



STATEMENT RE:

S-1666/A-3038

“An Act concerning uninsured and underinsured motorists coverage and amending P.L. 1968, C. 385

TO:

Assembly Financial Institutions and Insurance Committee

BY:

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DATE:

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The Professional Insurance Agents of New Jersey, Inc. (PIANJ), a trade association which represents more than 7,000 professional independent insurance agents and their employees doing business in communities throughout New Jersey, supports S-1666 and A-3038.

The bills would prohibit the use of step-down provisions in motor vehicle liability insurance policies issued to business entities and would reverse the effect of the Supreme Court's decision in *Pinto v. New Jersey Manufacturers Insurance Company* 183 N.J. 205 (2005).

In *Pinto*, the Supreme Court held that step-down provisions in business auto policies are enforceable. Step-down provisions allow insurance companies to reduce the coverage available to employees that are not individually named on their employer's business auto policy. Instead of receiving the uninsured and underinsured motorist limits stated on their employer's policy, an employee injured while occupying a business vehicle receives the lesser coverage limits of his own personal auto policy or that of a family member if he does not have his own policy. New Jersey is unique in being the only state that uses these types of provisions to limit coverage.

The *Pinto* decision was particularly troublesome for insurance producers because the court also imposed upon insurance agents and brokers in our state a new duty that is impossible to achieve. This impractical duty has substantially increased the risk of litigation against insurance producers and placed them in an untenable position with their customers.

The court held that insurance producers have a duty to inform employers that if they want to avoid imposition of a step-down provision, it is necessary to elevate the status of their employees to that of named insureds on the business auto policy. The court felt having these facts would enable an employer to make an informed decision about whether to include employees as named insureds on their business policy. In reality employers have no choice in the matter because most insurance companies will not allow employees to be included as named insureds on a business auto policy. Therefore, producers are required

to inform employers about how to avoid application of a step-down provision, when there is no way to do this.

S-1666/A-3038 would reverse the effects of the Pinto decision and the impractical duty it imposed on insurance producers. In doing so, the legislation will avoid countless lawsuits against insurance producers that are based upon an insurance company's limitation of coverage, a limitation over which the producer has no control.

The legislation is also necessary to protect employees injured in work-related accidents. These employees are entitled to the full protection afforded under their employer's policy.

PIANJ urges the committee to protect insurance producers and employees in our state and approve this important legislation. Thank you.