

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL  
No. 951

Session of  
1987

INTRODUCED BY DAWIDA, O'DONNELL, MANDERINO, GAMBLE, MURPHY,  
VAN HORNE, MICHLOVIC, MARKOSEK, LEVDANSKY, KOSINSKI, BALDWIN,  
KUKOVICH, SEVENTY, RITTER AND ITKIN, MARCH 18, 1987

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, FEBRUARY 23, 1988

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An  
2 act relating to insurance; amending, revising, and  
3 consolidating the law providing for the incorporation of  
4 insurance companies, and the regulation, supervision, and  
5 protection of home and foreign insurance companies, Lloyds  
6 associations, reciprocal and inter-insurance exchanges, and  
7 fire insurance rating bureaus, and the regulation and  
8 supervision of insurance carried by such companies,  
9 associations, and exchanges, including insurance carried by  
10 the State Workmen's Insurance Fund; providing penalties; and  
11 repealing existing laws," providing for experience rating,  
12 for reporting of certain insurance data, for a liability  
13 underwriting services plan, for a standby joint underwriting  
14 association for general liability insurance, for procedure  
15 for review of rate filings and for a notice of intent to  
16 withdraw; and making repeals.

17 The General Assembly of the Commonwealth of Pennsylvania  
18 hereby enacts as follows:

19 Section 1. The act of May 17, 1921 (P.L.682, No.284), known  
20 as The Insurance Company Law of 1921, is amended by adding  
21 articles to read:

22 ARTICLE X A.

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1 ~~EXPERIENCE RATING.~~

2 ~~Section 1001 A. Submission, Approval and Use of Plan. No~~  
3 ~~later than July 1, 1987, each insurer required to report data~~  
4 ~~pursuant to Article X B shall develop and submit to the~~  
5 ~~department an experience rating plan which provides that the~~  
6 ~~premium for each policyholder within a class shall be based upon~~  
7 ~~the policyholder's loss experience. This plan shall be subject~~  
8 ~~to the approval or disapproval of the Insurance Department. If~~  
9 ~~the plan is not approved or disapproved within ninety (90) days~~  
10 ~~of its filing it shall be deemed approved, subject to review by~~  
11 ~~the Insurance Department. Such plan, once approved or deemed~~  
12 ~~approved, shall be put into effect and used by insurers in~~  
13 ~~determining premiums.~~

14 ~~ARTICLE X B.~~

15 ~~DISCLOSURE.~~

16 ~~Section 1001 B. Reporting of Insurance Data. No later than~~  
17 ~~July 1, 1987, the Insurance Department shall promulgate rules~~  
18 ~~and regulations which shall require each insurer licensed to~~  
19 ~~write property or casualty insurance in this Commonwealth to~~  
20 ~~record and report its loss and expense experience and other data~~  
21 ~~as may be necessary to determine whether rates are excessive,~~  
22 ~~inadequate or unfairly discriminatory. The department may~~  
23 ~~designate one or more rate service organizations or advisory~~  
24 ~~organizations to gather and compile such experience and data,~~  
25 ~~provided the data is reported separately for each company. The~~  
26 ~~department shall require each insurer licensed to write property~~  
27 ~~or casualty insurance in this Commonwealth, as a supplement to~~  
28 ~~Schedule T of its annual statement to submit a report, on a form~~  
29 ~~furnished by the department, showing its direct writings in this~~  
30 ~~Commonwealth and the United States.~~

~~Section 1002 B. Types of Insurance. The supplemental report required by section 1001 B shall include, but not be limited to, the following specific types of insurance (which shall be shown separately) written by such insurer:~~

~~(1) political subdivision liability insurance reported separately in the following categories:~~

~~(i) municipalities;~~

~~(ii) school districts; and~~

~~(iii) authorities;~~

~~(2) public official liability insurance;~~

~~(3) dram shop liability insurance;~~

~~(4) day care center liability insurance;~~

~~(5) errors and omissions liability insurance;~~

~~(6) officers and directors liability insurance reported separately as follows:~~

~~(i) nonprofit entities; and~~

~~(ii) for profit entities;~~

~~(7) products liability insurance;~~

~~(8) medical malpractice insurance;~~

~~(9) attorneys malpractice insurance;~~

~~(10) architects and engineers malpractice insurance; and~~

~~(11) motor vehicle insurance reported separately for commercial and private passenger vehicles as follows:~~

~~(i) motor vehicle liability insurance first party benefits;~~

~~(ii) motor vehicle bodily injury liability insurance;~~

~~(iii) motor vehicle property liability insurance;~~

~~(iv) uninsured motorist insurance; and~~

~~(v) underinsured motorist insurance.~~

~~Section 1003 B. Data Required. (a) The supplemental report shall include the following data, both specific to this~~

~~Commonwealth and also to the United States, by the type of insurance for the previous year ending on the thirty first day of December:~~

~~(1) direct premiums written;~~

~~(2) net premiums written;~~

~~(3) direct premiums earned;~~

~~(4) net premiums earned;~~

~~(5) net investment income, including realized capital gains and losses (which shall be shown separately) but excluding unrealized capital gains and losses, using estimates where necessary;~~

~~(6) net investment income, including realized capital gains and losses (which shall be shown separately) and including unrealized capital gains and losses (which shall be shown separately), using estimates where necessary;~~

~~(7) incurred claims developed as the sum of each of the following which shall be shown separately:~~

~~(i) dollar amount of claims paid; plus~~

~~(ii) reserves for reported claims at the end of current year; minus~~

~~(iii) reserves for reported claims at the end of the previous year; plus~~

~~(iv) reserves for incurred but not reported claims at the end of the current year; minus~~

~~(v) reserves for incurred but not reported claims at the end of the previous year; plus~~

~~(vi) loss adjustment expenses paid; plus~~

~~(vii) reserves for loss adjustment expenses at the end of the current year; minus~~

~~(viii) reserves for loss adjustment expenses at the end of~~

~~the previous year;~~

~~(8) actual incurred expenses, including commissions, other acquisition costs, general expenses, taxes, licenses and fees, all of which shall be shown separately;~~

~~(9) net underwriting gain or loss;~~

~~(10) net operating gain or loss, including net realized investment income but excluding unrealized investment income;~~

