

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2609 Session of
1990

INTRODUCED BY VEON, RYBAK, GEORGE, TANGRETTI, BROUJOS, MELIO,
TIGUE, BLAUM, STABACK, BILLOW, KUKOVICH, FOX, FEE, KOSINSKI,
MAIALE, STISH, LEVDANSKY, BELFANTI, PESCI, WILLIAMS,
PISTELLA, MORRIS, TELEK, DeLUCA, JOSEPHS, LaGROTTA, HALUSKA,
LINTON AND OLASZ, MAY 29, 1990

REFERRED TO COMMITTEE ON INSURANCE, MAY 29, 1990

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," imposing restrictions on
12 withdrawals from certain lines of insurance.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
16 as The Insurance Company Law of 1921, is amended by adding an
17 article to read:

18 ARTICLE X-A.

19 WITHDRAWALS FROM CERTAIN LINES OF INSURANCE.

20 Section 1001-A. Scope of Article.--This article shall apply
21 to all companies, associations and exchanges having a

1 certificate of authority to write policies of automobile
2 insurance in this Commonwealth, as defined in the act of June 5,
3 1968 (P.L.140, No.78), entitled "An act regulating the writing,
4 cancellation of or refusal to renew policies of automobile
5 insurance; and imposing powers and duties on the Insurance
6 Commissioner therefor." Such policies are hereinafter referred
7 to in this article as the private passenger automobile line of
8 insurance.

9 Section 1002-A. Restriction on Withdrawal; Definition.--No
10 company, association or exchange may withdraw from the private
11 passenger automobile line of insurance without the prior
12 approval of the Insurance Commissioner. For purposes of this
13 article, the term "withdrawal" includes the surrender of all or
14 some powers of a certificate of authority necessary to write
15 private passenger automobile policies of insurance or the
16 nonrenewal of all or substantially all private passenger
17 automobile policies of insurance.

18 Section 1003-A. Application and Plan of Withdrawal.--(a) To
19 obtain the approval of the Insurance Commissioner as required by
20 section 1002-A to withdraw, a company, association or exchange
21 must submit an application to the Insurance Department which
22 specifies:

23 (1) The lines of insurance affected.

24 (2) The reasons for the proposed withdrawal.

25 (3) The number of policyholders affected.

26 (4) The efforts made to sell the book of business to another
27 company, association or exchange.

28 (5) An assessment of the availability of replacement
29 coverage for affected policyholders in the voluntary market.

30 (6) The number of licensed agents that would be affected by

1 the proposed withdrawal.

2 (7) The number of employees of the company, association or
3 exchange within this Commonwealth that would be affected by the
4 proposed withdrawal.

5 (8) Such other information as may be required by the
6 Insurance Department.

7 (b) The company, association or exchange shall provide
8 notice of the proposed withdrawal to affected policyholders and
9 agents at the time the application is filed with the Insurance
10 Department. The notice shall advise policyholders and agents
11 that they may submit written comments to the Insurance
12 Department within thirty days.

13 (c) The application submitted pursuant to subsection (a)
14 shall include a plan for orderly withdrawal. Such plan shall
15 specify the timetable for the proposed withdrawal and efforts
16 that will be made to advise insureds of available replacement
17 coverage. The plan of withdrawal shall demonstrate the efforts
18 that will be made to minimize the impact of the proposed
19 withdrawal on affected policyholders.

20 Section 1004-A. Action by Commissioner.--(a) The Insurance
21 Commissioner shall, within sixty days of his determination that
22 a complete application for withdrawal has been submitted,
23 approve or disapprove the application and provide written notice
24 to the company, association or exchange making the filing. The
25 sixty-day review period may be extended an additional thirty
26 days at the Insurance Commissioner's discretion. In approving
27 the application, the Insurance Commissioner may impose
28 additional conditions in the plan of withdrawal as may be
29 necessary to protect the interests of policyholders. The
30 Insurance Commissioner may condition the approval of the

application on the surrender of all certificates of authority held by the company, association or exchange making the filing, as well as all companies, associations or exchanges within the same company group.

