

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1628

Session of
1987

INTRODUCED BY RYBAK, DeVERTER, MAIALE, NOYE, GAMBLE, JOSEPHS, LESCOVITZ, MICHLOVIC, TRUMAN, YANDRISEVITS, GANNON, DURHAM, GODSHALL, MOWERY, REINARD, LIVENGOD, ROBBINS, McCALL, FOX, S. H. SMITH, HALUSKA, CALTAGIRONE, MORRIS, DISTLER, JAROLIN, CARLSON, KUKOVICH, BATTISTO, E. Z. TAYLOR, HOWLETT, CORRIGAN, BALDWIN, O'BRIEN, G. SNYDER, GRUPPO, LAUGHLIN, CAWLEY, CHADWICK, COHEN, BURNS, SEMMEL, B. SMITH, ITKIN, WOZNIAK, RUDY, COY, WIGGINS, TRELLO, SEVENTY, BELARDI AND BROUJOS, JUNE 30, 1987

AS AMENDED, COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, OCTOBER 28, 1987

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, adding provisions relating to insurance; MAKING
3 CONFORMING CHANGES TO THE PENNSYLVANIA CONSOLIDATED STATUTES;
4 and making repeals. <—

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19 Subchapter C. Group, Blanket and Franchise Policies

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30 § 7102. Purpose of chapter.

1 § 7103. Definitions.
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17 § 7126. Applicability of other law.
18 § 7127. Appointment of expert witnesses.
19 § 7128. Powers and duties of panels.
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- 10 § 7154. Authority of department.
- 11 § 7155. Financing and payment of premiums.
- 12 § 7156. Selection of insurer to administer plan.
- 13 § 7157. Approval of policies on claims made basis.
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- 23 § 7173. Decisions of hearing examiners.
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- 25 § 7175. Review and decision by licensing boards.
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18 § 7328. Additional requirements.

19 § 7329. Penalties.

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21 § 7401. Short title of chapter.

22 § 7402. Purpose of chapter.

23 § 7403. Definitions.

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25 § 7405. Revocation of certificate of authority.

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28 § 7408. False information.

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3 § 7413. Cross-collateralization.
4 § 7414. Residents' agreements.
5 § 7415. Organizational rights of residents.
6 § 7416. Rehabilitation or liquidation.
7 § 7417. Civil liability.
8 § 7418. Investigations and compulsory process.
9 § 7419. Audits.
10 § 7420. Consumers' guides.
11 § 7421. Civil relief from violations.
12 § 7422. Criminal penalties.
13 § 7422.1. REGULATIONS. <—

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15 § 7424. Compliance period.

16 Chapter 75. Hospital Plan Corporations

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19 § 7502. (Reserved).
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21 Subchapter B. Certification

22 § 7511. Certification of hospital plan corporations.
23 § 7512. Exemptions for hospital plan corporations.
24 § 7513. Uncertified plans.

25 Subchapter C. Regulation

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27 § 7522. Action as agent under Federal and other programs.
28 § 7523. Investment of funds.
29 § 7524. Rates and contracts.
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6 § 7702. Definitions.

7 § 7703. Purpose of chapter.

8 § 7704. Penalties.

9 § 7705. Enforcement.

10 Subchapter B. Certification

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13 § 7712. Initial reserves.

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15 § 7714. Exemptions for professional health service

16 corporations.

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19 § 7721. Required reserves.

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21 § 7723. Action as agent under Federal and other programs.

22 § 7724. Health service doctors.

23 § 7725. Eligibility determination.

24 § 7726. Authorized contract provisions.

25 § 7727. Subscriptions provided by government agencies.

26 § 7728. Board of directors.

27 § 7729. Rates and contracts.

28 § 7730. Investment of funds.

29 § 7731. Reports and examinations.

30 § 7732. Regulation by Department of Health.

1 § 7733. Dental service agents.
2 § 7734. Dissolution or liquidation.
3 § 7735. Ancillary health services.
4 Chapter 79. Surety Companies
5 § 7901. Corporate sureties.
6 § 7902. Conditions for doing business.
7 § 7903. Certificates of authority.
8 § 7904. Annual statements.
9 § 7905. Power to execute obligations.
10 § 7906. Liability of companies.
11 § 7907. Guaranteed arrest bond certificates.
12 Chapter 81. Property and Casualty Insurance Guaranty
13 Association
14 Subchapter A. General Provisions
15 § 8101. Short title of chapter.
16 § 8102. Purposes of chapter.
17 § 8103. Definitions.
18 § 8104. Immunity.
19 § 8105. References to association in advertising.
20 Subchapter B. Pennsylvania Insurance Guaranty
21 Association
22 § 8111. Pennsylvania Insurance Guaranty Association.
23 § 8112. Plan of operation.
24 § 8113. Examination of association.
25 § 8114. Annual and other statements.
26 § 8115. Limitation on taxability of association.
27 Subchapter C. Assessments
28 § 8121. Assessments.
29 § 8122. Refunds.
30 § 8123. Recognition of assessments in rates.

1 § 8124. Assessments of other states.

2 Subchapter D. Powers and Duties of Department

3 § 8131. Powers and duties of department.

4 Subchapter E. Recovery Procedure

5 § 8141. Notice of claims.

6 § 8142. Effect of paid claims.

7 § 8143. Duplication of recovery.

8 § 8144. Proceedings involving insolvent insurers.

9 Chapter 83. Life and Health Insurance Guaranty Association

10 Subchapter A. General Provisions

11 § 8301. Short title of chapter.

12 § 8302. Purpose of chapter.

13 § 8303. Applicability.

14 § 8304. Definitions.

15 § 8305. Immunity.

16 § 8306. Prohibited advertisement.

17 Subchapter B. Organization of Association

18 § 8311. Pennsylvania Life and Health Insurance Guaranty
19 Association.

20 § 8312. Board of directors.

21 § 8313. Powers and duties of association.

22 § 8314. Plan of operation.

23 § 8315. Tax exemption.

24 Subchapter C. Assessments

25 § 8321. Assessments.

26 § 8322. Tax credits for assessments paid.

27 § 8323. Assessments of other states.

28 § 8324. Relation to Pennsylvania Insurance Guaranty
29 Association.

30 Subchapter D. Powers and Duties of Department

1 § 8331. Powers and duties of department.

2 Subchapter E. Impaired and Insolvent Insurers

3 § 8341. Prevention of insolvencies.

4 § 8342. Affairs of impaired and insolvent insurers.

5 § 8343. Proceedings involving insolvent insurers.

6 § 8344. Timely filing of claims.

7 § 8345. Duplication of recovery.

8 Chapter 85. Insurance Premium Finance Companies

9 Subchapter A. General Provisions

10 § 8501. Short title of chapter.

11 § 8502. Definitions.

12 Subchapter B. Licensure

13 § 8511. Licensure requirement.

14 § 8512. Issuance and renewal of license.

15 § 8513. Revocation or suspension of license.

16 Subchapter C. Regulation

17 § 8521. Books and records of licensee.

18 § 8522. Form of agreement.

19 § 8523. Limitations on interest and other charges.

20 § 8524. Delinquency and cancellation charges.

21 § 8525. Cancellation of insurance contract upon default.

22 § 8526. Return of premiums.

23 § 8527. Secured transactions.