~~(11) the sum of the value of closed claims and a distribution by size of claim for each of the following categories arising out of the course of business:~~

~~(i) for uncontested claims;~~

~~(ii) under a judgment entered by a court based upon a verdict;~~

~~(iii) in settlements relating to and completed after institution of judicial proceedings but prior to a verdict; and~~

~~(iv) in settlements relating to and completed after institution of judicial proceedings and after a verdict has been rendered in a judicial proceeding;~~

~~(12) the sum of the legal costs incurred while settling claims which result in awards or payments of money, broken down by attorney fees and other legal costs for each of the following categories arising out of the course of business:~~

~~(i) for uncontested claims;~~

~~(ii) under a judgment entered by a court based upon a verdict;~~

~~(iii) in settlements relating to and completed after institution of judicial proceedings but prior to a verdict; and~~

~~(iv) in settlements relating to and completed after institution of judicial proceedings and after a verdict has been rendered in a judicial proceeding;~~

~~(13) the sum of the legal costs incurred while settling claims which do not result in awards or payments of money, broken down by attorney fees and other legal costs for each of the following categories arising out of the course of business:~~

~~(i) for uncontested claims;~~

~~(ii) under a judgment entered by a court based upon a verdict; and~~

~~(iii) in settlements relating to and completed after institution of judicial proceedings but prior to a verdict;~~

~~(14) the number and dollar amount of each claim closed with payment and the dollar amount initially reserved for each claim, by year incurred;~~

~~(15) the number and total dollar amount for all claims closed with payment and the total dollar amount initially reserved, by year incurred;~~

~~(16) the claims closed without payment and the dollar amount initially reserved for each claim, by year incurred;~~

~~(17) the number of claims closed without payment and the total dollar amount initially reserved, by year incurred;~~

~~(18) the claims pending at the end of each year and the dollar amount reserved for each claim;~~

~~(19) the number of claims pending at the end of each year and the total dollar amount reserved;~~

~~(20) the name and address of any company, association or exchange which reinsures any part of the coverage it issues; the coverage provided, restrictions, loss retention per risk if applicable and cost of such reinsurance; and~~

~~(21) any other information requested by the department.~~

~~(b) The commissioner shall develop rules and regulations to implement the reporting requirements of this chapter that shall~~

1 ~~include:~~

2 ~~(1) provisions to assure the confidentiality of the data~~  
3 ~~with regard to information relevant to individual claims; and~~

4 ~~(2) standard and uniform definitions for information~~  
5 ~~required to be submitted to the department pursuant to this~~  
6 ~~article that shall be consistent with generally accepted~~  
7 ~~accounting principles, unless no generally accepted standard~~  
8 ~~definitions exist.~~

9 ~~Section 1004 B. Actuarial Impact Statement Regarding~~  
10 ~~Judicial Decisions. Any insurance company, or rating~~  
11 ~~organization acting on behalf of more than one insurance~~  
12 ~~company, may file annually, at the same time that the annual~~  
13 ~~statement is due, an actuarial study detailing the impact of any~~  
14 ~~appellate judicial decision rendered during the calendar year~~  
15 ~~reported in the annual statement due at that time which it~~  
16 ~~believes will have a significant impact on the price or~~  
17 ~~availability of insurance.~~

18 ~~Section 1005 B. Review by Department. It shall be the duty~~  
19 ~~of the department to annually compile and review all such~~  
20 ~~reports submitted by insurers pursuant to this article and to~~  
21 ~~utilize such reports in determining whether the rates or rating~~  
22 ~~plans and any subsequent modifications thereof for property and~~  
23 ~~casualty insurance in this Commonwealth are excessive,~~  
24 ~~inadequate or unfairly discriminatory. All information collected~~  
25 ~~by the department shall be made available to any interested~~  
26 ~~insured or citizen.~~

27 ~~Section 1006 B. Requirement for Doing Business. Each~~  
28 ~~insurance company shall file all of the information required~~  
29 ~~under this article with the Insurance Department as a~~  
30 ~~prerequisite to obtaining permission to write coverage, to~~

~~continue to do business or to file for rate increases.~~

~~Section 1007 B. Penalty. Each insurer who fails to comply with the terms of section 1001 B, 1002 B or 1003 B of this article shall pay a civil penalty of a fine of ten thousand dollars (\$10,000) and thereafter a fine of two hundred dollars (\$200) daily until this article is complied with.~~

ARTICLE X-A.

DATA DISCLOSURE.

SECTION 1001-A. REPORTING OF INSURANCE DATA.--NO LATER THAN JULY 1, 1988, THE INSURANCE DEPARTMENT SHALL ORDER BY NOTICE IN THE PENNSYLVANIA BULLETIN EACH INSURER LICENSED TO WRITE PROPERTY OR CASUALTY INSURANCE IN THIS COMMONWEALTH TO RECORD AND REPORT ITS LOSS AND EXPENSE EXPERIENCE AS PROVIDED IN THIS ACT AND OTHER DATA AS MAY BE REQUIRED BY THE INSURANCE DEPARTMENT. HOWEVER, AN INSURANCE COMPANY WHOSE MARKET SHARE, AS RECORDED IN THE DEPARTMENT'S MOST RECENT PENNSYLVANIA MARKET SHARE REPORT FOR ALL LINES OF LIABILITY INSURANCE COMBINED, IS LESS THAN ONE PER CENTUM (1%) BY DIRECT WRITTEN PREMIUM VOLUME SHALL NOT BE REQUIRED TO SUBMIT THE DATA LISTED IN SECTION 1003-A(1) THROUGH (16), UNLESS THE COMPANY IS A MEMBER OF A GROUP OF COMPANIES UNDER THE SAME OWNERSHIP OR MANAGEMENT, ANOTHER MEMBER OF WHICH HAS A MARKET SHARE OF AT LEAST ONE PER CENTUM (1%). ONCE EXEMPTED FROM REPORTING BY THIS SECTION, A COMPANY SHALL NOT BE REQUIRED TO SUBMIT DATA UNLESS AND UNTIL IT OR ANOTHER MEMBER OF ITS GROUP ACHIEVES A MARKET SHARE OF AT LEAST TWO PER CENTUM (2%). ONCE REQUIRED TO REPORT BY THIS SECTION, A COMPANY SHALL NOT BE EXEMPTED FROM SUBMITTING DATA UNLESS AND UNTIL IT AND ALL OTHER MEMBERS OF ITS GROUP ACHIEVE MARKET SHARES OF LESS THAN ONE PER CENTUM (1%). THE DEPARTMENT MAY DESIGNATE ONE OR MORE RATE-SERVICE ORGANIZATIONS TO GATHER AND COMPILE SUCH



1 EXPERIENCE AND DATA, PROVIDED THE DATA ARE REPORTED SEPARATELY  
2 FOR EACH COMPANY. THE DEPARTMENT SHALL REQUIRE EACH INSURER  
3 LICENSED TO WRITE PROPERTY OR CASUALTY INSURANCE IN THIS  
4 COMMONWEALTH TO PROVIDE THE REQUIRED DATA IN A DATA PROCESSING  
5 FORMAT PRESCRIBED BY THE DEPARTMENT.

