may require;
- 17 (h) All expenses incurred for the services of a limited
- 18 assignment distribution carrier pursuant to subsection c. of section 1
- 19 of P.L.1970, c.215 (C.17:29D-1);
- 20 (4) Allowance for profit and contingencies, calculated by
- 21 multiplying the premiums earned by the profit and contingency
- 22 factors authorized for use with the insurer's approved rate filings,
- 23 which profit and contingency factors shall be based on the insurer's
- 24 targeted rate of return, method of doing business, the cost of capital
- 25 and other relevant economic considerations of the insurer;
- 26 (5) Anticipated investment income;
- 27 (6) Actual investment income; and
- 28 (7) UCJF reimbursements received.
- 29 d. The profits report shall include a clear and explicit
- 30 calculation of each of the following items, in a manner and for a
- 31 time period as prescribed by the commissioner by regulation:
- 32 (1) Underwriting income;
- 33 (2) Actuarial gain;
- 34 (3) Excess investment income;
- 35 (4) Development adjustment;
- 36 (5) Total actuarial gain; and
- 37 (6) Excess profits.
- 38 (cf: P.L.2003, c.89, s.68.)

39

40 3. (New section) Any savings realized by an insurer licensed

41 to transact private-passenger automobile insurance in this State

42 through the elimination of the New Jersey Automobile Insurance

43 Risk Exchange by P.L. , c. (C.) (pending before the

44 Legislature as this bill), as determined by the Commissioner of

45 Banking and Insurance, shall be deposited into the "Pedestrian

46 Safety Enforcement and Education Fund," established pursuant to

47 section 1 of P.L.2005, c.86 (C.39:4-36.2), and shall be used to

48 alleviate pedestrian safety problems.

1 4. The following sections are repealed:
2 Sections 15 and 16 of P.L.1983, c.362 (C.39:6A-21 and 39:6A-
3 22); and
4 Section 12 of P.L.1985, c. 520 (C. 39:6A-22.1).

5
6 5. This act shall take effect on the first day of the third month
7 following enactment.

8
9
10 STATEMENT

11
12 This bill eliminates the New Jersey Automobile Insurance Risk
13 Exchange.

14 The New Jersey Automobile Insurance Risk Exchange (AIRE)
15 was created by statute for the purpose of compensating insurer
16 members of the exchange for claims paid for non-economic loss and
17 claim adjustment expense which would not have been incurred had
18 the less costly tort limitation option provided under statute been
19 elected by the injured party filing a claim for non-economic loss.

20 Membership in AIRE is required for every insurer licensed to
21 transact private passenger automobile insurance in New Jersey,
22 including all applicable residual market mechanisms. All AIRE
23 assessments, expenses and costs are paid by New Jersey automobile
24 insurance companies.

25 The bill provides that any savings realized by an insurer licensed
26 to transact private-passenger automobile insurance in this State
27 through the elimination of AIRE, as determined by the
28 Commissioner of Banking and Insurance, are required to be
29 deposited into the "Pedestrian Safety Enforcement and Education
30 Fund," and to be used to alleviate pedestrian safety problems.