

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 205

Session of  
1977

INTRODUCED BY MRS. GILLETTE, MESSRS. KOWALYSHYN, SCHMITT, VROON  
AND LIVENGOD, FEBRUARY 9, 1977

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 9, 1977

AN ACT

1 Amending the act of December 29, 1972 (P.L.1713, No.367),  
2 entitled "An act concerning motor vehicle physical damage  
3 appraisers; providing for the licensing of persons engaged in  
4 appraising physical damages to motor vehicles; fixing fees  
5 and prescribing unlawful acts and penalties," providing for  
6 the licensing of motor vehicle physical damage appraisers;  
7 providing for civil penalties; providing for insurer and  
8 employer appraiser responsibility and providing for  
9 maintenance of records.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Sections 2 and 3, act of December 29, 1972  
13 (P.L.1713, No.367), known as the "Motor Vehicle Physical Damage  
14 Appraiser Act," are amended to read:

15 Section 2. Definitions.--As used in this act:

16 (1) "Appraiser" means a motor vehicle physical damage  
17 appraiser. This shall include all persons in this State who or  
18 which practice the appraisal and evaluation of motor vehicle  
19 physical damage claims or losses on behalf of any insurer.

20 (2) "Commissioner" means the Insurance Commissioner of the  
21 Commonwealth of Pennsylvania.

1 (3) "Insurer" includes all companies, associations and  
2 exchanges engaged in the insurance business of insurance and  
3 self-insurers.

4 (4) "Motor vehicle" means any device in, upon which or by  
5 which any person or property is or may be transported or drawn  
6 upon a public highway.

7 (5) "Person" or "persons" means an individual or a company,  
8 corporation or like legal entity and an active officer or active  
9 employee thereof or a partnership, firm, association, or like  
10 legal entity and an active member or active employee thereof.

11 Section 3. Licenses; Examination; Fees.--(a) No person  
12 shall directly or indirectly act or hold himself out as an  
13 appraiser unless such person has first secured a license from  
14 the commissioner in accordance with the provisions of this act.

15 No license as an appraiser shall be granted to any company,  
16 corporation or like legal entity unless individual licenses are  
17 also secured for each active officer or active employee thereof  
18 and no license as an appraiser shall be granted to a  
19 partnership, firm, association or like legal entity unless  
20 individual licenses are also secured for each active member or  
21 active employee thereof. No license as an appraiser shall be  
22 granted to any active individual staff employee or active  
23 officer of an insurer unless the insurer itself is licensed as  
24 an appraiser. Individuals doing appraisal and evaluation of  
25 motor vehicle physical damage claims or losses whether or not on  
26 a full or part-time basis and whether or not the appraisal and  
27 evaluation of motor vehicle physical damage claims or losses is  
28 only done sporadically or comprises only a minor portion of  
29 position related duties must be licensed as an appraiser.

30 An individual who is undergoing education and training as an

1 appraiser may, for a period not exceeding twelve months, act as  
2 an appraiser under the personal direction and supervision of a  
3 licensed individual appraiser without having an appraiser's  
4 license, if at the inception of such training period, the name  
5 of the individual appraiser trainee has been registered with the  
6 commissioner as such and a fee of ten dollars (\$10) paid for  
7 such registration.

8 However, motor vehicle physical damage body repairmen and  
9 motor vehicle engine repairmen shall not be licensed as  
10 appraisers under the provisions of this act although their  
11 business may include the making of estimates for or the  
12 assessing of physical damage to bodies or engines of motor  
13 vehicles. Motor vehicle physical damage body repairmen and motor  
14 vehicle engine repairmen presently licensed as appraisers under  
15 the provisions of this act may remain so licensed until their  
16 current license expires and notwithstanding anything to the  
17 contrary contained in section 4 such licenses shall not be  
18 renewed.

19 (b) Except as otherwise provided in section 8 of this act,  
20 no person shall be granted an appraiser's license unless he  
21 shall first establish his qualifications therefor and shall take  
22 and pass an examination for appraisers.

23 An applicant for such examination shall be at least eighteen  
24 years of age; shall be a resident of the Commonwealth of  
25 Pennsylvania, or a resident of any other state or country which  
26 permits residents of this Commonwealth to act as appraisers in  
27 such other state or country; shall be trustworthy; and shall  
28 otherwise establish to the satisfaction of the commissioner that  
29 he has had experience or special education or training with  
30 reference to the business of the appraising of physical damages

1 to motor vehicles of sufficient duration and extent reasonably  
2 necessary to make him competent to fulfill the responsibilities  
3 of an appraiser.