6 SECTION 1002-A. TYPES OF INSURANCE.--THE REPORT REQUIRED BY  
7 SECTION 1001-A SHALL INCLUDE, BUT NOT BE LIMITED TO, THE  
8 FOLLOWING SPECIFIC TYPES OF INSURANCE (WHICH SHALL BE SHOWN  
9 SEPARATELY) WRITTEN BY EACH INSURER:

10 (1) POLITICAL SUBDIVISION LIABILITY INSURANCE REPORTED  
11 SEPARATELY IN THE FOLLOWING CATEGORIES:

12 (I) MUNICIPALITIES;

13 (II) SCHOOL DISTRICTS OR SCHOOLS; AND

14 (III) AUTHORITIES AND OTHER POLITICAL SUBDIVISIONS.

15 (2) PUBLIC OFFICIAL LIABILITY INSURANCE;

16 (3) DRAM SHOP LIABILITY INSURANCE;

17 (4) DAY-CARE CENTER LIABILITY INSURANCE, REPORTED SEPARATELY

18 AS FOLLOWS:

19 (I) COMMERCIAL DAY-CARE CENTER LIABILITY INSURANCE; AND

20 (II) DAY-CARE CENTER LIABILITY INSURANCE AS A RIDER ON A  
21 HOMEOWNER'S POLICY;

22 (5) PRODUCTS LIABILITY INSURANCE;

23 (6) MEDICAL MALPRACTICE INSURANCE;

24 (7) ATTORNEYS' MALPRACTICE INSURANCE;

25 (8) ARCHITECTS AND ENGINEERS MALPRACTICE INSURANCE; AND

26 (9) OFFICERS AND DIRECTORS LIABILITY INSURANCE REPORTED  
27 SEPARATELY AS FOLLOWS:

28 (I) NONPROFIT ENTITIES; AND

29 (II) FOR-PROFIT ENTITIES;

30 (10) MOTOR VEHICLE INSURANCE REPORTED SEPARATELY FOR

VOLUNTARY AND INVOLUNTARY COMMERCIAL AND VOLUNTARY AND  
INVOLUNTARY PRIVATE PASSENGER VEHICLES, BROKEN DOWN BY  
PENNSYLVANIA RATING TERRITORIES FOR EACH OF THE FOLLOWING  
COVERAGES:

- (I) FIRST PARTY BENEFITS INSURANCE;
- (II) BODILY INJURY LIABILITY INSURANCE;
- (III) PROPERTY DAMAGE LIABILITY INSURANCE;
- (IV) UNINSURED AND UNDERINSURED MOTORIST INSURANCE;
- (V) COLLISION INSURANCE; AND
- (VI) COMPREHENSIVE INSURANCE.

SECTION 1003-A. DATA REQUIRED.--(A) THE REQUIRED REPORT  
SHALL INCLUDE THE FOLLOWING DATA BY TYPE OF INSURANCE, BOTH  
SPECIFIC TO THIS COMMONWEALTH AND ALSO TO THE UNITED STATES,  
EXCEPT WHERE OTHERWISE NOTED, FOR THE PREVIOUS CALENDAR/ACCIDENT  
YEAR, OR POLICY YEAR, WHERE APPLICABLE, ENDING ON THE 31ST DAY  
OF DECEMBER, EVALUATED AS OF MARCH 31 OF THE FOLLOWING YEAR:

(1) DIRECT WRITTEN PREMIUMS AT COLLECTED AND CURRENT RATE  
LEVELS;

(2) DIRECT EARNED PREMIUMS AT COLLECTED AND CURRENT RATE  
LEVELS;

(3) WRITTEN EXPOSURES FOR EACH APPLICABLE TYPE OF EXPOSURE  
BASE;

(4) EARNED EXPOSURES FOR EACH APPLICABLE TYPE OF EXPOSURE  
BASE;

(5) NET INVESTMENT INCOME, EXCLUDING BOTH REALIZED AND  
UNREALIZED CAPITAL GAINS AND LOSSES, USING ESTIMATES WHERE  
NECESSARY, BROKEN DOWN BY LINE IN ACCORDANCE WITH THE NAIC  
EXPENSE EXHIBIT METHOD;

(6) NET INVESTMENT INCOME, INCLUDING REALIZED CAPITAL GAINS  
AND LOSSES (WHICH SHALL BE SHOWN SEPARATELY) BUT EXCLUDING

UNREALIZED CAPITAL GAINS AND LOSSES, USING ESTIMATES WHERE  
NECESSARY, BROKEN DOWN BY LINE IN ACCORDANCE WITH THE NAIC  
EXPENSE EXHIBIT METHOD;

(7) NET INVESTMENT INCOME, INCLUDING REALIZED CAPITAL GAINS  
AND LOSSES (WHICH SHALL BE SHOWN SEPARATELY) AND INCLUDING  
UNREALIZED CAPITAL GAINS AND LOSSES (WHICH SHALL BE SHOWN  
SEPARATELY), USING ESTIMATES WHERE NECESSARY, BROKEN DOWN BY  
LINE IN ACCORDANCE WITH THE NAIC INSURANCE EXPENSE EXHIBIT  
METHOD;

(8) INCURRED LOSS DEVELOPMENT, ON A CALENDAR/ACCIDENT YEAR  
BASIS, FOR ALL AVAILABLE YEARS BEGINNING WITH 1983 AND  
DETERMINED AS THE SUM OF THE FOLLOWING DEVELOPMENTS, WHICH SHALL  
BE SHOWN SEPARATELY:

(I) DOLLAR AMOUNT OF CLAIMS PAID; PLUS

(II) RESERVES FOR REPORTED CLAIMS; PLUS

(III) RESERVES FOR INCURRED BUT NOT REPORTED CLAIMS; PLUS

(IV) ALLOCATED LOSS ADJUSTMENT EXPENSES PAID; PLUS

(V) RESERVES FOR ALLOCATED LOSS ADJUSTMENT EXPENSES.

