



**STATEMENT OF JOHN MARCHIONI  
VICE CHAIRMAN, COALITION FOR AUTO INSURANCE COMPETITION  
TO THE  
U.S. HOUSE COMMITTEE ON FINANCIAL SERVICES  
SUBCOMMITTEE ON CAPITAL MARKETS  
APRIL 10, 2003**

**Good morning Mr. Chairman and distinguished members of the Committee. My name is John Marchioni and I am Vice President and Director of Government Affairs and Compliance for Selective Insurance Group, Inc., based in New Jersey. I am testifying today in my capacity as Vice Chairman of the Coalition for Auto Insurance Competition. The Coalition consists of insurance companies, insurance trade associations, business groups and over 20,000 individual consumers who are rallying to the cause of restoring choice and competition to New Jersey's auto insurance market place.**

**New Jersey residents face an auto insurance availability crisis of unprecedented proportion. During the past decade, over 20 auto insurers have left New Jersey. Seven companies left or filed plans to leave just last year. When State Farm, the state's largest carrier, completes its withdrawal, five of the six largest auto insurers in the nation won't be doing business in New Jersey. As we speak, over 4,000 motorists each month receive notice that their insurer is**

**withdrawing from the state, leaving them to scramble for coverage. Over one million drivers could ultimately be impacted if significant reforms are not enacted.**

**The disaster that is facing auto insurance consumers in New Jersey is not a natural disaster. It is not an accident, something that couldn't have been anticipated. It is a disaster of the state's own making. The current market condition is the direct result of an over-politicized auto insurance regulatory system. New Jersey operates arguably the most strictly regulated system in the nation and consumers are paying a heavy price. Virtually every aspect of the auto insurance business is controlled by statute and/or regulation. The state dictates how much coverage must be provided. They determine who must be covered. They control the prices. They determine when an insurer may come into the state and they determine when an insurer may leave. And if a company can successfully manage to navigate this complex regulatory scheme in New Jersey and earn a profit, the state tells you how much of that profit you may keep and how much you must return. However, unlike the state's strict cap on profits, the amount of losses an insurer can be forced to absorb is unlimited.**

**The predictable result of this regulatory morass is that insurers have headed for the exits. (The attached exhibit lists those companies that have left the state in the past 20 years.) We have a third fewer carriers in New Jersey than surrounding states, despite having a population with one of the highest per capita incomes in the nation. As carriers leave, consumers lose coverage. Numerous newspapers reports document that replacement coverage is increasingly hard to come by because many of the remaining insurers simply do not have the capital to take on additional insureds. New capital has not been invested in the**

**state because many insurers do not want to do business in this highly politicized, overly burdensome regulatory climate. Adding to this lack of capitalization is the fact that the majority of the state's largest insurers, including 4 of the top 5, write their business in single-state subsidiaries in an attempt to insulate their parent company from this turbulent market.**

**That's the bad news. The good news is that progress has been made toward reversing this decades old problem.**

**In order to solve the current capacity and availability crisis, it is imperative that additional capital be invested by the private sector in the New Jersey auto insurance market. The private sector, however, is unlikely to take that step until the numerous regulatory barriers to competition are dismantled. Reforms need to be enacted that will give existing insurers confidence they can generate a competitive rate of return and attract additional insurers to enter the marketplace. Insurers must know that regulatory decisions will be made in a fair and predictable fashion and are not the result of political manipulation. Fortunately, there is legislation moving in Trenton that goes a long way toward restoring competition to New Jersey's auto insurance system. By restoring a competitive auto insurance market in New Jersey, consumers will reap the benefit through increased availability and choice.**

**Senate Bill No.63 has passed the State Senate and we anticipate the Assembly will consider it in May. Called the New Jersey Auto Insurance Competition and Choice Act, it has the backing of Governor James McGreevey and a bipartisan group of legislators in both houses.**

**While it is not a panacea, we believe it will ease the current availability crisis and, if fully implemented, lead to greater long-term stability in this troubled market.**

**Here are the four major provisions of the bill.**

### **Take All Comers**

**Current law requires insurers to offer coverage to all applicants with fewer than 9 motor vehicle points on their driving record. S-63 phases out the take-all-comers law over a 5-year period. During the phase-out, insurers would be granted relief from take-all-comers when their growth exceeds a set percentage in a given geographic territory.**

### **Rate Approval**

**New Jersey would retain its current prior approval system for rate filings in excess of 7%. The state's current "expedited rating law" would be amended to accept filings of up to 7%, as opposed to the current maximum of 3%. This "expedited" process is a prior approval system with shorter response times for the regulator. New Jersey's prior approval system has been known for delays of up to 18 months, with outcomes driven more by politics than by actuarial science. While S-63 represents a positive change to the rate approval process, it falls far short of the desired system – a competitive rating law.**

