

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2769 Session of 2004

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INTRODUCED BY VANCE AND KENNEY, JUNE 28, 2004

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AS REPORTED FROM COMMITTEE ON HEALTH AND HUMAN SERVICES, HOUSE  
OF REPRESENTATIVES, AS AMENDED, NOVEMBER 9, 2004

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## AN ACT

1 Amending the act of July 22, 1974 (P.L.589, No.205), entitled  
2 "An act relating to unfair insurance practices; prohibiting  
3 unfair methods of competition and unfair or deceptive acts  
4 and practices; and prescribing remedies and penalties,"  
5 further defining "abuse," "unfair methods of competition" and  
6 "unfair or deceptive acts or practices."

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

9 Section 1. The definition of "abuse" in section 3 of the act  
10 of July 22, 1974 (P.L.589, No.205), known as the Unfair  
11 Insurance Practices Act, added April 4, 1996 (P.L.100, No.24),  
12 is amended to read:

13 Section 3. Definitions.--As used in this act:

14 "Abuse" has the meaning given in 23 Pa.C.S. § 6102(a)  
15 (relating to definitions), notwithstanding the limited  
16 applicability provision in paragraph (5) of the definition of  
17 "abuse" in 23 Pa.C.S. § 6102(a). The term also means attempting  
18 to cause or intentionally, knowingly or recklessly causing  
19 damage to property so as to intimidate or attempt to control the

1 behavior of another person.

2 \* \* \*

3 Section 2. Section 5(a)(14) of the act, added April 4, 1996  
4 (P.L.100, No.24), is amended to read:

5 Section 5. Unfair Methods of Competition and Unfair or  
6 Deceptive Acts or Practices Defined.--(a) "Unfair methods of  
7 competition" and "unfair or deceptive acts or practices" in the  
8 business of insurance means:

9 \* \* \*

10 (14) (i) Taking any of the following actions because the  
11 insured or applicant for an insurance policy or insurance  
12 contract is a victim of abuse:

13 (A) Denying, refusing to issue, refusing to renew, refusing  
14 to reissue or cancelling or terminating an insurance policy or  
15 insurance contract or restricting coverage under an insurance  
16 policy or insurance contract.

17 (B) Adding a surcharge, applying a rating factor or using  
18 any other underwriting standard or practice which adversely  
19 takes into account a history or status of abuse.

20 (C) Excluding or limiting benefits or coverage under an  
21 insurance policy or insurance contract for losses incurred.

22 (D) Refusing to pay losses arising out of abuse to an  
23 innocent insured under a property and casualty insurance policy  
24 or contract to the extent of the INNOCENT insured's legal <—  
25 interest in the covered property if the loss is caused by the  
26 intentional act of an insured or using other exclusions or  
27 limitations on coverage which the commissioner has determined BY <—  
28 REGULATION unreasonably restrict the ability of victims of abuse  
29 to be indemnified for such losses.

30 An insurer shall develop and adhere to written policies

1 specifying procedures to be followed by employees and by  
2 insurance professionals it contracts with, for the purpose of  
3 protecting the safety and privacy of a victim of abuse when  
4 investigating a claim, pursuing subrogation or taking any other  
5 action relating to a claim involving a victim of abuse and shall  
6 otherwise implement the provisions of this paragraph. An insurer  
7 shall distribute its written policies to employees and insurance  
8 professionals.

9 (ii) Nothing in this paragraph shall be construed as:

10 (A) requiring that a person issue, renew or reissue an  
11 insurance policy or insurance contract solely because the  
12 insured or applicant is a victim of abuse; or

13 (B) requiring a person to provide benefits or coverage for  
14 losses incurred solely because the insured or applicant is a  
15 victim of abuse.

16 (iii) A person shall not be in violation of this paragraph  
17 if any action taken is permissible by law and applies to the  
18 same extent to all applicants and insureds without regard to  
19 whether an applicant or insured is a victim of abuse.

20 \* \* \*

21 Section 3. This act shall take effect in 60 days.