

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1150 Session of
1989

INTRODUCED BY FOX, BOYES, MORRIS, McCALL, GIGLIOTTI, LEVDANSKY,
TRELLO, D. W. SNYDER, SEMMEL, JOHNSON, DeLUCA, J. TAYLOR,
RITTER, LETTERMAN, J. L. WRIGHT, HAGARTY, COY, FLICK,
ANGSTADT, HARPER, CARN, KASUNIC, E. Z. TAYLOR, REBER, CIVERA,
JOSEPHS, OLASZ, WILSON, RAYMOND, THOMAS, BUNT, KENNEY, HASAY,
CORNELL AND PHILLIPS, APRIL 12, 1989

REFERRED TO COMMITTEE ON INSURANCE, APRIL 12, 1989

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employes of certain departments, boards and
20 commissions shall be determined," creating the Office of
21 Public Insurance Advocate; and prescribing its powers and
22 duties.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
26 as The Administrative Code of 1929, is amended by adding an

1 article to read:

2 ARTICLE IX-C

3 OFFICE OF PUBLIC INSURANCE ADVOCATE

4 Section 901-C. Definitions.--As used in this article:

5 "Consumer" means any person who is a named insured, insured
6 or beneficiary of a policy of insurance or any other person who
7 may be affected in any way by any action within the authority of
8 the department. The term also involves any "insured" as used in
9 the act of June 11, 1947 (P.L.538, No.246), known as "The
10 Casualty and Surety Rate Regulatory Act," and the act of June
11 11, 1947 (P.L.551, No.247), known as "The Fire, Marine and
12 Inland Marine Rate Regulatory Act."

13 "Department" means the Insurance Department and includes the
14 Insurance Commissioner.

15 "Insurer" means any "company," "association" or exchange" as
16 such terms are defined in section 101 of the act of May 17, 1921
17 (P.L.789, No.285), known as "The Insurance Department Act of one
18 thousand nine hundred and twenty-one."

19 Section 902-C. Office of Public Insurance Advocate.--(a)
20 There is hereby established, within the Office of Attorney
21 General, an Office of Public Insurance Advocate to represent the
22 interest of consumers before the department.

23 (b) The Office of Public Insurance Advocate shall be headed
24 by a Public Insurance Advocate who shall be appointed by the
25 Attorney General, by and with the advice and consent of a
26 majority of the members elected to the Senate. The Public
27 Insurance Advocate shall be a person who by reason of training,
28 experience and attainment is qualified to represent the interest
29 of consumers. Compensation shall be set by the Executive Board.

30 (c) No individual who serves as a Public Insurance Advocate

1 shall, while serving in such position, engage in any business,
2 vocation, or other employment, or have other interests,
3 inconsistent with official responsibilities, nor shall that
4 person seek or accept employment nor render beneficial services
5 for compensation with any insurer subject to the authority of
6 the office during the tenure of the appointment and for a period
7 of two years immediately after the appointment is served or
8 terminated.

9 (d) Any individual who is appointed to the position of
10 Public Insurance Advocate shall not seek election nor accept
11 appointment to any political office during the tenure as Public
12 Insurance Advocate and for a period of two years after the
13 appointment is served or terminated.

14 Section 903-C. Assistant Public Insurance Advocates;
15 Employees.--The Public Insurance Advocate shall appoint attorneys
16 as assistant public insurance advocates and such additional
17 clerical, technical and professional staff as may be
18 appropriate, and may contract for such additional services as
19 shall be necessary for the performance or function of the
20 office. The compensation of assistant public insurance advocates
21 and clerical, technical and professional staff shall be set by
22 the Executive Board. No assistant public insurance advocate or
23 other staff employe shall, while serving in such position,
24 engage in any business, vocation, or other employment, or have
25 other interests, inconsistent with the official
26 responsibilities.

27 Section 904-C. Powers and Duties of the Public Insurance
28 Advocate.--(a) In addition to any other authority conferred by
29 this article, the Public Insurance Advocate is authorized, and
30 it shall be his duty, in carrying out the responsibilities

imposed under this article, to represent the interest of consumers as a party, or otherwise participate for the purpose of representing an interest of consumers, before the department in any matter properly before the department, and before any court or agency, initiating proceedings if in his judgment such may be necessary, in connection with any matter involving regulation by the department, whether on appeal or otherwise initiated.

