

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2160 Session of
1986

INTRODUCED BY COHEN, HARPER, JOSEPHS, MICHLOVIC, DAWIDA, MURPHY,
TRUMAN, BARBER, FREEMAN, O'BRIEN, KOSINSKI, FATTAH AND SWEET,
FEBRUARY 12, 1986

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 12, 1986

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 prohibiting unfair discrimination against homeowners who own
6 and house pets on insured property.

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

9 Section 1. Section 5 of the act of July 22, 1974 (P.L.589,
10 No.205), known as the Unfair Insurance Practices Act, amended
11 July 6, 1984 (P.L.605, No.124), is amended to read:

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

16 (1) Making, publishing, issuing or circulating any estimate,
17 illustration, circular, statement, sales presentation, omission
18 comparison which:

19 (i) misrepresents the benefits, advantages, conditions or

1 terms of any insurance policy;

2 (ii) misrepresents the premium overcharge commonly called
3 dividends or share of the surplus to be received on any
4 insurance policy;

5 (iii) makes any false or misleading statements as to the
6 dividends or share of surplus previously paid on any insurance
7 policy;

8 (iv) is misleading or is a misrepresentation as to the
9 financial condition of any person, or as to the legal reserve
10 system upon which any insurer operates;

11 (v) uses any name or title of any insurance policy or class
12 of insurance policies misrepresenting the true nature thereof;

13 (vi) is a misrepresentation for the purpose of inducing or
14 tending to induce the lapse, forfeiture, exchange, conversion or
15 surrender of any insurance policy;

16 (vii) is a misrepresentation for the purpose of effecting a
17 pledge or assignment of or effecting a loan against any
18 insurance policy; or

19 (viii) misrepresents any insurance policy as being shares of
20 stock.

21 (2) Making, issuing, publishing or circulating in any manner
22 an advertisement, announcement or statement containing any
23 representation or statement with respect to the business of
24 insurance or with respect to any person in the conduct of his
25 insurance business which is untrue, deceptive or misleading.

26 (3) Making, issuing, publishing or circulating any oral or
27 written statement which is false or maliciously critical of or
28 derogatory to the financial condition of any person, and which
29 is calculated to injure such person.

30 (4) Entering into any agreement to commit, or by any

1 concerted action committing, any act of boycott, coercion or
2 intimidation resulting in or tending to result in unreasonable
3 restraint of, or monopoly in, the business of insurance.

4 (5) Knowingly filing with any supervisory or other public
5 official, or knowingly making, issuing, publishing or
6 circulating any false material statement of fact as to the
7 financial condition of a person, or knowingly making any false
8 entry of a material fact in any book, report or statement of any
9 person, or knowingly omitting to make a true entry of any
10 material fact pertaining to the business of such person in any
11 book, report or statement of such person.

12 (6) Issuing or delivering or permitting agents, officers or
13 employees to issue or deliver agency company stock or other
14 capital stock, or benefit certificates or shares in any common-
15 law corporation, or securities or any special or advisory board
16 contracts or other contracts of any kind promising returns and
17 profits as an inducement to insurance.

18 (7) Unfairly discriminating by means of:

19 (i) making or permitting any unfair discrimination between
20 individuals of the same class and equal expectation of life in
21 the rates charged for any contract of life insurance or of life
22 annuity or in the dividends or other benefits payable thereon,
23 or in any other of the terms and conditions of such contract; or

24 (ii) making or permitting any unfair discrimination between
25 individuals of the same class and of essentially the same hazard
26 in the amount of premium, policy, fees or rates charged for any
27 policy or contract of insurance or in the benefits payable
28 thereunder, or in any of the terms or conditions of such
29 contract, or in any other manner whatever. This prohibition
30 applies specifically to, but not only to, pet owners who seek to

1 insure or retain homeowners insurance on residential property on
2 which their pets are housed or otherwise kept; or

3 (iii) making or permitting any unfair discrimination between
4 individuals of the same class and essentially the same hazard
5 with regard to underwriting standards and practices or
6 eligibility requirements by reason of race, religion,
7 nationality or ethnic group, age, sex, family size, occupation,
8 place of residence or marital status. The terms "underwriting
9 standards and practices" or "eligibility rules" do not include
10 the promulgation of rates if made or promulgated in accordance
11 with the appropriate Rate Regulatory Act of this Commonwealth
12 and regulations promulgated by the commissioner pursuant to such
13 act.