(9) INCURRED CLAIMS COUNT DEVELOPMENT, ON A  
CALENDAR/ACCIDENT YEAR BASIS, FOR ALL AVAILABLE YEARS BEGINNING  
WITH 1983 AND DETERMINED AS THE SUM OF THE FOLLOWING  
DEVELOPMENTS, WHICH SHALL BE SHOWN SEPARATELY:

(I) NUMBER OF CLAIMS CLOSED WITH PAYMENT; PLUS

(II) NUMBER OF CLAIMS CLOSED WITHOUT PAYMENT; PLUS

(III) NUMBER OF CLAIMS PENDING.

(10) INCURRED EXPENSES, INCLUDING COMMISSIONS, OTHER  
ACQUISITION COSTS, GENERAL EXPENSES, UNALLOCATED LOSS ADJUSTMENT  
EXPENSES, TAXES, LICENSES AND FEES, ALL OF WHICH SHALL BE SHOWN  
SEPARATELY;

(11) NET UNDERWRITING GAIN OR LOSS;

1       (12) NET OPERATING GAIN OR LOSS, INCLUDING NET REALIZED  
2 INVESTMENT INCOME BUT EXCLUDING UNREALIZED INVESTMENT INCOME;

3       (13) THE TOTAL NUMBER OF CLOSED CLAIMS AND CORRESPONDING  
4 LOSSES AND LOSS DISTRIBUTIONS ON A CALENDAR/ACCIDENT YEAR BASIS,  
5 BROKEN DOWN INTO COMPONENTS OF ECONOMIC LOSS, PAIN AND  
6 SUFFERING, AND PUNITIVE DAMAGES, FOR EACH OF THE FOLLOWING  
7 CATEGORIES:

8       (I) UNCONTESTED CLAIMS;

9       (II) CLAIMS UNDER A JUDGMENT ENTERED BY A COURT BASED UPON A  
10 VERDICT;

11       (III) CLAIMS IN SETTLEMENTS RELATING TO AND COMPLETED AFTER  
12 INSTITUTION OF JUDICIAL PROCEEDINGS BUT PRIOR TO A VERDICT;

13       (IV) CLAIMS IN SETTLEMENTS RELATING TO AND COMPLETED AFTER  
14 INSTITUTION OF JUDICIAL PROCEEDINGS AND AFTER A VERDICT HAS BEEN  
15 RENDERED IN A JUDICIAL PROCEEDING; AND

16       (V) TOTAL CLAIMS.

17 THE DATA SUBMITTED SHALL BE FOR PENNSYLVANIA ONLY AND SHALL BE  
18 CONFIDENTIAL. HOWEVER, A SUMMARY STATEMENT OF THE CLOSE CLAIMS  
19 STUDY SHALL BE MADE PART OF THE REPORTING REQUIREMENTS OF  
20 SECTION 1005-A.

21       (14) NAMES AND ADDRESSES OF REINSURANCE AGREEMENTS,  
22 INCLUDING, BUT NOT LIMITED TO, THE PREMIUMS PAID FOR THE  
23 REINSURANCE COVERAGE, COVERAGE PROVIDED, RESTRICTIONS AND LOSS  
24 RETENTION PER RISK, IF APPLICABLE. THE DATA SUBMITTED SHALL BE  
25 CONFIDENTIAL. HOWEVER, A SUMMARY STATEMENT OF THE COST AND  
26 AVAILABILITY OF REINSURANCE SHALL BE MADE PART OF THE REPORT  
27 REQUIREMENT OF SECTION 1005-A;

28       (15) ANY OTHER INFORMATION REQUESTED BY THE INSURANCE  
29 DEPARTMENT.

30       (B) THE INSURANCE DEPARTMENT SHALL PUBLISH PROCEDURES IN THE

PENNSYLVANIA BULLETIN TO IMPLEMENT THE REPORTING REQUIREMENTS OF  
THIS SECTION THAT SHALL INCLUDE, BUT NOT BE LIMITED TO:

(1) PROVISIONS TO GUARANTEE CONFIDENTIALITY OF THE DATA WITH  
REGARD TO INFORMATION RELEVANT TO INDIVIDUAL CLAIMS; AND

(2) STANDARD AND UNIFORM DEFINITIONS FOR INFORMATION  
REQUIRED TO BE SUBMITTED TO THE DEPARTMENT PURSUANT TO THIS  
ARTICLE THAT SHALL BE CONSISTENT WITH GENERALLY ACCEPTED  
ACTUARIAL PRINCIPALS.

SECTION 1004-A. ACTUARIAL IMPACT STATEMENT REGARDING  
JUDICIAL DECISIONS.--ANY INSURANCE COMPANY OR RATING  
ORGANIZATION ACTING ON BEHALF OF MORE THAN ONE INSURANCE COMPANY  
MAY FILE AN ACTUARIAL STUDY DETAILING THE IMPACT OF ANY  
APPELLATE JUDICIAL DECISION IT BELIEVES WILL HAVE A SIGNIFICANT  
IMPACT ON THE PRICE OR AVAILABILITY OF INSURANCE.