4 Applications for an examination as appraiser shall be made to  
5 the commissioner upon forms prescribed and furnished by him and  
6 shall be accompanied by the proper fee. Applicants shall provide  
7 the commissioner with such information concerning his identity  
8 and personal history, and such other information as shall be  
9 necessary to establish his qualifications to take the  
10 examination.

11 (c) The commissioner shall prepare and make available to  
12 applicants a manual or instructions setting forth in general  
13 terms the subject matter to be covered in the examinations.

14 (d) The examination for licensure which shall be given under  
15 the supervision of the commissioner shall consist of a written  
16 examination that shall include the act of appraising one or more  
17 damaged motor vehicles and shall be supplemented by an oral  
18 examination. At the discretion of the commissioner an oral  
19 examination in lieu of the aforesaid written examination may be  
20 given but only for reason of an applicant's physical handicap.  
21 An oral examination shall include the act of appraising one or  
22 more damaged motor vehicles. They shall be given at reasonable  
23 times and places within the Commonwealth. Any applicant who  
24 fails to pass such examination shall not be eligible to retake  
25 an examination for thirty days from the date of such failure.

26 (e) The fee to be paid to the commissioner by an applicant  
27 for an appraiser's license shall be ten dollars (\$10) at the  
28 time the application is made and ten dollars (\$10) annually for  
29 the renewal thereof. In the event of failure to pass the  
30 examination, the fee of ten dollars (\$10) shall not be

1 returnable.

2 (f) The commissioner shall prescribe the form of the  
3 appraiser's license and it shall contain:

4 (1) The name of the appraiser.

5 (2) The address of the appraiser's place of business.

6 (3) Date of issuance and expiration date of license.

7 (4) Any other information which the commissioner determines  
8 is necessary.

9 [(g) The commissioner shall issue an appraiser's license to  
10 every person who applies therefor, pays the proper fee, passes  
11 the required examinations and otherwise is found by the  
12 commissioner to possess the necessary qualifications for  
13 licensure under this act.]

14 Section 2. The act is amended by adding sections to read:

15 Section 3.1. Licensing of Non-residents as Appraisers.--(a)  
16 An individual, not a resident of this State, may be licensed as  
17 a physical damage appraiser upon compliance with the provisions  
18 of this act, provided that the state or country in which such  
19 individual resides will accord the same privileges to a resident  
20 of this State.

21 (b) The commissioner is authorized to enter into a  
22 reciprocal agreement with the appropriate official of any such  
23 other state or country, whereby any examination of any applicant  
24 resident in such other state or country is waived, provided:

25 (1) that an examination be required of applicants for a  
26 physical damage appraiser's license in such other state or  
27 country, and such other state or country maintains physical  
28 damage appraiser qualifications and requirements equal to that  
29 of this Commonwealth;

30 (2) that the appropriate official of such other state or

country certifies that such applicant holds a currently valid license as an appraiser in such other state or country by having passed an examination, or holds a currently valid license issued by reason of the applicant's exemption from the requirements of an examination;

(3) that in such other state or country a resident of this Commonwealth is privileged to procure an appraiser's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state or country;

(4) payment of fees as required by this act; and

(5) provided, also, that suspension, revocation or non-renewal of an appraiser's license in the licensee's home state or country for cause may be grounds for such action in this Commonwealth.

Section 3.2. Special Licenses for Catastrophes or Disasters.--In the event of a catastrophe or disaster, so declared by civil authority, the commissioner may, upon application, issue a special license to individuals who are non-residents of this State and who may, or may not, be licensed appraisers. Such special license will remain in force for a period not to exceed ninety days unless extended for an additional period of ninety days by the commissioner. The applicant must be certified by (i) a person licensed under the provisions of this act, or by (ii) an insurer which maintains an office in this Commonwealth and which has a certificate of authority to do business in this State. Such certification shall be made within five calendar days of any such applicant commencing work as an appraiser under this section. The licensed appraiser or insurer who certifies said applicant under the

1 provisions of this section shall be responsible for the conduct  
2 of the special license holder.

3 The commissioner may, after notice and hearing, suspend or  
4 revoke such special license upon the grounds as otherwise  
5 contained in this act providing for the suspension or revocation  
6 of an appraiser's license.

7 The fee for a special license shall be ten dollars (\$10) and  
8 shall be due and payable at the time of the issuance of such  
9 special license.

10 Section 3. Section 6 and subsection (b) of section 11 of the  
11 act are amended to read:

12 Section 6. Denial, Suspension, Revocation of or Refusal to  
13 Renew License; Civil Penalties.--The commissioner may deny  
14 initial issuance of, suspend, revoke, or refuse to renew any  
15 appraiser's license and may impose a civil penalty of not more  
16 than one thousand dollars (\$1,000) for any cause specified in  
17 any other provision of this act, or for any of the following  
18 causes regardless of whether such appraiser was licensed or not  
19 licensed by the commissioner:

20 (1) For any cause for which issuance of the license could  
21 have been refused had it been existent and been known to the  
22 commissioner.