24 § 8528. Penalties for ~~violation~~ VIOLATIONS.

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25 § 8529. REGULATIONS.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 Section 1. Title 40 and Chapter 17 of Title 75 of the
29 Pennsylvania Consolidated Statutes are repealed.

30 Section 2. Title 40 is amended by adding parts to read:

1 TITLE 40
2 INSURANCE
3 Part
4 I. Preliminary Provisions
5 II. Regulation of Insurers and Related Persons Generally
6 III. Organization of Insurance Entities
7 IV. Special Provisions Relating to Particular Classes of Risk

8 PART I
9 PRELIMINARY PROVISIONS

10 Chapter
11 1. General Provisions

12 CHAPTER 1
13 GENERAL PROVISIONS

14 Sec.
15 101. Short title of title.
16 102. Definitions.
17 § 101. Short title of title.

18 This title shall be known and may be cited as the Insurance
19 Code.

20 § 102. Definitions.

21 Subject to additional definitions contained in subsequent
22 provisions of this title which are applicable to specific
23 provisions of this title, the following words and phrases when
24 used in this title shall have the meanings given to them in this
25 section unless the context clearly indicates otherwise:

26 "Alien." Incorporated or organized under the law of another
27 country.

28 "Association." An individual, partnership or association of
29 individuals authorized to engage in the business of insurance in
30 this Commonwealth as insurers on the Lloyds plan.

1 "Authorized." Having authority under this title to engage in
2 this Commonwealth in the class or classes of insurance specified
3 in the authorization.

4 "Certificate of authority." An instrument in writing issued
5 by the department authorizing an insurer or proposed insurer to
6 engage in the business of insurance, or some specified class or
7 classes thereof, in this Commonwealth.

8 "Commissioner." The Insurance Commissioner of the
9 Commonwealth.

10 "Company." An insurance corporation or title insurance
11 corporation whether incorporated under the law of this
12 Commonwealth, or of any other state, or under the law of any
13 foreign country.

14 "Corporation not-for-profit." A corporation not-for-profit
15 as defined in Title 15 (relating to corporations and
16 unincorporated associations).

17 "Department." The Insurance Department of the Commonwealth.

18 "Domestic." Incorporated or organized under the law of this
19 Commonwealth.

20 "Entity." A company, association or exchange.

21 "Exchange." An individual, partnership or corporation
22 authorized by the law of this Commonwealth to exchange inter-
23 insurance or reciprocal insurance contracts with other similarly
24 authorized individuals, partnerships or corporations.

25 "Foreign." Incorporated or organized under the law of
26 another state.

27 "Regulation." A regulation as defined in 45 Pa.C.S. § 501
28 (relating to definitions).

29 PART II

30 REGULATION OF INSURERS AND RELATED

PERSONS GENERALLY

Chapter

3. General Provisions

5. Insurance Department

7. Reserve Liability

9. Deposits of Securities to do Interstate Business

11. Agents and Brokers

13. Unlicensed Insurers

15. Unfair Insurance Practices

17. Reporting Requirements

19. Insurance Rates

21. Reciprocal and Inter-Insurance Exchanges

23. Lloyds Associations

CHAPTER 3

GENERAL PROVISIONS

Sec.

301. Definitions (Reserved).

302. Applicability of part.

303. Compliance with part.

~~304. Regulations.~~

§ 301. Definitions (Reserved).

§ 302. Applicability of part.

(a) General rule.--~~The~~ EXCEPT AS PROVIDED IN PART IV
(RELATING TO SPECIAL PROVISIONS RELATING TO PARTICULAR CLASSES
OF RISK), THE provisions of this part shall apply to all
entities transacting any class of insurance business, to rating
organizations and to all insurance agents and insurance brokers.

(b) Fraternal benefit societies.--Except for sections 514
(relating to records and report of department), 709 (relating to
valuation of securities) and 1107 (relating to penalty for

1 soliciting for nonexistent company) and Chapter 39 (relating to
2 suspension of business and dissolution), this part does not
3 apply to fraternal benefit societies, orders or associations
4 conducted not for profit, and having a lodge system with
5 ritualistic form of work and representative form of government,
6 or to beneficial or relief associations conducted not for profit
7 formed by churches, societies, classes, firms or corporations,
8 with or without ritualistic form of work, the privilege of
9 membership in which is confined to the members of such churches,
10 societies or classes, and to members and employees of such firms
11 or corporations.

12 (c) Mutual fire insurance companies.--Except for sections
13 511 (relating to examination of companies), 512 (relating to
14 powers with regard to examinations) and 514 and Chapter 39, this
15 part does not apply to incorporated domestic mutual fire
16 insurance companies with unlimited or limited liability to
17 assessment for payment of expenses and of losses and loss
18 adjustments, set forth in the policy contract or in the
19 promissory notes attached thereto.

20 § 303. Compliance with part.

21 (a) General rule.--Except as otherwise expressly provided in
22 this title, a person shall not negotiate, solicit or execute any
23 contract of insurance in this Commonwealth, receive and transmit
24 any offer of insurance, receive or deliver a policy of insurance
25 or aid in the transaction of the business of insurance without
26 fully complying with this part.

27 (b) Cross references.--See sections 7305 (relating to
28 applicability of other law), 7512 (relating to exemptions for
29 hospital plan corporations) and 7714 (relating to exemptions for
30 professional health service corporations).

1 ~~§ 304. Regulations.~~

2 ~~The department shall prescribe those regulations that may be~~
3 ~~reasonably necessary for the exercise of its powers and~~
4 ~~performance of its duties under this title and for the~~
5 ~~administration of the department.~~

6 CHAPTER 5

7 INSURANCE DEPARTMENT

8 Sec.

9 501. Establishment of department.

10 502. Appointment of commissioner.

11 503. Restrictions on officers and employees.

12 504. Seal.

13 505. Certified documents and copies.

14 506. Certificates of authority to do business.

15 507. Penalty for acting without authority.

16 508. Fees.

17 509. Assessments for expenses of Committee on Valuation of
18 Securities.

19 510. Additional restrictions of other states.

20 511. Examination of companies.

21 512. Powers with regard to examinations.

22 513. Collection of taxes, fines and penalties.

23 514. Records and report of department.

24 515. Administrative procedure and judicial review.

25 § 501. Establishment of department.

26 The Insurance Department shall be the executive agency
27 charged with the execution of the laws relating to insurance.

28 § 502. Appointment of commissioner.

29 The Governor, with the advice and consent of the Senate,
30 shall appoint an Insurance Commissioner, who shall hold office

1 for the term of four years and until his successor is appointed
2 and qualified.

3 § 503. Restrictions on officers and employees.

4 An officer or employee of the department shall not be
5 employed by or be pecuniarily interested in any insurance entity
6 or in any insurance business, other than as a policyholder.

7 § 504. Seal.

8 The department shall adopt and renew, from time to time, a
9 seal of office, an impression of which shall be filed in the
10 office of the Secretary of the Commonwealth.

11 § 505. Certified documents and copies.