(b) During the review period, the Insurance Commissioner may undertake such examination, investigation or public hearings or order formal administrative hearings under 2 Pa.C.S. (relating to administrative law and procedure) as deemed appropriate in his discretion. Any violation of the insurance laws, as identified by the Insurance Department, must be resolved prior to the Insurance Commissioner's approval of the withdrawal plan. All costs of investigation under this subsection and section 1007-A shall be borne by the insurer.

(c) The Insurance Commissioner may disapprove an application for withdrawal if he finds that the proposed withdrawal does not provide adequate protection to policyholders. In making this determination, he shall consider, in addition to other factors that may be appropriate:

(1) The financial position of the company, association or exchange, both in the lines of insurance affected by the proposed withdrawal and all other lines written by the company, association or exchange.

(2) The number of policyholders affected.

(3) The availability of replacement coverage in the voluntary market.

Section 1005-A. Implementation of Approved Application.--The Insurance Commissioner shall, upon approval of an application to withdraw, specify the date after which the company, association or exchange may implement the withdrawal by nonrenewing policies. The date so specified shall not be less than six

1 months from the date of approval. Within ten days of the
2 Insurance Commissioner's approval, the company, association or
3 exchange shall notify all affected policyholders that their
4 policy will not be renewed on the next renewal date after
5 implementation of the withdrawal plan. The company, association
6 or exchange shall also provide notice to policyholders not less
7 than sixty days prior to nonrenewal. The Insurance Commissioner
8 shall adopt standard forms for policyholder notices required by
9 this section. The nonrenewal procedure specified in this section
10 shall supersede the nonrenewal notice requirements of the act of
11 June 5, 1968 (P.L.140, No.78), entitled "An act regulating the
12 writing, cancellation of or refusal to renew policies of
13 automobile insurance; and imposing powers and duties on the
14 Insurance Commissioner therefor." The company, association or
15 exchange may implement the withdrawal only in accordance with
16 the plan of withdrawal approved by the Insurance Commissioner or
17 any subsequent modifications to the plan approved by the
18 Insurance Commissioner.

19 Section 1006-A. Penalties.--If the Insurance Commissioner
20 determines that a company, association or exchange has not
21 complied with this article or is not implementing its withdrawal
22 in accordance with the plan approved by the Insurance
23 Commissioner, the Insurance Commissioner may:

24 (1) Issue a cease and desist order, with or without prior
25 hearing. If a cease and desist order is issued without prior
26 hearing, the company, association or exchange may request a
27 hearing, which shall be held within ten days of the Insurance
28 Department's receipt of the request.

29 (2) Impose, after hearing, a civil penalty not to exceed ten
30 thousand (\$10,000) dollars for each violation of the withdrawal

1 plan, this article or any provision of insurance law. For
2 purposes of this section, this penalty shall be applicable
3 separately to each and every private passenger automobile policy
4 of the withdrawing company.

5 (3) Suspend the company, association or exchange, as well as
6 all other companies, associations or exchanges within the same
7 company group, from writing new business for a period not to
8 exceed one year.

9 Section 1007-A. Continuing Authority.--Notwithstanding the
10 approved withdrawal of a company, association or exchange, the
11 Insurance Department shall retain continuing authority to
12 conduct investigations and examinations, as appropriate, to
13 monitor compliance with the approved plan of withdrawal and to
14 investigate possible violations of insurance laws.

15 Section 1008-A. Exceptions.--For good cause shown, the
16 Insurance Commissioner may waive the requirements of this
17 article in cases of threatened insolvency, mergers or
18 acquisitions or loss of reinsurance, or for such other reasons
19 as the Insurance Commissioner determines make the restrictions
20 imposed by this article contrary to the interests of the public.
21 Nothing in this article shall apply to proceedings under Article
22 V of the act of May 17, 1921 (P.L.789, No.285), known as The
23 Insurance Department Act of one thousand nine hundred and
24 twenty-one.

25 Section 1009-A. Applicability.--This article shall apply
26 immediately to any withdrawals where the proposed nonrenewals
27 have not yet become effective, without regard to whether
28 nonrenewal notices have been sent to policyholders.

29 Section 2. This act shall take effect immediately.