SECTION 1005-A. DEPARTMENT UTILIZATION.--THE INSURANCE  
DEPARTMENT SHALL UTILIZE THE REPORTS SUBMITTED BY INSURERS  
PURSUANT TO THIS ARTICLE, OR ANY PORTIONS OF THESE REPORTS, IN  
DETERMINING WHETHER THE RATES OR RATING PLANS, OR ANY SUBSEQUENT  
MODIFICATIONS THEREOF, FOR PROPERTY OR CASUALTY INSURANCE IN  
THIS COMMONWEALTH, ARE EXCESSIVE, INADEQUATE OR UNFAIRLY  
DISCRIMINATORY, OR FOR ANY OTHER PURPOSE. THE DEPARTMENT SHALL  
ANNUALLY SUMMARIZE THE DATA COMPILED PURSUANT TO THIS ACT. THE  
DEPARTMENT SHALL FILE A REPORT AND FINDINGS WITH THE STANDING  
COMMITTEES OF THE GENERAL ASSEMBLY HAVING JURISDICTION OVER  
INSURANCE AFFAIRS. THE DEPARTMENT SHALL BE AUTHORIZED TO AUDIT  
AT ITS DISCRETION ANY OF THE DATA SUBMITTED UNDER ARTICLE X-A.

SECTION 1006-A. REQUIREMENT FOR DOING BUSINESS.--EACH  
INSURANCE COMPANY SHALL FILE ALL OF THE INFORMATION REQUIRED  
UNDER THIS ARTICLE WITH THE INSURANCE DEPARTMENT AS A  
PREREQUISITE TO OBTAINING PERMISSION TO WRITE COVERAGE, TO

1 CONTINUE TO DO BUSINESS OR TO FILE FOR RATE INCREASES.

2 SECTION 1007-A. PENALTY.--EACH INSURER WHO FAILS TO COMPLY  
3 WITH THE TERMS OF SECTIONS 1001-A, 1102-A AND 1003-A OF THIS  
4 ARTICLE SHALL PAY A CIVIL PENALTY OF A FINE OF TEN THOUSAND  
5 DOLLARS (\$10,000) AND THEREAFTER A FURTHER CIVIL PENALTY OF TWO  
6 HUNDRED DOLLARS (\$200) DAILY UNTIL THOSE SECTIONS ARE COMPLIED  
7 WITH.

8 ARTICLE X C.

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9 ARTICLE X-B.

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10 PENNSYLVANIA LIABILITY UNDERWRITING SERVICES PLAN.

11 Section ~~1001-C~~ 1001-B. Definitions.--The following words and  
12 phrases when used in this article shall have the meanings given  
13 to them in this section, unless the context clearly indicates  
14 otherwise:

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15 (1) "Board," means the board of directors of the plan.

16 (2) "Commercial liability insurance," means insurance  
17 coverage against the legal liability of the insured against  
18 loss, damage or expense incident to a claim arising out of the  
19 death or injury of any person or property damage as the result  
20 of or incident to the lawful conduct of a business enterprise or  
21 public purpose. The term includes such insurance coverage of  
22 governmental entities, including political subdivisions as  
23 specified in section ~~1002-B~~ 1002-A(1)(i), (ii) and (iii).

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24 (3) "Commissioner," means the Insurance Commissioner of the  
25 Commonwealth.

26 (4) "Department," means the Insurance Department of the  
27 Commonwealth.

28 (5) "Plan," means the Pennsylvania Liability Underwriting  
29 Services Plan.

30 (6) "Surplus lines agent," means an individual, partnership

or corporation that is duly licensed as such by the commissioner to effect placement of insurance coverage with an unlicensed insurer, and who may receive a commission therefor.

~~Section 1002-C~~ 1002-B. Creation of Plan.--The Pennsylvania Liability Underwriting Services Plan is created as a legal entity with all the rights which are reasonable and necessary to fulfill its purpose, including, but not limited to, the following:

(1) To own property.

(2) To enter into contracts.

(3) To sue and be sued, provided that no judgment against the Plan shall create any liability in the individual members.

~~Section 1003-C~~ 1003-B. Purpose.--The Plan shall assist in the placement of commercial liability insurance for eligible Pennsylvania commercial risks and public entities that have tried and failed to find such coverage.

~~Section 1004-C~~ 1004-B. Membership.--Every commercial liability insurer admitted to do business in this Commonwealth shall, as a condition of its authority to write such kinds of insurance within this Commonwealth, be a member of the Plan and have the rights and obligations as hereinafter described. The commissioner may require that the surplus lines insurance companies participate in the Plan.

~~Section 1005-C~~ 1005-B. Participation.--Each member of the Plan shall participate in funding the administrative costs of the plan, to the extent that application fees do not defray those costs, and in the review of applications for insurance. Each member's share of participation obligations shall be equitable and set forth in the plan of operation. However, members of the Plan shall not be required to review application

of eligible commercial risks or public entities where the member has not underwritten such coverage for two consecutive years preceding the effective date of this section.

Section ~~1006-C~~ 1006-B. Board of Directors.--The Plan shall be governed by nine directors and the Insurance Commissioner, who shall serve as a non-voting ex officio chairman. The nine directors shall be appointed to the board as voting members, by the commissioner, each to serve a term of two years. Five members shall be representatives of insurance companies, two members shall be licensed insurance agents or brokers and two members shall be consumers of commercial insurance. Members shall serve as representatives of their employers, who may have the right to substitute individuals with the prior approval of the commissioner.

Section ~~1007-C~~ 1007-B. Voting Rights.--Whenever so designated by the board pursuant to its plan of operation, each commercial liability insurer shall be allotted votes in proportion to its share of the Statewide total written premium during the prior year relating to general liability coverage, plus the liability portion, as determined by the commissioner, of commercial multi-peril coverage.

Section ~~1008-C~~ 1008-B. Organization.--(a) Within sixty (60) days following the issuance of an order by the commissioner to establish a plan the board shall submit to the commissioner, for his review, a proposed plan of operation of the Plan, consistent with the provisions of this act, which shall provide for the formation of the Plan and the economical and efficient administration of the Plan, including, but not limited to, management of the Plan, preliminary assessment of all members for initial expenses necessary to commence operations,



establishment of necessary facilities within this Commonwealth,  
assessment of members to defray continuing expenses, limits of  
liability, eligibility requirements, procedures for securing  
timely referrals and quotes on insurance applications and  
governance of the Plan.

(b) The plan of operation shall be subject to approval by  
the commissioner and shall take effect ten (10) days after  
having been approved by him. If the commissioner disapproves the  
proposed plan of operation, the commissioner shall specify his  
objections and how the plan of operation may be made acceptable.  
Following the receipt of objections from the commissioner, the  
Plan shall, within fifteen (15) days, submit for review an  
appropriately revised plan of operation, and, if the Plan fails  
to do so or if the revised Plan so filed is unacceptable, the  
commissioner shall promulgate a plan of operation.