12 (a) Certificates of authority.--The department shall
13 furnish, under seal of the department, when required for
14 evidence in court, certificates relative to the authority of an
15 entity, agent or broker to transact business in this
16 Commonwealth upon any particular date, ~~and the certificate shall~~ <—
17 ~~be competent evidence thereof.~~

18 (b) Certified copies of documents.--The department shall, at
19 the request of any person and on payment of the fee, give
20 certified copies of any charter, statement or record filed in
21 its office, whenever it is deemed by the department not
22 prejudicial to the public interest. ~~These certified copies shall~~ <—
23 ~~be admissible in evidence in judicial and administrative~~
24 ~~proceedings.~~

25 § 506. Certificates of authority to do business.

26 (a) General rule.--A foreign or alien insurance entity shall
27 not do an insurance business in this Commonwealth without first
28 having obtained a certificate of authority from the department
29 authorizing it to do such business. Before granting the
30 certificate of authority to an insurance entity, the department

1 shall be satisfied, by such examination as it may make or by
2 such evidence as it may require, that the entity conforms to the
3 requirements of this title. After such issue, the holder shall
4 continue to comply with the requirements of this title.

5 (b) Renewal.--The department may renew the certificate of
6 authority of any mutual assessment life or accident association,
7 which is now lawfully doing business in this Commonwealth,
8 beginning on April 1 of each year, and continuing in force for
9 one year unless sooner revoked by the department or surrendered
10 by the licensee. Any certificates issued after April 1 shall
11 expire on March 31 succeeding.

12 (c) Doing insurance business.--Any of the following acts
13 constitute the doing of an insurance business in this
14 Commonwealth, whether effected by mail or otherwise:

15 (1) The issuance or delivery of contracts of insurance
16 to persons resident in this Commonwealth.

17 (2) The solicitation of applications for such contracts
18 or other negotiations preliminary to execution of such
19 contracts.

20 (3) The collection of premiums, membership fees,
21 assessments or other consideration for such contracts.

22 (4) The transaction of matters subsequent to execution
23 of such contracts and arising out of them.

24 (d) Action for injunction.--Whenever the department
25 believes, from evidence satisfactory to it, that any insurance
26 entity is doing an insurance business in this Commonwealth in
27 violation of any provision of this title or any order or
28 requirement of the department issued or promulgated pursuant to
29 authority expressly granted the department by law, or is about
30 to violate any such provision, order or requirement, the

1 department may, after approval by the Attorney General, bring an
2 action for an injunction. This remedy is in addition to any
3 other remedy provided by law.

4 ~~(e) Appointment of agent for receiving service. The~~ <—
5 ~~performance by a foreign or alien insurance entity of any act~~
6 ~~which constitutes the doing of an insurance business in this~~
7 ~~Commonwealth shall be deemed an appointment by the entity of the~~
8 ~~Secretary of the Commonwealth as its true and lawful attorney~~
9 ~~upon whom may be served all lawful process in any action, suit~~
10 ~~or proceeding instituted by or on behalf of the department~~
11 ~~against it arising out of a violation of this section and shall~~
12 ~~signify its consent that such service of process shall have the~~
13 ~~same legal force and validity as personal service of process in~~
14 ~~this Commonwealth upon it.~~

15 ~~(f) Service of process on Secretary of the Commonwealth.~~
16 ~~Service of process shall be made by delivering to and leaving~~
17 ~~with the Secretary of the Commonwealth two copies thereof. The~~
18 ~~Secretary shall immediately send, by registered mail, one of the~~
19 ~~copies of such process to the entity at its last known principal~~
20 ~~place of business and shall keep a record of all process so~~
21 ~~served upon him. Notice of service upon the Secretary and a copy~~
22 ~~of the process shall be sent within ten days thereafter, by~~
23 ~~registered mail, by or on behalf of the department to the entity~~
24 ~~at its last known principal place of business. The receipt of~~
25 ~~the entity or the receipt issued by the post office with which~~
26 ~~the notice is registered showing the name of the sender of the~~
27 ~~notice and the name and address of the entity to whom the notice~~
28 ~~is addressed, and the affidavit of or on behalf of the~~
29 ~~department showing a compliance herewith, shall be filed with~~
30 ~~the prothonotary or clerk of the court on or before the date the~~

1 ~~entity is required to answer or within such further time as the~~
2 ~~court may allow.~~

3 (E) SERVICE OF PROCESS ON FOREIGN OR ALIEN ENTITIES.--A <—
4 FOREIGN OR ALIEN ENTITY SHALL BE SUBJECT TO SERVICE OF PROCESS
5 AS PROVIDED BY 42 PA.C.S. CH. 53 (RELATING TO BASES OF
6 JURISDICTION AND INTERSTATE AND INTERNATIONAL PROCEDURE).

7 (F) (RESERVED).

8 (g) Personal service.--Service of process in any action or
9 proceeding under ~~this section shall, in addition to the manner~~ <—
10 ~~provided in subsection (f),~~ 42 PA.C.S. § 5322 (RELATING TO BASES <—
11 OF PERSONAL JURISDICTION OVER PERSONS OUTSIDE THIS COMMONWEALTH)
12 SHALL be valid if served upon any person in this Commonwealth
13 who on behalf of the entity is soliciting insurance; making,
14 issuing or delivering any contract of insurance; or collecting
15 or receiving any premium, membership fee, assessment or other
16 consideration for insurance. ~~Notice of the service and a copy of~~ <—
17 ~~the process shall be sent within ten days after such service by~~
18 ~~registered mail by the department to the entity at its last~~
19 ~~known principal place of business. The return receipt from the~~
20 ~~entity or the receipt issued by the post office with which the~~
21 ~~notice is registered, showing the name of the sender of the~~
22 ~~notice and the name and address of the entity to whom the notice~~
23 ~~is addressed, and the affidavit of the department showing a~~
24 ~~compliance with this subsection shall be filed with the~~
25 ~~prothonotary or clerk of the court on or before the date the~~
26 ~~entity is required to answer or within such further time as the~~
27 ~~court may allow.~~

28 (h) Bond.--Before any foreign or alien entity files any
29 pleading in any action or proceeding instituted against it under
30 ~~this section~~ 42 PA.C.S. § 5322, the entity shall, if the court <—

1 requires, deposit with the ~~prothonotary of the~~ court cash or <—
2 securities or file with the ~~prothonotary~~ COURT a bond with good <—
3 and sufficient sureties approved by the court. The deposit or
4 bond shall be in the amount approved by the court, taking into
5 account all relevant circumstances, including the financial
6 condition of the entity, as sufficient to secure the payment of
7 any final judgment which may be rendered in such action or
8 proceeding.

9 ~~(i) Time to respond. A judgment by default or otherwise <—~~
10 ~~shall not be entered in any action or proceeding under this~~
11 ~~section until the expiration of 30 days from the date of the~~
12 ~~filing of the affidavit of compliance as set forth in subsection~~
13 ~~(f) or (g).~~

14 ~~(j) Other procedures for service. This section does not~~
15 ~~limit or abridge the right to serve any process, notice or~~
16 ~~demand upon any foreign or alien entity in any manner permitted~~
17 ~~by law.~~

18 (I) (RESERVED). <—

19 (J) (RESERVED).

20 (k) Exclusions.--This section does not apply to the
21 following:

22 (1) Transactions regulated by Chapter 13 (relating to
23 unlicensed insurers).

24 (2) Life insurance or annuities provided to educational
25 or scientific institutions organized and operated without
26 profit to any private shareholder or individual for the
27 benefit of the institutions and individuals engaged in the
28 service of the institutions.

29 (3) Contracts of reinsurance.