### **Excess Profits**

**New Jersey is among a small group of states that have an excess profits law. New Jersey's law, however, is clearly the most restrictive. S-63 contains some modest improvements in the**

**excess profits rule. The bill extends the excess profits calculation period from three to seven years. While this extension is a positive step, additional change in either statute or regulation is necessary to allow insurers the opportunity to earn a more appropriate rate of return. Without these additional changes, national and regional carriers will be reluctant to move their capital to New Jersey from states where a more reasonable rate of return is achievable.**

### **Withdrawal**

**New Jersey's withdrawal rules are perhaps the single most significant barrier to entry of new carriers. For good reason, the state's withdrawal scheme is referred to as the "lock-in law." The clear purpose of this withdrawal system at the time it was adopted was to make withdrawal as difficult and arduous as possible so that companies would not leave. It has not served its purpose. Companies continue to leave at a rapid pace, some buying their way out, others risking the possibility of surrendering their licenses for other lines of business. S-63 makes some improvement in the system by allowing insurers, after an informational filing and 1-year advance notice to policyholders, to nonrenew their business at a uniform rate over a 3-year period. The Commissioner would have the authority to suspend this system when insurers representing more than 25% of the market have filed to withdraw. These changes are delayed until 2007, in recognition of current market conditions.**

**There are other provisions in the bill that reflect Governor McGreevey's priorities, including a low cost policy option for low income families and additional consumer information programs, but the four areas outlined above the major provisions that we**

**believe will begin to move New Jersey toward a more competitive insurance market. Again, this bill is not a panacea, but it is a positive first step.**

**It is only a first step in that the administration, after the bill is enacted, will need to fully implement the various regulatory components of the reform package. New Jersey has a checkered past in this regard, as well. It took four years to implement the Expedited Rating Law, enacted in 1997. The re-drawing of the 50-year old territorial rate maps, as called for in the 1998 reforms, has still not been accomplished. If S-63 becomes law, the administration must act quickly to follow through on the regulatory changes called for on expedited and prior approval rating, excess profits, withdrawal, and territorial rating.**

**The current reform effort could be a significant step in moving New Jersey closer to the mainstream of state insurance regulatory schemes. It took decades to create this highly dysfunctional system, so dramatic results are not likely to occur overnight. However, assuming S-63 is signed into law, the required regulatory changes are swiftly enacted, and the reforms are allowed to take root without political interference, New Jersey could become a more attractive market for insurers. The ultimate beneficiaries would be the state's consumers.**

**Thank you, Mr. Chairman. That concludes my testimony.**

# New Jersey Auto Insurance Market Withdrawals

*The following insurers have withdrawn from New Jersey's auto insurance market:*

<u>INSURER</u>	<u>YEAR</u>	<u>INSURER</u>	<u>YEAR</u>
GEICO	1976	St. Paul	1993
UNI GARD	1976	Preferred Risk Mutual	1994
SAFECO	1977	Atlantic Employers (CI GNA)	1994
Worcester Mutual	1978	Property & Casualty Co. of MCA	1994
Peerless	1978	Home Insurance Companies	1994
National Grange	1979	Motors Insurance Company	1994
Nationwide	1981	UMUS	1995
Security of Hartford	1981	American Hardware	1996
Progressive	1983	Royal Insurance Company	1997
State-Wide	1990	Home State Insurance Co. (1)	1997
Crum & Forster	1990	Lumbermens Group (Kemper)	1997
John Hancock	1990	Maryland Casualty	1997
Horace Mann	1991	NCIC (2)	1998
Commercial Union	1992	Bayside Casualty Insurance Co.	1998
Interboro Mutual	1992	Provident Washington	2001
Reliance	1992	GSA	2001
Wausau	1992	Ohio Casualty	2002
		Great American	2002
		Harleysville	2002
		Twin City	2002
		Robert Plan Companies (3)	2002
		AI G (4)	2004*
		State Farm (5)	2006*
		Central Mutual (6)	Pending
		Merchants (6)	Pending

(1) Taken over by Department of Banking & Insurance, company declared insolvent

(2) Company allowed to dissolve by order of the Department of Banking & Insurance

(3) Solvent runoff of business by order of the Department of Banking & Insurance

(4) Department has given AI G the ability to proceed with Plan of Withdrawal after December 2003

(5) State Farm, under the Market Stabilization Order issued in June 2002, may begin non-renewing policies for the purposes of withdrawal after January 2006

(6) Filed a Plan of orderly Withdrawal, December 2002

**Source: Insurance Council of NJ, with information from NJDOBI**