(c) The Plan may, by its own initiative, subject to prior  
approval by the commissioner, amend the plan of operation.

Section ~~1009-C~~ 1009-B. Application Fees.--Subject to  
approval by the commissioner, the Plan shall require  
applications to be accompanied by reasonable application fees,  
which may vary for different classes of applicants. Initially,  
application fees should not exceed one hundred dollars (\$100)  
nor be less than ten dollars (\$10) for any class of insured and  
shall be reviewed annually by the commissioner. The application  
fee is non-refundable if the applicant is determined to be  
eligible for coverage, regardless of whether coverage is found  
for the applicant through the Plan.

Section ~~1010-C~~ 1010-B. Eligibility.--All applications for  
commercial liability coverage may be eligible for consideration  
by the Plan if they are accompanied by the application fee

appropriate to that class of risk, three refusals of coverage from admitted Pennsylvania commercial lines writers and one refusal of coverage from a licensed surplus lines agent, and a completed questionnaire as shall be supplied to the applicant by the Plan and approved by the commissioner, except for applications relating to:

(1) Insurance on motor vehicles.

(2) Insurance for pollution or environmental impairment.

(3) Insurance for workers' compensation and employers' liability.

(4) Insurance for medical malpractice professional liability.

(5) Insurance on activities conducted substantially outside this Commonwealth unless the insurance is required by Pennsylvania or Federal statute.

(6) Other risks as may be excluded by the Plan and approved by the commissioner.

Section ~~1011-C~~ 1011-B. Immunity.--There shall be no liability or cause of action against any member of the Plan or its agents or employees, the Plan or its agents or employees, members of the board of directors or the department or its representatives for any action taken by or statement made by them in the performance of their powers and duties under this article.

Section ~~1012-C~~ 1012-B. Funds.--All fees, assessments and other moneys received by the Plan shall be deposited into a restricted revenue account within the General Fund and are hereby appropriated to the board for the purposes set forth in this article.

ARTICLE X D.

1                   ~~STANDBY JOINT UNDERWRITING ASSOCIATION~~

2                   ~~FOR GENERAL LIABILITY INSURANCE.~~

3       ~~Section 1001 D. Definitions. The following words and~~  
4 ~~phrases when used in this article shall have the meanings given~~  
5 ~~to them in this section, unless the context clearly indicates~~  
6 ~~otherwise:~~

7       ~~(a) "Association," means the Standby Joint Underwriting~~  
8 ~~Association for General Liability Insurance.~~

9       ~~(b) "Board," means the board of directors of the~~  
10 ~~association.~~

11       ~~(c) "Department," means the Insurance Department of the~~  
12 ~~Commonwealth.~~

13       ~~(d) "General liability insurance," means commercial~~  
14 ~~liability insurance, including policies sold separately or as~~  
15 ~~part of a package, but not including medical malpractice~~  
16 ~~insurance, private passenger motor vehicle insurance or~~  
17 ~~environmental impairment liability insurance. The term includes~~  
18 ~~such insurance coverage of governmental entities, including~~  
19 ~~political subdivisions as specified in section 1002 B(1)(i),~~  
20 ~~(ii) and (iii).~~

21       ~~Section 1002 D. Creation of Association. The Standby Joint~~  
22 ~~Underwriting Association for General Liability Insurance is~~  
23 ~~created as a legal entity with all the rights which are~~  
24 ~~reasonable and necessary to fulfill its purpose, including, but~~  
25 ~~not limited to, the following:~~

26       ~~(1) To own property.~~

27       ~~(2) To enter into contracts.~~

28       ~~(3) To sue and be sued.~~

29       ~~(4) To require insurance companies and the department to~~  
30 ~~provide information in a timely fashion.~~

~~(5) To require the department to collect information.~~

~~Section 1003 D. Administration. The association shall be administered by the board.~~

~~Section 1004 D. Board. (a) The board shall consist of thirteen voting members, plus a chairperson, composed of and appointed in accordance with the following:~~

~~(1) Six representatives of commercial insurance carriers, one of which shall be appointed by the Majority Leader of the House of Representatives; one of which shall be appointed by the Minority Leader of the House of Representatives; one of which shall be appointed by the Majority Leader of the Senate; one of which shall be appointed by the Minority Leader of the Senate; and two of which shall be appointed by the Governor.~~

~~(2) Six representatives of purchasers of insurance for which the association may write insurance coverage, none of which shall be associated with commercial insurance carriers or the insurance industry, one of which shall be appointed by the Majority Leader of the House of Representatives; one of which shall be appointed by the Minority Leader of the House of Representatives; one of which shall be appointed by the Majority Leader of the Senate; one of which shall be appointed by the Minority Leader of the Senate; and two of which shall be appointed by the Governor.~~

~~(3) One independent insurance agent, appointed by the Governor.~~

~~(4) The Insurance Commissioner, who shall serve ex officio and who shall chair the board, but who may vote only in the case of a tie.~~

~~(b) Seven members of the board, not including the Insurance Commissioner, a majority of which in any combination shall be~~

~~made up of members other than representatives of commercial insurance carriers, shall constitute a quorum.~~

~~(c) Board members shall not receive a salary or per diem allowance for serving as members but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. Said expenses may include reimbursement for travel and living expenses while engaged in board business.~~

~~(d) Each board member shall serve a term of three years, and shall continue to serve thereafter until a successor is appointed, except that of the members first appointed:~~

~~(1) The two members representing commercial insurance carriers appointed by the Governor, and the member representing the independent insurance agent shall serve for a term of one year.~~

~~(2) The four members representing purchasers of insurance appointed by the Majority and Minority Leaders of the House of Representatives and the Senate shall serve for terms of two years.~~

~~No member shall be eligible to serve more than two full consecutive terms of three years. Vacancies on the board shall be filled in the same manner in which they were originally designated under subsection (a), within sixty (60) days of the vacancy. A member may be removed for just cause by the appointing authority after recommendation by a vote of at least nine members of the board.~~

~~(e) Within ninety (90) days of the effective date of this article, the Governor, the Majority and Minority Leaders of the House of Representatives and the Majority and Minority Leaders of the Senate shall make all of the appointments called for under this article.~~