30 (4) Transactions in this Commonwealth which involve a

1 policy lawfully solicited, written and delivered outside this
2 Commonwealth covering only subjects of insurance not
3 resident, located or expressly to be performed in this
4 Commonwealth at the time of issuance of the policy and which
5 are subsequent to the issuance of the policy.

6 (5) Transactions in this Commonwealth, except group
7 credit life or group credit accident and health insurance
8 transactions, involving group or blanket insurance policies
9 or group annuity contracts, where the group policy or
10 contract is issued and delivered pursuant to the group or
11 blanket insurance or group annuity laws of a jurisdiction in
12 which the insurer is authorized to do an insurance business
13 and in which the policyholder is domiciled or has its
14 principal place of business or otherwise has a situs.

15 (6) Transactions in this Commonwealth, except group
16 credit life or group credit accident and health insurance
17 transactions, involving a group or blanket insurance policy
18 or group annuity contract not exempt under paragraph (5), if:

19 (i) they involve a group which conforms to one of
20 the definitions of eligibility for group coverage
21 contained in this title; and

22 (ii) the group policy or contract is lawfully issued
23 outside this Commonwealth in a jurisdiction in which the
24 insurer is authorized to do insurance business.

25 The insurer claiming exemption under this paragraph has the
26 burden of demonstrating compliance with the conditions of
27 this paragraph.

28 (7) Any industrial insured, insurance company or
29 underwriter issuing contracts of insurance to industrial
30 insureds or any contract of insurance issued to an industrial

1 insured. This paragraph does not exempt any industrial
2 insured from Chapter 13. As used in this paragraph the term
3 "industrial insured" means an insured who procures the
4 insurance of any risk by use of the services of a full-time
5 employee acting as an insurance manager or buyer or the
6 services of a regularly and continuously retained qualified
7 insurance consultant, whose aggregate annual premiums for
8 insurance on all risks total at least \$25,000 and who has at
9 least 25 full-time employees.

10 (8) Transactions in this Commonwealth involving a policy
11 of insurance issued prior to July 31, 1968.

12 (9) Insurance on the property and operation of railroads
13 or aircraft engaged in interstate or foreign commerce.

14 (10) Insurance on vessels, crafts or hulls, cargoes,
15 marine builder's risks, marine protection and indemnity,
16 lessees' and charterers' liability, or other risks, including
17 strikes and war risks commonly insured under ocean or wet
18 marine forms of policies.

19 § 507. Penalty for acting without authority.

20 (a) Entities.--Any insurance entity doing an insurance
21 business in this Commonwealth without a certificate of authority
22 as required by this chapter shall pay a civil penalty of not
23 less than \$1,000 nor more than \$10,000 for each offense, to be
24 recovered on behalf of the Commonwealth.

25 (b) Persons.--Any person negotiating or soliciting any
26 policy of insurance or suretyship in this Commonwealth,
27 collecting or forwarding premiums or delivering policies for any
28 entity to which a certificate of authority has not been granted
29 shall be deemed to be the agent of the entity in any legal
30 proceedings brought against it. The person shall pay a civil

1 penalty of not less than \$1,000 nor more than \$10,000 for each
2 offense, to be recovered on behalf of the Commonwealth.

3 (c) Exceeding authority.--Any insurance entity doing an
4 insurance business in this Commonwealth, which exceeds the
5 powers granted under a certificate of authority, shall pay to
6 the Commonwealth a sum of not more than \$500 for each policy
7 issued in violation of this chapter.

8 (d) Hearing and notice.--Before the department takes any
9 action under this section, it shall give written notice to the
10 entity or person accused of violating the law, stating the
11 nature of the alleged violation and fixing a time and place, at
12 least ten days thereafter, when a hearing of the matter shall be
13 held. After the hearing or the failure of the respondent to
14 appear at the hearing, the department shall impose such penalty
15 as it deems advisable.

16 § 508. Fees.

17 (a) General rule.--The department shall charge and collect
18 fees as provided under this title or under section 612-A of the
19 act of April 9, 1929 (P.L.177, No.175), known as The
20 Administrative Code of 1929. All fees collected shall be paid
21 daily into the State Treasury.

22 (b) Biennial licenses.--The department may issue licenses
23 for a period of two years at two times the annual fees
24 established by law. One-half of any fee collected shall be
25 refunded or be credited to the account of the payor entitled to
26 the refund if the license is canceled within 12 months of its
27 inception date or within 12 months of its effective date as
28 certified to the department by insurance entities authorized by
29 law to transact business in this Commonwealth.

30 § 509. Assessments for expenses of Committee on Valuation of

1 Securities.

2 (a) Authority of department.--The department may contract
3 with the Committee on Valuation of Securities of the National
4 Association of Insurance Commissioners to make available to the
5 department the analyses, reports and information developed by
6 the committee with respect to the investigation, analyses and
7 valuation of securities and the determination of the
8 amortizability of bonds owned by insurance companies. After
9 taking into consideration similar payments which may be made by
10 other states, the department may make payment therefor to the
11 committee to the extent authorized in this section, on account
12 of the expenses of the committee, from funds obtained through
13 assessments under this section.

14 (b) Information from committee.--The department shall
15 periodically obtain from the committee a verified budget
16 estimate of the receipts and of the expenses to be incurred by
17 the committee for a stated period not exceeding one year with
18 appropriate explanations of the estimates. The department shall
19 require annually, and at such other times as it may deem it
20 necessary or advisable, a duly certified audit of receipts and
21 disbursements and statement of assets and liabilities showing
22 the details of the financial operations of the committee.

23 (c) Method of assessment.--If the department is satisfied as
24 to the reasonableness of the committee's budget estimate, it
25 shall determine the portion of the funds required by the budget
26 estimate, to be assessed as provided in this section, by
27 deducting from the budget estimate or from the sum of \$250,000,
28 whichever is less, any amounts received or receivable by the
29 committee from other states whose laws do not substantially
30 conform to the method of assessment provided in this section,

1 and applying to the remainder the proportion which the total
2 investments in securities of domestic life insurers bear to the
3 total investments in securities of life insurers domiciled in
4 this and other states whose laws authorize and require
5 assessments on substantially the same base as provided in this
6 section. The department shall thereafter, as soon as convenient,
7 by notice stating the method of computation thereof, assess the
8 amount to be paid on account of such expense pro rata upon all
9 domestic life insurers in the proportion which the total
10 investments in securities of each domestic life insurer bears to
11 the total investments in securities of all such insurers. The
12 aggregate amount assessed upon all domestic life insurers
13 pursuant to this section in any one year shall not exceed an
14 amount determined by applying to the "remainder," referred to in
15 the first sentence of this subsection, the proportion which the
16 total investments in securities of domestic life insurers bear
17 to 75% of the total investments in securities of all life
18 insurers domiciled in all the states of the United States and
19 the District of Columbia. For purposes of this section, the
20 total investments in securities of any life insurer, shall be
21 the total admitted value of stock and bonds reported as such in
22 its annual statement last filed prior to the assessment with the
23 department or with the supervisory official of its state of
24 domicile. Upon receipt of the notice, each insurer shall, within
25 30 days, pay the assessment to the department. The department
26 shall deposit all moneys collected by it pursuant to this
27 section in an account entitled "Insurance Commissioner Security
28 Valuation Expense Account" in a bank or trust company in this
29 Commonwealth. The moneys shall be paid by the department to the
30 Committee on Valuation of Securities after audit by the Auditor

1 General.

2 § 510. Additional restrictions of other states.