14 (8) Except as otherwise expressly provided by law, knowingly
15 permitting or offering to make or making any contract of
16 insurance, or agreement as to such contract other than as
17 plainly expressed in the insurance contract issued thereon, or
18 paying or allowing, or giving or offering to pay, allow or give
19 as inducement to such insurance, any rebate of premiums payable
20 on the contract, or any special favor or advantage in the
21 dividends or other benefits thereon, or any valuable
22 consideration, inducement or anything of value whatsoever which
23 is not specified in the contract.

24 (9) Cancelling any policy of insurance covering owner-
25 occupied private residential properties or personal property of
26 individuals that has been in force for sixty days or more or
27 refusing to renew any such policy unless the policy was obtained
28 through material misrepresentation, fraudulent statements,
29 omissions or concealment of fact material to the acceptance of
30 the risk or to the hazard assumed by the company; or there has

1 been a substantial change or increase in hazard in the risk
2 assumed by the company subsequent to the date the policy was
3 issued; or there is a substantial increase in hazards insured
4 against by reason of wilful or negligent acts or omissions by
5 the insured; or the insured has failed to pay any premium when
6 due whether such premium is payable directly to the company or
7 its agent or indirectly under any premium finance plan or
8 extension of credit; or for any other reasons approved by the
9 commissioner pursuant to rules and regulations promulgated by
10 the commissioner. No cancellation or refusal to renew by any
11 person shall be effective unless a written notice of the
12 cancellation or refusal to renew is received by the insured
13 either at the address shown in the policy or at a forwarding
14 address. Such notice shall:

15 (i) Be approved as to form by the Insurance Commissioner
16 prior to use.

17 (ii) State the date, not less than thirty days after the
18 date of delivery or mailing on which such cancellation or
19 refusal to renew shall become effective.

20 (iii) State the specific reason or reasons of the insurer
21 for cancellation or refusal to renew.

22 (iv) Advise the insured of his right to request, in writing,
23 within ten days of the receipt of the notice of cancellation or
24 intention not to renew that the Insurance Commissioner review
25 the action of the insurer.

26 (v) Advise the insured of his possible eligibility for
27 insurance under the act of July 31, 1968 (P.L.738, No.233),
28 known as "The Pennsylvania Fair Plan Act," or the Pennsylvania
29 Assigned Risk Plan.

30 (vi) Advise the insured in a form commonly understandable of

1 the provisions of subparagraphs (ii), (iii) and (iv) of this
2 paragraph as they limit permissible time and reasons for
3 cancellation.

4 (vii) Advise the insured of the procedures to be followed in
5 prosecuting an appeal.

6 (10) Any of the following acts if committed or performed
7 with such frequency as to indicate a business practice shall
8 constitute unfair claim settlement or compromise practices:

9 (i) Misrepresenting pertinent facts or policy or contract
10 provisions relating to coverages at issue.

11 (ii) Failing to acknowledge and act promptly upon written or
12 oral communications with respect to claims arising under
13 insurance policies.

14 (iii) Failing to adopt and implement reasonable standards
15 for the prompt investigation of claims arising under insurance
16 policies.

17 (iv) Refusing to pay claims without conducting a reasonable
18 investigation based upon all available information.

19 (v) Failing to affirm or deny coverage of claims within a
20 reasonable time after proof of loss statements have been
21 completed and communicated to the company or its representative.

22 (vi) Not attempting in good faith to effectuate prompt, fair
23 and equitable settlements of claims in which the company's
24 liability under the policy has become reasonably clear.

25 (vii) Compelling persons to institute litigation to recover
26 amounts due under an insurance policy by offering substantially
27 less than the amounts due and ultimately recovered in actions
28 brought by such persons.

29 (viii) Attempting to settle a claim for less than the amount
30 to which a reasonable man would have believed he was entitled by

1 reference to written or printed advertising material
2 accompanying or made part of an application.

3 (ix) Attempting to settle or compromise claims on the basis
4 of an application which was altered without notice to or
5 knowledge or consent of the insured of such alteration at the
6 time such alteration was made.

7 (x) Making claims payments to insureds or beneficiaries not
8 accompanied by a statement setting forth the coverage under
9 which payments are being made.