(b) The Public Insurance Advocate may exercise discretion in determining the interests of consumers which will be advocated in any particular proceeding. In determining whether or not to participate in or initiate any particular proceeding, he shall consider the public interest, the resources available and the substantially of the effect of the proceeding on the interest of consumers. The Public Insurance Advocate may refrain from intervening when, in the judgment of the Public Insurance Advocate, intervention is not necessary to represent adequately the interest of consumers.

(c) In addition to any other authority conferred by this article, the Public Insurance Advocate is authorized to represent an interest of consumers which is presented for his consideration, upon petition in writing, by a substantial number of persons who are consumers of an insurer subject to regulation by the department. The Public Insurance Advocate shall notify the principal sponsors of the petition, within a reasonable time after receipt, of the action taken or intended to be taken with respect to the interest of consumers presented in such petition. If the Public Insurance Advocate declines or is unable to represent such interest, he shall notify the sponsors and shall state the reasons therefor.

1 (d) Any action brought by the Public Insurance Advocate
2 before a court or an agency of this Commonwealth shall be
3 brought in the name of the Public Insurance Advocate.

4 Section 905-C. Appropriation and Expenditures.--(a) The
5 annual appropriation to fund the Office of Public Insurance
6 Advocate shall be fixed by the General Assembly at a sum which
7 is equal to at least thirty per centum (30%) of the annual
8 appropriation received by the department.

9 (b) All requisitions upon the appropriation shall be signed
10 by the Public Insurance Advocate or such assistants as may be
11 designated, in writing, to the State Treasurer and shall be
12 presented to the State Treasurer and dealt with in the manner
13 prescribed by the act of April 9, 1929 (P.L.343, No.176), known
14 as "The Fiscal Code."

15 Section 906-C. Duties of the Department.--In dealing with
16 any proposed action which may substantially affect the interest
17 of consumers, including, but not limited to, a proposed change
18 of rates and the adoption of rules, regulations, guidelines,
19 orders, standards or final policy decisions, the department
20 shall:

21 (1) Notify the Public Insurance Advocate when notice of the
22 proposed action is given to the public or at a time fixed by
23 agreement between the Public Insurance Advocate and the
24 department in a manner to assure the Public Insurance Advocate
25 reasonable notice and adequate time to determine whether to
26 intervene in such matter.

27 (2) Consistent with its other statutory responsibilities,
28 take such action with due consideration to the interest of
29 consumers.

30 Section 907-C. Savings Provision; Construction.--(a)

1 Nothing contained herein shall in any way limit the right of any
2 consumer to bring a proceeding before either the department or a
3 court.

4 (b) Nothing contained herein shall be construed to impair
5 the statutory authority or responsibility of the department to
6 regulate insurers in the public interest.

7 Section 908-C. Reports.--The Public Insurance Advocate shall
8 annually transmit to the Governor, the Attorney General and to
9 the General Assembly, and shall make available to the public, an
10 annual report on the conduct of the Office of Public Insurance
11 Advocate. In the initial report, the Public Insurance Advocate
12 shall specifically address proposed changes in existing laws and
13 regulations which would protect the interest of consumers. The
14 Public Insurance Advocate shall make recommendations as may,
15 from time to time, be necessary or desirable to protect the
16 interest of consumers.

17 Section 2. (a) The powers, duties and functions of the
18 Bureau of Policyholder Services in the Insurance Department are
19 hereby transferred to the Office of Public Insurance Advocate in
20 the Office of Attorney General.

21 (b) All personnel, allocations, equipment, files, records,
22 contracts, agreements, obligations and other materials which are
23 used, employed or expended in connection with the powers, duties
24 or functions of the Bureau of Policyholder Services transferred
25 by this act to the Office of Public Insurance Advocate in the
26 Office of Attorney General are hereby transferred to the Office
27 of Public Insurance Advocate in the Office of Attorney General
28 with the same force and effect as if the appropriations had been
29 made to, and said items had been the property of, the Office of
30 Public Insurance Advocate in the Office of Attorney General in

1 the first instance and as if said contracts, agreements and
2 obligations had been incurred or entered into by said Office of
3 Public Insurance Advocate in the Office of Attorney General.

4 Section 3. This act shall take effect in 90 days.