3 (a) General rule.--If any other state or a foreign
4 government imposes any burdens or prohibitions on insurance
5 companies, or agents of this Commonwealth doing business
6 therein, which are in addition to or in excess of the burdens or
7 prohibitions imposed by the Commonwealth on insurance companies
8 and agents, similar burdens and prohibitions shall be imposed on
9 all insurance companies and agents of the other state or foreign
10 government doing business in this Commonwealth so long as these
11 burdens and prohibitions remain in force. Foreign or alien
12 insurance companies shall not be required to pay any taxes and
13 fees which are greater in aggregate amount than those which
14 would be imposed by the law of the other state or foreign
15 country or any political subdivision thereof upon an insurance
16 company of this Commonwealth transacting the same volume and
17 kind of business in the foreign state or country.

18 (b) Motor vehicle insurance.--If any other state or foreign
19 country requires additional or other insurance covering
20 motorists, or motor vehicles that are insured by domestic
21 insurance companies, or in authorized insurance companies of
22 other states in order to use the highways of the other state or
23 foreign country, similar insurance shall be required to cover
24 all motorists and motor vehicles of the other state or foreign
25 country using the highways of this Commonwealth so long as the
26 requirements of the other state or foreign country remain in
27 force.

28 (c) Monopolistic funds.--The existence of a monopolistic
29 state fund for the writing of any class of insurance in any
30 state or foreign country shall not be deemed a reason to deny to

1 an entity of that state or foreign country a license to transact
2 such classes of insurance in this Commonwealth.

3 (d) Definitions.--As used in this section the following
4 words and phrases shall have the meanings given to them in this
5 subsection:

6 "Agent." An insurance agent, insurance broker, public
7 adjuster or public adjusters' solicitor.

8 "Burdens or prohibitions." Taxes, fines, penalties,
9 licenses, fees, rules, regulations, obligations and
10 prohibitions, including prohibitions against writing particular
11 kinds of insurance by insurance companies, and restrictions on
12 the payment or division of commissions to or with insurance
13 agents or brokers licensed under the law of this Commonwealth.

14 § 511. Examination of companies.

15 (a) Power of department.--The department shall require every
16 domestic insurance entity to keep its books, records, accounts,
17 vouchers, portfolios and transactions in such manner that it may
18 readily verify its annual quarterly and monthly statements and
19 ascertain whether the entity has complied with the provisions of
20 law. The department shall, without notice, at least once every
21 year during the first five years of existence of every domestic
22 insurance entity, and thereafter every four years or more often
23 thoroughly examine the affairs of each domestic insurance entity
24 to ascertain its financial condition, its ability to fulfill its
25 obligations, its compliance with law, the equity of its plans,
26 its dealings with its policyholders and claimants and any other
27 facts relating to its business methods and management. In the
28 course of conducting this examination, it may compel the
29 attendance of officers, directors, trustees or members of any
30 domestic insurance entity or examine any foreign or alien

1 insurance entity applying for admission or already admitted to
2 do business in this Commonwealth. In lieu of this examination,
3 the department may accept the report of examination made by or
4 upon the authority of the supervising official of any other
5 state.

6 (b) Report.--The department shall prepare a report of the
7 examination of any domestic insurance entity immediately upon
8 completion of its examination. It shall submit the report to the
9 domestic insurance entity examined, which may object to any part
10 of the report within 30 days from the receipt thereof. If any
11 objection is made, the department shall grant a hearing to the
12 organization examined before making the report available for
13 public inspection. Thereafter, it may publish the report or the
14 results of the examination as contained therein in one or more
15 newspapers in this Commonwealth.

16 (c) Corporations.--The department may examine into the
17 affairs of any domestic or foreign corporation doing business in
18 this Commonwealth which is engaged in, or is claiming or
19 advertising that it is engaged in, organizing or receiving
20 subscriptions for or disposing of stocks of, or in any manner
21 taking part in the formation or in the business of, an insurance
22 entity, either as agent or otherwise, or which is holding the
23 capital stock of one or more insurance companies for the purpose
24 of controlling the management thereof as voting trustees or
25 otherwise.

26 § 512. Powers with regard to examinations.

27 For the purpose of the examination under section 511
28 (relating to examination of companies), the department shall
29 have free access to all the books and papers of any entity which
30 relate to its business, and to the books and papers kept by any

1 of its agents, and may summon, and administer the oath to, and
2 examine as witnesses, the directors, officers, agents and
3 trustees of the entity and any other person. The department
4 shall publish the result of its examination of the affairs of
5 any entity if it is deemed by the department in the interest of
6 the policyholders to do so. All expenses incurred in the course
7 of the examination, including compensation of the deputies,
8 examiners and other employees of the department assisting in the
9 examination, shall be charged to the entity examined in
10 equitable proportions at such times and in such manner as the
11 department shall by rule or regulation prescribe.

12 § 513. Collection of taxes, fines and penalties.

13 The taxes imposed under this title shall be collected by the
14 Department of Revenue. The fines and penalties imposed by the
15 department shall, in case of failure to pay after notice from
16 the department, be collected as taxes upon corporations or
17 individuals are now collected by law. The department shall have
18 the powers conferred by law upon the Department of Revenue in
19 the settlement of accounts, for purposes of collecting these
20 fines and penalties, subject to the approval of the Auditor
21 General and to the right of any party aggrieved to file a
22 petition for resettlement or for review and appeal.

23 § 514. Records and report of department.

24 The department shall preserve, in a permanent form, a full
25 record of its proceedings and a concise statement of the
26 condition of each entity, society or agency examined. It shall
27 make an annual report, to be submitted to the General Assembly,
28 showing the receipts and expenses of the department, the
29 condition of the entities or societies doing business in this
30 Commonwealth, and such other information as will inform the

1 public of the affairs or activities of the department.

2 § 515. Administrative procedure and judicial review.

3 (a) Administrative procedure.--Except as otherwise
4 specifically provided, no provision of this title abridges the
5 availability of an administrative hearing under 2 Pa.C.S. Ch. 5
6 Subch. A (relating to practice and procedure of Commonwealth
7 agencies). The department shall conduct all administrative
8 hearings in such a manner as to maintain the separation of
9 prosecutorial and adjudicatory functions required by law.

10 (b) Judicial review.--Any adjudication rendered pursuant to
11 this title may be appealed under 2 Pa.C.S. Ch. 7 Subch. A
12 (relating to judicial review of Commonwealth agency action).

13 CHAPTER 7

14 RESERVE LIABILITY

15 Subchapter

16 A. Life Insurance and Annuities

17 B. Insurance Other than Life Insurance

18 C. Workmen's Compensation and Liability Insurance

19 D. Casualty Insurance

20 E. Title Insurance

21 SUBCHAPTER A

22 LIFE INSURANCE AND ANNUITIES

23 Sec.

24 701. Valuation by department.

25 702. Computation of reserves on prior policies.

26 703. Computation of reserves on recent policies.

27 704. Reserves for special plans.

28 705. Minimum reserve requirements of certain companies.

29 706. Computation of reserves for health and accident insurance.

