

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1370

Session of  
1999

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INTRODUCED BY GLADECK, FICHTER, GODSHALL, E. Z. TAYLOR, FARGO,  
ADOLPH, ARMSTRONG, BARD, CLARK, CLYMER, M. COHEN, DEMPSEY,  
FLEAGLE, HESS, LEH, MAITLAND, McILHATTAN, R. MILLER, ROSS,  
SATHER, SAYLOR AND STERN, APRIL 21, 1999

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SENATOR ARMSTRONG, LABOR AND INDUSTRY, IN SENATE, AS AMENDED,  
MARCH 14, 2000

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AN ACT

1 Amending the act of July 1, 1937 (P.L.2532, No.470), entitled  
2 "An act to establish funds to provide security for the  
3 payment of benefits in event of the insolvency of an  
4 insurance carrier authorized to write workmen's compensation  
5 insurance in this Commonwealth; and to provide for the  
6 administration thereof," further providing for contributions,  
7 for regulations and for custody and management of fund.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Sections 5, 9 and 10 of the act of July 1, 1937  
11 (P.L.2532, No.470), known as the Workers' Compensation Security  
12 Fund Act, amended October 18, 1975 (P.L.419, No.117), are  
13 amended to read:

14 [Section 5. For the privilege of carrying on the business of  
15 workmen's compensation insurance in this Commonwealth, every  
16 stock company, mutual carrier and reciprocal exchange shall pay  
17 into the fund on the first day of September, one thousand nine  
18 hundred and thirty-eight, a sum equal to one per centum of its

1 net written premiums as shown by the return hereinbefore  
2 prescribed for the period ending June thirtieth, one thousand  
3 nine hundred and thirty-eight, and thereafter each such stock  
4 company, mutual carrier and reciprocal exchange upon filing each  
5 annual return shall pay a sum equal to one per centum of its net  
6 written premiums for the period covered by such return. When the  
7 aggregate amount of all such payments into the fund, together  
8 with accumulated interest thereon, less all its expenditures and  
9 known liabilities, becomes equal to five per centum of the loss  
10 reserves of all stock companies, mutual carriers and reciprocal  
11 exchanges for the payment of benefits under the Workmen's  
12 Compensation Law as of June thirtieth next preceding, no further  
13 contribution to said fund shall be required to be made:  
14 Provided, however, That whenever thereafter the amount of said  
15 fund shall be reduced below five per centum of such loss  
16 reserves as of said date, by reason of payments from and known  
17 liabilities of said fund or by reasons of an increase of the  
18 loss reserves of all stock companies, mutual carriers and  
19 reciprocal exchanges, then such contribution to said fund shall  
20 be resumed from such date as the commissioner shall prescribe,  
21 and shall continue until such fund, over and above its known  
22 liabilities, shall be equal to five per centum of such  
23 reserves.]

24 Section 9. [The commissioner may adopt, amend, and enforce  
25 rules and regulations necessary for the proper administration of  
26 such fund.] (1) The Insurance Department shall adopt  
27 regulations as necessary to administer the fund, including  
28 regulations to establish contributions to be paid to the fund.  
29 Contributions shall be established on an actuarial basis to  
30 provide an amount sufficient to pay outstanding and anticipated

1 claims in a timely manner, to meet the costs of the Insurance  
2 Department to administer the fund and to maintain a minimum  
3 balance in the fund of \$500,000,000. Nothing in this section  
4 shall prevent the department from using money in the fund to pay  
5 liabilities and claims. If, due to the payment of liabilities or  
6 claims, the balance of the fund is reduced below \$500,000,000,  
7 the department shall require contributions to maintain the  
8 actuarial soundness of the fund and to restore, in a timely  
9 manner, the balance of the fund to a level at or above  
10 \$500,000,000.

11     (2) In the event any carrier shall fail to file any return,  
12 or make any payment required by this act, or in case the  
13 commissioner shall have cause to believe that any return or  
14 other statement filed is false or inaccurate in any particular,  
15 or that any payment made is incorrect, he shall have full  
16 authority to examine all the books and records of the carrier  
17 for the purpose of ascertaining the facts, and shall determine  
18 the correct amount to be paid, and may proceed in any court of  
19 competent jurisdiction to recover for the benefit of the fund  
20 any sums shown to be due upon such examination and  
21 determination. Any carrier which fails to make any statement as  
22 required by this act, or to pay any contribution when due, shall  
23 thereby forfeit to the fund a penalty of five per centum of the  
24 amount of unpaid contribution determined to be due, as provided  
25 by this act, plus one per centum of such amount for each month  
26 of delay or fraction thereof after the expiration of the first  
27 month of such delay. The commissioner shall revoke the  
28 certificate of authority to do business in this Commonwealth of  
29 any carrier which shall fail to comply with the provisions of  
30 this act or to pay any penalty imposed in accordance with this

1 act.

2 Section 10. (1) The fund created by this act shall be  
3 separate and apart from all other Commonwealth moneys. The State  
4 Treasurer shall be the custodian of said fund, and all  
5 disbursements from said fund shall be made by the State  
6 Treasurer upon vouchers signed by the commissioner[, as  
7 hereinafter provided. The moneys of said fund may be invested by  
8 the State Treasurer and commissioner only in bonds and  
9 securities which are the direct obligations of, or which are  
10 guaranteed as to principal and interest by, the United States or  
11 of this Commonwealth. The State Treasurer and commissioner may  
12 sell any of the securities in which said fund is invested, if  
13 advisable for its proper administration or in the best interest  
14 of such fund, and all earnings from the investment of such fund  
15 shall be credited to such fund].

16 (2) The Insurance ~~Department~~ COMMISSIONER and the State <—  
17 Treasurer, JOINTLY, shall have full and exclusive power to <—  
18 invest moneys of the fund with that degree of judgment, skill  
19 and care under the circumstances then prevailing which persons  
20 of prudence, discretion and intelligence, who are familiar with  
21 such matters, exercise in the management of their own affairs,  
22 not related to speculation, but to the permanent disposition of  
23 the funds, considering the probable income to be derived and the  
24 probable safety of their capital. Investments shall be made in  
25 accordance with a written investment policy approved by the  
26 ~~department~~ COMMISSIONER and the State Treasurer. The investment <—  
27 policy shall address liquidity, diversification, safety of  
28 principal, yield, maturity and quality and the capability of  
29 investment management with primary emphasis on safety and  
30 liquidity. The ~~department~~ COMMISSIONER and the State Treasurer <—

1 shall have the power to hold, purchase, sell, lend, assign,  
2 transfer or dispose of any: securities and investments in which  
3 moneys from the fund have been invested; proceeds from  
4 investments, including ~~directed~~ commissions which have accrued <—  
5 to the benefit of the fund as a result of investments; and any  
6 other assets belonging to the fund, subject to the standard of  
7 prudence established under this section.

8     (3) If at any time any contributing carrier, as herein  
9 defined, shall, upon due notice to the [Insurance Commissioner]  
10 commissioner, cease to transact the business of workmen's  
11 compensation insurance, the contributions of such carrier, at  
12 the time such carrier ceases to transact the business of  
13 workmen's compensation insurance, shall be refunded, provided  
14 that all its outstanding liability on workmen's compensation  
15 insurance shall have terminated.

16     Section 2. This act shall take effect as follows:

17         (1) The amendment of sections 5 and 10 of the act shall  
18 take effect on the effective date of the regulations  
19 promulgated under section 9(1) of the act.

20         (2) The remainder of this act shall take effect  
21 immediately.