~~(f) On or before September 1, 1987, the board shall meet, at the call of the chair. Thereafter, the board shall meet at least annually, to determine if the conditions for association action under section 1006 D exist. The Insurance Commissioner shall have the power to call a meeting of the board and any six members of the board, upon a written letter to the chairman, shall have the power to call a meeting of the board.~~

~~(g) All meetings of the board shall be advertised and conducted pursuant to the act of July 3, 1986 (P.L.388, No.84), known as the "Sunshine Act," except that the board may provide for executive sessions of the board on subjects permitted to be discussed in such sessions under the "Sunshine Act." No act of the board shall be taken in executive session.~~

~~(h) The Insurance Department shall provide whatever personnel services may be necessary for the board to fulfill its responsibilities under this article.~~

~~Section 1005 D. Funding. Where necessary, administrative costs of the association, including startup expenses, shall be funded by an assessed prorated contribution of all general liability insurance companies licensed to do business in this Commonwealth based on premiums written by the association in this Commonwealth. Such costs shall be recoverable from premiums written by the association. The contribution system shall be established by regulation of the department under section 1009-D.~~

~~Section 1006 D. Insurance. (a) The association shall write general liability insurance policies, at the board's direction, when the board determines that more than five percentum (5%) of standard risks in any line or subline or classification of general liability insurance cannot obtain coverage through the~~

~~voluntary market at standard rates or the market assistance plan pursuant to Article X C. If the board determines that coverage has been available to ninety five percentum (95%) or more of the standard risks in any line or subline of insurance, for at least six consecutive months, the association shall cease to write any new policies in that line or subline of insurance and shall not renew any policies in force at that time. No coverage shall be nonrenewed without providing the insured with at least sixty (60) days' notice. The association, at the board's direction, may facilitate pooling arrangements wherever appropriate notwithstanding any law to the contrary.~~

~~(b) Any standard risk person unable to obtain coverage may petition the board to write insurance in a certain line or subline and the board, after consideration of the extent of the problem based on data obtained from the department and any other appropriate sources, shall render a decision based on the petition within forty five (45) days.~~

~~(c) The initial areas to be considered under subsection (a) are political subdivisions of the Commonwealth, commercial motor vehicles, dram shops, day care centers and nonprofit organizations.~~

~~(d) The board may not consider coverage from the associations for medical malpractice insurance, private passenger motor vehicle insurance or environmental impairment liability insurance.~~

~~(e) The board shall at its discretion create separate associations or accounts for each line or subline of insurance that it writes and shall not commingle funds.~~

~~Section 1007 D. Risk Management Program. The board shall require each insured to adopt a program for risk management to~~

~~be offered coverage from the association. Approval by the board and compliance with such risk management program shall be a condition precedent to obtaining and maintaining coverage from the association.~~

~~Section 1008 D. Risk Apportionment. (a) The board shall, after consultation with property and casualty insurers transacting business in this Commonwealth, adopt a plan or plans for the equitable apportionment among such insurers of general liability insurance coverage for individuals or groups who are standard risks, but are unable to procure such coverage through the voluntary market at standard rates or the market assistance plan pursuant to Article X C. The board may adopt a joint underwriting plan which shall provide for one or more designated insurers able and willing to provide policyholder and claim services, including the issuance of insurance policies, to act on behalf of all other insurers required to participate in the joint underwriting plan. Any joint underwriting plan adopted shall provide for the equitable apportionment of any profits realized, or of losses and expenses incurred, among participating insurers. The plan shall include, but not be limited to:~~

~~(1) Rules for the classification of risks and rates which reflect to the maximum extent possible the past loss experience and prospective loss experience in different geographic areas within this Commonwealth.~~

~~(2) A rating plan which reasonably reflects the prior claims experience of the insureds.~~

~~(3) Excess coverage by insurers if the board, in its discretion, requires such coverage by insurers participating in the joint underwriting plan.~~



~~(b) In the event an underwriting deficit exists at the end of the year the plan is in effect, each policyholder shall pay to the joint underwriting plan a premium contingency assessment not to exceed one fifth of the premium payment paid by the policyholder for that year. The joint underwriting plan shall pay no further claims on any policy for which the policyholder fails to pay the premium contingency assessment.~~

~~(c) Any deficit sustained under the plan shall first be recovered through a premium contingency assessment. Concurrently, the rates for insureds shall be adjusted for the next year so as to be actuarially sound in conformance with rules of the department.~~

~~(d) If there is any remaining deficit under the plan after maximum collection of the premium contingency assessment, this deficit shall be recovered from the companies participating in the plan in the proportion that the net direct premiums of each such member written during the preceding calendar year bears to the aggregate net direct premiums written in this Commonwealth by all members of the joint underwriting plan. It shall not be permissible to use such deficit to increase automobile or homeowners insurance premiums.~~

~~(e) Upon adoption of a plan, all general liability insurers shall subscribe thereto and participate therein as a condition of doing business in this Commonwealth.~~

~~Section 1009 D. Regulations. The board shall promulgate regulations to insure that:~~

~~(1) The association provides liability insurance as required by this act.~~

~~(2) There is a procedure for petitioning the board to act under section 1006 D(c) and that there is a definition of~~

1 "standard risk."

2 ~~(3) Losses and profits are assigned equitably under section~~  
3 ~~1008-D.~~

4 ~~(4) Coverage is made available through licensed agents and~~  
5 ~~that a reasonable commission is paid.~~

6 ~~(5) The cost of operating the association is reasonable in~~  
7 ~~relation to the service it provides to the insurance business of~~  
8 ~~this Commonwealth.~~

9 ARTICLE X-E. <—

10 ARTICLE X-C.

11 REVIEW OF RATE FILINGS.

12 Section ~~1001-E~~ 1001-C. Procedure.--The commissioner shall <—  
13 ~~promulgate rules and regulations establishing,~~ THROUGH NOTICE IN <—  
14 THE PENNSYLVANIA BULLETIN, ORDER THE ESTABLISHMENT OF procedures  
15 for the review of rules, rates and rating plans for property and  
16 casualty insurance.

17 (b) These rules and regulations shall include, but not be  
18 limited to:

19 (1) Uniform definitions.