30 707. Valuations by other states.

1 708. Reserve fund.

2 709. Valuation of securities.

3 § 701. Valuation by department.

4 The department shall each year value, or cause to be valued,
5 the reserve liabilities referred to in this section as reserves
6 or net value, as of December 31 of the preceding year, for all
7 outstanding life insurance policies and annuity and pure
8 endowment contracts of every life insurance company doing
9 business in this Commonwealth, except that, in the case of any
10 alien company, the valuation shall be limited to its United
11 States business in accordance with the terms of the policy or
12 contract and with this chapter, and may certify the amount of
13 these reserves, specifying the mortality tables, rates of
14 interest and methods (net level premium method or other) used in
15 the calculation of the reserves. In calculating these reserve
16 liabilities, the department may use group methods and
17 approximate averages for fractions of a year or otherwise. The
18 provisions of this section and sections 702 (relating to
19 computation of reserves on prior policies) through 705 (relating
20 to minimum reserve requirements of certain companies) for the
21 valuation of policies and for premium rates do not apply to
22 companies or associations transacting business on the mutual
23 assessment plan.

24 § 702. Computation of reserves on prior policies.

25 In the case of policies issued prior to the operative date of
26 section 5322 (relating to standard nonforfeiture law for life
27 insurance):

28 (1) The net value of all outstanding policies of life
29 insurance issued by the company prior to January 1, 1890,
30 shall be computed on the basis of the American experience

1 table of mortality, with interest at not less than 4.5% and
2 not more than 6% a year.

3 (2) The net value of all outstanding policies of life
4 insurance issued between January 1, 1890, and December 31,
5 1902, shall be computed on the basis of the combined
6 experience or actuaries' table of mortality, with interest at
7 4% a year.

8 (3) The net value of all outstanding policies of life
9 insurance issued on and after January 1, 1903, shall be
10 computed on the basis of the American experience table of
11 mortality, with interest at 3.5% a year, except that any
12 company may value its group term insurance policies under
13 which premium rates are not guaranteed for a period in excess
14 of five years on the basis of the American men ultimate table
15 of mortality, with interest at 3.5% a year.

16 (4) The net value of all policies of life insurance
17 issued on and after January 1, 1921, where the premiums are
18 payable monthly or more often, shall be computed on the basis
19 of the American experience table of mortality, with interest
20 at 3.5% a year, except that any company may value its
21 industrial policies on the basis of the standard industrial
22 mortality table, with interest at 3.5% a year.

23 (5) The net value of a policy at any time shall be taken
24 to be the single net premium which will at that time effect
25 the insurance, less the value at that time of the future net
26 premiums called for by the table of mortality and rate of
27 interest designated.

28 (6) Except as otherwise provided in section 703(b)(2)
29 and (c) (relating to computation of reserves on recent
30 policies) for group annuity and pure endowment contracts, the

1 legal minimum standard for valuation of annuities issued
2 after January 1, 1912, shall be McClintock's table of
3 mortality among annuitants, with interest at 3.5% a year. For
4 annuities and pure endowments purchased under group annuity
5 and pure endowment contracts, the legal minimum standard may,
6 at the option of the company, be the 1971 Group Annuity
7 Mortality Table or any modification of this table approved by
8 the department, with interest at 5% a year. Annuities
9 deferred ten or more years and written in connection with
10 life or term insurance shall be valued upon the same
11 mortality table from which the consideration or premiums were
12 computed, with interest not higher than 3.5% a year.

13 (7) A company may at any time elect under any of its
14 policies of life insurance to reserve on the American
15 experience table of mortality, with a lower rate of interest
16 but at a rate not less than 2%, or on the American men
17 ultimate table of mortality with such modification and
18 extension below age 20 as may be approved by the department,
19 with interest at a rate not more than 3.5% and not less than
20 2%, and its obligations under such policies shall be valued
21 accordingly.

22 (8) On or after the operative date of section 5322,
23 reserves for any policies or contracts may be calculated, at
24 the option of the company, according to any standard which
25 produces greater aggregate reserves for all such policies or
26 contracts than the standard in use by such company
27 immediately prior to the exercise of the option. With the
28 approval of the department, any company which has adopted any
29 standard of valuation producing greater aggregate reserves
30 than the minimum reserves under paragraphs (1) through (7)

1 may adopt any lower standard of valuation for any policies or
2 contracts but not lower than the minimum reserves under
3 paragraphs (1) through (7) nor lower than the standard
4 specified in the policies or contracts or the standard used
5 by the company for the determination of the nonforfeiture
6 values thereof.

7 § 703. Computation of reserves on recent policies.

8 (a) Applicability.--This section applies only to policies
9 and contracts issued on or after the operative date of section
10 5322 (relating to standard nonforfeiture law for life
11 insurance), except as otherwise provided in subsections (b)(2)
12 and (c) for group annuity and pure endowment contracts issued
13 prior thereto.

14 (b) General rule for minimum standard.--

15 (1) Except as otherwise provided in paragraph (2) and in
16 subsection (c), the minimum standard for the valuation of all
17 such policies and contracts shall be the commissioners
18 reserve valuation methods defined in subsections (d) and (e),
19 and in section 705 (relating to minimum reserve requirements
20 of certain companies), 3.5% interest for policies and
21 contracts other than group annuity and pure endowment
22 contracts and as provided in paragraph (1)(iv) for group
23 annuity and pure endowment contracts, or in the case of
24 policies and contracts, other than annuity and pure endowment
25 contracts, issued on or after June 23, 1976, 4% interest for
26 such policies issued prior to January 1, 1979, and 4.5%
27 interest or such higher rate of interest as may be approved
28 from time to time by the department for such policies issued
29 on or after January 1, 1979, and the following tables:

30 (i) For all ordinary policies of life insurance

1 issued on the standard basis, excluding any disability
2 and accidental death benefits in such policies, the
3 Commissioners 1941 Standard Ordinary Mortality Table for
4 such policies issued prior to the operative date of
5 section 5322(e)(2) and the Commissioners 1958 Standard
6 Ordinary Mortality Table for such policies issued on or
7 after that operative date and prior to the operative date
8 of section 5322(f). However, for any category of such
9 policies issued on female risks, all modified net
10 premiums and present values referred to in this section
11 may be calculated according to any age not more than six
12 years younger than the actual age of the insured; and for
13 such policies issued on or after the operative date of
14 section 5322(f), the modified net premiums and present
15 values may be calculated on the basis of the
16 Commissioners 1980 Standard Ordinary Mortality Table or,
17 at the election of the company for any one or more
18 specified plans of life insurance, the Commissioners 1980
19 Standard Ordinary Mortality Table with Ten-Year Select
20 Mortality Factors or any ordinary mortality table adopted
21 after 1980 by the National Association of Insurance
22 Commissioners and approved by regulation of the
23 department for use in determining the minimum standard of
24 valuation for such policies.

25 (ii) For all industrial life insurance policies
26 issued on the standard basis, excluding any disability
27 and accidental death benefits in those policies, the 1941
28 Standard Industrial Mortality Table for those policies
29 issued prior to the operative date of section 5322(e)(3),
30 and, for those policies issued on or after that operative

1 date, the Commissioners 1961 Standard Industrial
2 Mortality Table or any industrial mortality table adopted
3 after 1980 by the National Association of Insurance
4 Commissioners and approved by regulation of the
5 department for use in determining the minimum standard of
6 valuation for such policies.