10 (xi) Making known to insureds or claimants a policy of
11 appealing from arbitration awards in favor of insureds or
12 claimants to induce or compel them to accept settlements or
13 compromises less than the amount awarded in arbitration.

14 (xii) Delaying the investigation or payment of claims by
15 requiring the insured, claimant or the physician of either to
16 submit a preliminary claim report and then requiring the
17 subsequent submission of formal proof of loss forms, both of
18 which submissions contain substantially the same information.

19 (xiii) Failing to promptly settle claims, where liability
20 has become reasonably clear, under one portion of the insurance
21 policy coverage in order to influence settlements under other
22 portions of the insurance policy coverage or under other
23 policies of insurance.

24 (xiv) Failing to promptly provide a reasonable explanation
25 of the basis in the insurance policy in relation to the facts or
26 applicable law for denial of a claim or for the offer of a
27 compromise settlement.

28 (xv) Refusing payment of a claim solely on the basis of an
29 insured's request to do so unless:

30 (A) the insured claims sovereign, eleemosynary, diplomatic,

1 military service, or other immunity from suit or liability with
2 respect to such claim;

3 (B) the insured is granted the right under the policy of
4 insurance to consent to settlement of claims; or

5 (C) the refusal of payment is based upon the insurer's
6 independent evaluation of the insured's liability based upon all
7 available information.

8 (11) Failure of any person to maintain a complete record of
9 all the complaints which it has received during the preceding
10 four years. This record shall indicate the total number of
11 complaints, their classification by line of insurance, the
12 nature of each complaint, the disposition of these complaints
13 and the time it took to process each complaint. For purposes of
14 this paragraph, "complaint" means any written communication
15 primarily expressing a grievance.

16 (12) Making false or fraudulent statements or
17 representations on or relative to an application for an
18 insurance policy, for the purpose of obtaining a fee,
19 commission, money or other benefit from any insurers, agent,
20 broker or individual.

21 (13) Making, issuing, publishing or circulating in any
22 manner an advertisement, announcement or statement offering
23 permanent life insurance to persons fifty years of age or older
24 without accompanying disclosures of any applicable reduction in
25 the face amount payable and the period thereof.

26 (b) Nothing in subsection (a)(7) or (8) of this section
27 shall be construed as including within the definition of
28 discrimination or rebates any of the following practices:

29 (1) in the case of any contract of life insurance or life
30 annuity, paying bonuses to policyholders or otherwise abating

1 their premiums out of surplus accumulated from nonparticipating
2 insurance if any such bonuses or abatement of premiums are fair
3 and equitable to policyholders and for the best interests of the
4 company and its policyholders;

5 (2) in the case of life insurance policies issued on the
6 industrial or debit plan, making allowance to policyholders who
7 have continuously for a specified period made premium payments
8 directly to an office of the insurer in an amount which fairly
9 represents the saving in collection expense; or

10 (3) readjustment of the rate of premium for a group
11 insurance policy based on the loss or expense experience
12 thereunder, at the end of the first or any subsequent policy
13 year of insurance thereunder, which may be made retroactive only
14 for such policy year.

15 (c) Nothing in subsection (a)(9) of this section shall
16 apply:

17 (1) If the insurer has manifested its willingness to renew
18 by issuing or offering to issue a renewal policy, certificate or
19 other evidence of renewal, including the mailing of a renewal
20 premium notice to the insured not less than thirty days in
21 advance of the expiration date of the policy.

22 (2) If the named insured has demonstrated by some overt
23 action to the insurer or its agent other than mere nonpayment of
24 premium that he wishes the policy to be cancelled or that he
25 does not wish the policy to be renewed.

26 (3) To any policy of insurance which has been in effect less
27 than sixty days, including any notice of termination period,
28 unless it is a renewal policy. Any declination of coverage
29 within the sixty-day period provided in this clause shall, for
30 purposes of review by the Insurance Commissioner, be deemed a

1 refusal to write and shall not be subject to the provisions of
2 subsection (a)(9) of this section.

3 (4) Any insured may within ten days of the receipt by the
4 insured of notice of cancellation or notice of intention not to
5 renew, request in writing to the Insurance Commissioner that he
6 review the action of the insurer in cancelling or refusing to
7 renew the policy of such insured.

8 Section 2. This act shall take effect in 60 days.