20 (2) ~~Information required to accompany~~ STANDARD FORMAT AND <—  
21 STANDARD METHODOLOGIES FOR the submission or modification of  
22 rules, rates and rating plans.

23 (3) Public notice of any public hearing or other  
24 opportunities of any interested party or person to present  
25 information.

26 (4) Requiring that all information filed or presented to the  
27 department at any time shall be part of the public record.

28 (5) That all decisions of the department shall be based  
29 solely on the evidence in the record.

30 ~~(6) Prohibition of communication by employees of the~~ <—

1 ~~Insurance Department with any party to a rate filing that is not~~  
2 ~~on the record.~~

3 (6) THE PROCEDURE BY WHICH THE DEPARTMENT SHALL, AT ITS <—  
4 DISCRETION, AUDIT RATEMAKING DATA.

5 ARTICLE X-F. <—

6 ARTICLE X-D <—

7 NOTICE OF INTENT TO WITHDRAW.

8 Section ~~1001-F~~ 1001-D. Notice Required.--(a) Whenever an <—  
9 insurer licensed to write property and casualty insurance as  
10 described in section ~~1001-B~~ 1001-A decides to withdraw from any <—  
11 line, subline or classification of business, the insurance  
12 company shall file with the Insurance Department a notice  
13 detailing the intent to withdraw. The notice shall include, but  
14 not be limited to, the reasons for withdrawal, the number of  
15 policyholders affected, the effective date of the withdrawal, if  
16 the withdrawal is Statewide or national, and a listing of  
17 potential sources for replacement coverage for insureds. This  
18 notice of withdrawal by insurers shall be filed at least sixty  
19 days prior to the effective date of the withdrawal.

20 (b) The Insurance Department shall use this information to  
21 assist in determining market conditions.

22 (c) The department shall not permit any insurer licensed to  
23 write property and casualty insurance to withdraw from any line  
24 or classification of business without complying with the  
25 provisions of this article.

26 Section 2. Any investments properly made pursuant to <—  
27 applicable provisions of this act prior to the effective date of  
28 this amendatory act shall continue as permitted investments  
29 under this act.

30 Section 3. This act is not intended to repeal section 641 of

1 the act of May 17, 1921 (P.L.789, No.285), known as The  
2 Insurance Department Act of one thousand nine hundred and  
3 twenty one or its application as provided in the act of December  
4 30, 1974 (P.L.1148, No.365), entitled "An act amending the act  
5 of May 17, 1921 (P.L.789, No.285), entitled, as amended, 'An act  
6 relating to insurance; establishing an insurance department; and  
7 amending, revising, and consolidating the law relating to the  
8 licensing, qualification, regulation, examination, suspension,  
9 and dissolution of insurance companies, Lloyds associations,  
10 reciprocal and inter insurance exchanges, and certain societies  
11 and orders, the examination and regulation of fire insurance  
12 rating bureaus, and the licensing and regulation of insurance  
13 agents, and brokers; the service of legal process upon foreign  
14 insurance companies, associations or exchanges; providing  
15 penalties, and repealing existing laws,' prohibiting the  
16 licensing of lending institutions, public utilities and holding  
17 companies except for the sale of certain types of insurance."

18 Section 4. ~~Section 618(B)(11) of the act of May 17, 1921~~  
19 ~~(P.L.682, No.284), known as The Insurance Company Law of 1921,~~  
20 ~~is repealed insofar as it is inconsistent with this act.~~

21 Section 5. ~~This act shall take effect as follows:~~

22 (1) ~~As much of section 1 as relates to Article X A shall~~  
23 ~~take effect in 30 days.~~

24 (2) ~~The remainder of this act shall take effect~~  
25 ~~immediately.~~

26 ARTICLE X-E.

<—

27 REQUESTS FOR DATA AND INFORMATION; COMPLIANCE.

28 SECTION 1001-E. REQUESTS FOR DATA AND INFORMATION.--(A) ANY  
29 PERSON OR ENTITY LICENSED OR OTHERWISE AUTHORIZED TO ENGAGE IN  
30 THE BUSINESS OF INSURANCE IN THIS COMMONWEALTH SHALL COMPLY WITH

1 CALLS FOR DATA AND ANY OTHER INFORMATION THAT MAY BE MADE BY THE  
2 INSURANCE DEPARTMENT. COMPLIANCE WITH SUCH CALLS, RELATING TO  
3 THE CONDUCT OF THE BUSINESS OF INSURANCE, SHALL INCLUDE THE  
4 FOLLOWING ACTIONS:

5 (1) THE PROVISION OF ALL DATA OR INFORMATION REQUESTED  
6 WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE THAT THE REQUEST IS  
7 FIRST RECEIVED UNLESS A DIFFERENT TIME TO RESPOND IS PROVIDED BY  
8 THE DEPARTMENT OR GRANTED AS A RESULT OF A FORMAL REQUEST BY THE  
9 ENTITY TO WHICH THE REQUEST IS MADE. WHERE DATA OR INFORMATION  
10 IS NOT READILY AVAILABLE IN THE FORM OR FORMAT IN WHICH IT IS  
11 REQUESTED, SUCH DATA AND INFORMATION SHALL BE GENERATED,  
12 ORGANIZED AND PRESENTED IN THE FORM OR FORMAT REQUESTED BY THE  
13 DEPARTMENT.

14 (2) THE PROVISION OF COPIES OF ACTUAL RECORDS AND DOCUMENTS  
15 REQUESTED, INCLUDING, BUT NOT LIMITED TO, LETTERS, GUIDELINES,  
16 LISTS, MEMORANDA, DIRECTIVES, NOTICES AND ANY FORM OF  
17 COMMUNICATION WHICH RELATE TO DATA OR INFORMATION REQUESTED.

18 SECTION 1002-E. PENALTIES.--ANY PERSON OR ENTITY WHICH FAILS  
19 TO COMPLY WITH THIS ARTICLE SHALL PAY UP TO A MAXIMUM CIVIL  
20 PENALTY OF TEN THOUSAND DOLLARS (\$10,000) AND BE SUBJECT TO A  
21 FURTHER CIVIL PENALTY OF TWO HUNDRED DOLLARS (\$200) DAILY UNTIL  
22 FULL COMPLIANCE OCCURS.

23 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.