7 (iii) For individual annuity and pure endowment
8 contracts, excluding any disability and accidental death
9 benefits in such contracts, the 1937 Standard Annuity
10 Mortality Table, or, at the option of the company, the
11 Annuity Mortality Table for 1949 Ultimate or any
12 modification of either of these tables approved by the
13 department.

14 (iv) For all annuities and pure endowments purchased
15 under group annuity and pure endowment contracts,
16 excluding any disability and accidental death benefits in
17 such contracts, either the Group Annuity Mortality Table
18 for 1951 or any modification of such table approved by
19 the department, with interest at 3.5% or, at the option
20 of the company, the 1971 Group Annuity Mortality Table or
21 any modification of this table approved by the
22 department, with interest at 5%; or, at the option of the
23 company, any of the tables or modifications of tables
24 specified for individual annuity and pure endowment
25 contracts.

26 (v) For total and permanent disability benefits in
27 or supplementary to ordinary policies or contracts, for
28 policies or contracts issued on or after January 1, 1966,
29 the tables of Period 2 disablement rates and the 1930 to
30 1950 termination rates of the 1952 Disability Study of

1 the Society of Actuaries, with due regard to the type of
2 benefit, or any tables of disablement rates and
3 termination rates adopted after 1980 by the National
4 Association of Insurance Commissioners and approved by
5 regulation of the department for use in determining the
6 minimum standard of valuation for such policies; for
7 policies or contracts issued on or after January 1, 1961,
8 and prior to January 1, 1966, either such tables or, at
9 the option of the company, the Class (3) Disability Table
10 (1926); and for policies issued prior to January 1, 1961,
11 the Class (3) Disability Table (1926). Any such table
12 shall, for active lives, be combined with a mortality
13 table permitted for calculating the reserves for life
14 insurance policies.

15 (vi) For accidental death benefits in or
16 supplementary to policies, for policies issued on or
17 after January 1, 1966, the 1959 Accidental Death Benefits
18 Table or any accidental death benefits table adopted
19 after 1980 by the National Association of Insurance
20 Commissioners and approved by regulation of the
21 department for use in determining the minimum standard of
22 valuation for such policies; for policies issued on or
23 after January 1, 1961, and prior to January 1, 1966,
24 either such table or, at the option of the company, the
25 Inter-Company Double Indemnity Mortality Table; and for
26 policies issued prior to January 1, 1961, the Inter-
27 Company Double Indemnity Mortality Table. Either table
28 shall be combined with a mortality table permitted for
29 calculating the reserves for life insurance policies.

30 (vii) For group life insurance, life insurance

1 issued on the substandard basis and other special
2 benefits, such tables as may be approved by the
3 department.

4 (2) Except as provided in subsection (c), the minimum
5 standard for valuation of all individual annuity and pure
6 endowment contracts issued on or after the operative date of
7 this subparagraph, as defined in subparagraph (vi), and for
8 all annuities and pure endowments purchased on or after the
9 operative date under group annuity and pure endowment
10 contracts, shall be the commissioners reserve valuation
11 methods defined in subsections (d) and (e) and the following
12 tables and interest rates:

13 (i) For individual annuity and pure endowment
14 contracts issued prior to January 1, 1979, excluding any
15 disability and accidental death benefits in such
16 contracts, the 1971 Individual Annuity Mortality Table or
17 any modification of this table approved by the
18 department; and 6% interest for single premium immediate
19 annuity contracts, and 4% interest for all other
20 individual annuity and pure endowment contracts.

21 (ii) For individual single premium immediate annuity
22 contracts issued on or after January 1, 1979, excluding
23 any disability and accidental death benefits in such
24 contracts, the 1971 Individual Annuity Mortality Table or
25 any individual annuity mortality table, adopted after
26 1980 by the National Association of Insurance
27 Commissioners and approved by regulation of the
28 department for use in determining the minimum standard of
29 valuation for such contracts, or any modification of
30 these tables approved by the department, and 7.5%

1 interest or such higher rate of interest as may be
2 approved from time to time by the department.

3 (iii) For individual annuity and pure endowment
4 contracts issued on or after January 1, 1979, other than
5 single premium immediate annuity contracts, excluding any
6 disability and accidental death benefits in such
7 contracts, the 1971 Individual Annuity Mortality Table or
8 any individual annuity mortality table adopted after 1980
9 by the National Association of Insurance Commissioners
10 and approved by regulation of the department for use in
11 determining the minimum standard of valuation for such
12 contracts, or any modification of these tables approved
13 by the department, and 5.5% interest for single premium
14 deferred annuity and pure endowment contracts and 4.5%
15 interest for all other such individual annuity and pure
16 endowment contracts or such higher rate of interest as
17 may be approved from time to time by the department.

18 (iv) For all annuities and pure endowments purchased
19 prior to January 1, 1979, under group annuity and pure
20 endowment contracts, excluding any disability and
21 accidental death benefits purchased under such contracts,
22 the 1971 Group Annuity Mortality Table or any
23 modification of this table approved by the department,
24 and 6% interest.

25 (v) For all annuities and pure endowments purchased
26 on or after January 1, 1979, under group annuity and pure
27 endowment contracts, excluding any disability and
28 accidental death benefits purchased under such contracts,
29 the 1971 Group Annuity Mortality Table or any group
30 annuity mortality table adopted after 1980 by the

1 National Association of Insurance Commissioners and
2 approved by regulation of the department for use in
3 determining the minimum standard of valuation for such
4 annuities and pure endowments or any modification of
5 these tables approved by the department, and 7.5%
6 interest or such higher rate of interest as may be
7 approved, from time to time, by the department.

8 (vi) After June 23, 1976, a company may file with
9 the department a written notice of its election to comply
10 with the provisions of this subparagraph (ii) after a
11 specified date before January 1, 1979, which shall be the
12 operative date of this subparagraph for the company.

13 However, a company may elect a different operative date
14 for individual annuity and pure endowment contracts from
15 that elected for group annuity and pure endowment
16 contracts. Whenever a company makes no such election, the
17 operative date of this subparagraph for the company shall
18 be January 1, 1979.

19 (c) Dynamic interest rates.--

20 (1) The interest rates used in determining the minimum
21 standard for the valuation of any of the following shall be
22 the calendar year statutory valuation interest rates as
23 defined in this subsection:

24 (i) All life insurance policies issued in a
25 particular calendar year, on or after the operative date
26 of section 5322(f).

27 (ii) All individual annuity and pure endowment
28 contracts issued in a particular calendar year on or
29 after January 1, 1981.

30 (iii) All annuities and pure endowments purchased in

1 a particular calendar year on or after January 1, 1981,
2 under group annuity and pure endowment contracts.

3 (iv) The net increase, if any, in a particular
4 calendar year after January 1, 1981, in amounts held
5 under guaranteed interest contracts.

6 (2) The calendar year statutory valuation interest
7 rates, referred to in this paragraph as I, shall be
8 determined as follows and the results rounded to the nearer
9 0.25%:

10 (i) For life insurance: $I = .03 + W(R1 - .03) +$
11 $W/2(R2 - .09).$

12 (ii) For single premium immediate annuities and for
13 annuity benefits involving life contingencies arising
14 from other annuities with cash settlement options and
15 from guaranteed interest contracts with cash settlement
16 options: $I = .03 + W(R - .03).$ For purposes of this
17 paragraph, R1 is the lesser of R and .09, R2 is the
18 greater of R and .09, R is the reference interest rate
19 defined in paragraph (4) and W is the weighting factor
20 defined in paragraph (3).