23 (2) If the applicant for a license or the licensee wilfully  
24 violates or fails to comply with or knowingly participates in  
25 the violation of or failure to comply with any provision of this  
26 act or any rule or regulation promulgated thereunder.

27 (3) If the applicant for a license or the licensee has  
28 obtained or attempted to obtain any such license through wilful  
29 misrepresentation or fraud, or has failed to pass any  
30 examination required under this act.

1 (4) If the applicant for a license or the licensee has, with  
2 intent to deceive, materially misrepresented the terms or effect  
3 of any insurance contract; or has engaged or is about to engage  
4 in any fraudulent transaction.

5 (5) If the applicant for a license or the licensee has  
6 pleaded nolo contendere, guilty to or has been convicted, by  
7 final judgment, of a felony.

8 (6) If the applicant for a license or in the conduct of his  
9 affairs under the license, the licensee has shown himself to be,  
10 and is so deemed by the commissioner, incompetent, or  
11 untrustworthy, or a source of injury and loss to the public.

12 (7) If the applicant for a license or the licensee is  
13 engaged in or interested in or receiving any profit from any  
14 salvage, repair, replacement, restoration or renovation of motor  
15 vehicles, including but not limited to motor vehicle salvage,  
16 sales and/or repair facilities or motor vehicle towing or  
17 storage or any other business which in the commissioner's  
18 judgment presents a potential or actual conflict of interest  
19 situation.

20 Section 11. Compliance with Act.--\* \* \*

21 (b) The appraiser shall leave a legible copy of his  
22 appraisal with that of the repair shop selected by the  
23 [consumer] by the owner or his, her or its representative to  
24 make the repairs and also furnish a copy to the owner or his,  
25 her or its representative of the vehicle. This appraisal shall  
26 contain the name of the insurance company ordering it, if any,  
27 the insurance file number, the number of the appraiser's license  
28 and the proper identification number of the vehicle being  
29 inspected. All unrelated or old damage should be clearly  
30 indicated on the appraisal which shall include an itemized



1 listing of all damages, specifying those parts to be replaced or  
2 repaired. Because an appraiser is charged with a high degree of  
3 regard for the public safety, the operational safety of the  
4 vehicle shall be paramount in considering the specification of  
5 new parts. This consideration is vitally important where the  
6 parts involved pertain to the drive train, steering gear,  
7 suspension units, brake system or tires.

8 \* \* \*

9 Section 4. The act is amended by adding sections to read:

10 Section 11.1. Insurer and Employer Appraiser

11 Responsibility.--An insurer and an appraiser who employs other  
12 appraisers shall not employ or knowingly refer any appraisal to  
13 any individual, partnership, firm, association, company,  
14 corporation, or other legal entity purporting to be or acting as  
15 a physical damage appraiser unless such individual, partnership,  
16 firm, association, company, corporation or other legal entity is  
17 properly licensed as an appraiser as required by this act.

18 Prior to employing or referring any appraisal, the insurer  
19 and an appraiser who employs other appraisers shall ascertain  
20 from the commissioner whether the particular appraiser is  
21 currently licensed as an appraiser.

22 It shall be the direct responsibility of an insurer and an  
23 appraiser employing other appraisers to make certain that all  
24 such employed or referral individual appraisers are properly  
25 licensed and that all such staff individual appraiser trainees  
26 are properly registered and to take reasonable measures to  
27 assure that such appraisers and trainees comply with provisions  
28 of this act and regulations promulgated thereunder.

29 Section 11.2. Maintenance of Records.--Every appraiser  
30 including non-resident appraisers must maintain at his principal

1 place of business full written records of his appraisal  
2 transactions open at times, without notice, to the inspection of  
3 the commissioner, his deputies, his examiners or his  
4 investigators. Such records shall include:

5 (1) A copy of each and every appraisal made which in  
6 addition to information required under section 11(b) of this act  
7 shall also indicate the date the appraisal was made; the name  
8 and address of the owner of the motor vehicle being appraised;  
9 the total amount of compensation and from whom received by the  
10 appraiser for the appraisal and the name of the individual  
11 appraiser who made the appraisal.

12 (2) A copy of any reinspection appraisal required under  
13 section 11(e).

14 (3) A copy of any employment contract, service agreement or  
15 the like entered into between the appraiser and an insurer or  
16 other appraiser, and the appraiser and the owner of a motor  
17 vehicle or his representative.

18 (4) Such other information as the commissioner may require.  
19 Further, such records must be kept for not less than three years  
20 after their effective date.

21 Section 5. This act shall take effect immediately.