21 (iii) For other annuities with cash settlement
22 options and guaranteed interest contracts with cash
23 settlement options, valued on an issue year basis, except
24 as stated in subparagraph (ii), the formula for life
25 insurance stated in subparagraph (i) shall apply to
26 annuities and guaranteed interest contracts with
27 guarantee durations in excess of ten years, and the
28 formula for single premium immediate annuities stated in
29 subparagraph (ii) shall apply to annuities and guaranteed
30 interest contracts with guarantee duration of ten years

1 or less.

2 (iv) For other annuities with no cash settlement
3 options and for guaranteed interest contracts with no
4 cash settlement options, the formula for single premium
5 immediate annuities stated in subparagraph (ii) shall
6 apply.

7 (v) For other annuities with cash settlement options
8 and guaranteed interest contracts with cash settlement
9 options, valued on a change in fund basis, the formula
10 for single premium immediate annuities stated in
11 subparagraph (ii) shall apply.

12 (vi) However, if the calendar year statutory
13 valuation interest rate for any life insurance policies
14 issued in any calendar year determined without reference
15 to this subparagraph differs from the corresponding
16 actual rate for similar policies issued in the
17 immediately preceding calendar year by less than 0.5%,
18 the calendar year statutory valuation interest rate for
19 the life insurance policies shall be equal to the
20 corresponding actual rate for the immediately preceding
21 calendar year. For the purpose of applying the
22 immediately preceding sentence, the calendar year
23 statutory valuation interest rate for life insurance
24 policies issued in a calendar year shall be determined
25 for 1980 (using the reference interest rate defined for
26 1979) and shall be determined for each subsequent
27 calendar year.

28 (3) The weighting factors referred to in the formulas
29 stated above are given in the following tables:

30 (i) Weighting factors for life insurance:

1	Guarantee	Weighting
2	Duration	Factors
3	(Years)	
4	10 or less	.50
5	More than 10, but not more than 20	.45
6	More than 20	.35

7 For life insurance, the guarantee duration is the maximum
8 number of years the life insurance can remain in force on
9 a basis guaranteed in the policy or under options to
10 convert to plans of life insurance with premium rates or
11 nonforfeiture values or both which are guaranteed in the
12 original policy.

13 (ii) The weighting factor for single premium
14 immediate annuities and for annuity benefits involving
15 life contingencies arising from other annuities with cash
16 settlement options and guaranteed interest contracts with
17 cash settlement options shall be .80.

18 (iii) Weighting factors for other annuities and for
19 guaranteed interest contracts, except as stated in
20 subparagraph (ii), shall be as specified in clauses (A),
21 (B) and (C), subject to the rules and definitions in
22 clauses (D), (E) and (F):

23 (A) For annuities and guaranteed interest
24 contracts valued on an issue year basis:

25	Guarantee	Weighting Factor		
26	Duration	for Plan Type		
27	(Years)	A	B	C
28	5 or less	.80	.60	.50
29	More than 5, but not			
30	more than 10:	.75	.60	.50

1 More than 10, but not
 2 more than 20: .65 .50 .45
 3 More than 20: .45 .35 .35

4 (B) For annuities and guaranteed interest
 5 contracts valued on a change in fund basis, the
 6 factors stated in clause (A) shall be increased by:

7	Plan Type		
8	A	B	C
9	.15	.25	.05

10 (C) For annuities and guaranteed interest
 11 contracts valued on an issue year basis (other than
 12 those with no cash settlement options) which do not
 13 guarantee interest on considerations received more
 14 than one year after issue or purchase and for
 15 annuities and guaranteed interest contracts valued on
 16 a change in fund basis which do not guarantee
 17 interest rates on considerations received more than
 18 twelve months beyond the valuation date, the factors
 19 as determined under clauses (A) and (B) shall be
 20 increased by:

21	Plan Type		
22	A	B	C
23	.05	.05	.05

24 (D) For other annuities with cash settlement
 25 options and guaranteed interest contracts with cash
 26 settlement options, the guarantee duration is the
 27 number of years for which the contract guarantees
 28 interest rates in excess of the calendar year
 29 statutory valuation interest rate for life insurance
 30 policies with guarantee duration in excess of twenty

1 years. For other annuities with no cash settlement
2 options and for guaranteed interest contracts with no
3 cash settlement options, the guarantee duration is
4 the number of years from the date of issue or date of
5 purchase to the date annuity benefits are scheduled
6 to commence.

7 (E) The plan types as used in clauses (A), (B)
8 and (C) are defined as follows:

9 Plan Type A: At any time the policyholder
10 may not withdraw funds or may withdraw funds
11 only on the following conditions: (1) with
12 an adjustment to reflect changes in interest
13 rates or asset values since receipt of the
14 funds by the insurance company; (2) without
15 such adjustment but in installments over five
16 years or more; or (3) as an immediate life
17 annuity.

18 Plan Type B: Before expiration of the
19 interest rate guarantee, the policyholder may
20 not withdraw funds or may withdraw funds only
21 on the following conditions: (1) with an
22 adjustment to reflect changes in interest
23 rates or asset values since receipt of the
24 funds by the insurance company; or (2)
25 without such adjustment but in installments
26 over five years or more. At the end of the
27 interest rate guarantee, funds may be
28 withdrawn without such adjustment in a single
29 sum or installments over less than five
30 years.

Plan Type C: The policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or installments over less than five years either: (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(F) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options shall be valued on an issue year basis. As used in this subsection, an "issue year basis of valuation" refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the "change in fund basis of valuation" refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate

1 for the year of the change in the fund.

2 (4) The reference interest rate referred to in paragraph
3 (2)(ii) shall be as follows:

4 (i) For all life insurance, the lesser of the
5 average over a period of 36 months and the average over a
6 period of 12 months, ending on June 30 of the calendar
7 year next preceding the year of issue, of Moody's
8 Corporate Bond Yield Average--Monthly Average Corporates
9 as published by Moody's Investors Service, Inc.

10 (ii) For single premium immediate annuities and for
11 annuity benefits involving life contingencies arising
12 from other annuities with cash settlement options and
13 guaranteed interest contracts with cash settlement
14 options, the average over a period of 12 months, ending
15 on June 30 of the calendar year of issue or year of
16 purchase, of Moody's Corporate Bond Yield Average--
17 Monthly Average Corporates as published by Moody's
18 Investors Service, Inc.

19 (iii) For other annuities with cash settlement
20 options and guaranteed interest contracts with cash
21 settlement options, valued on a year of issue basis,
22 except as stated in subparagraph (ii) with guarantee
23 duration in excess of ten years, the lesser of the
24 average over a period of 36 months and the average over a
25 period of 12 months, ending on June 30 of the calendar
26 year of issue or purchase, of Moody's Corporate Bond
27 Yield Average--Monthly Average Corporates as published by
28 Moody's Investors Service, Inc.

29 (iv) For other annuities with cash settlement
30 options and guaranteed interest contracts with cash

1 settlement options, valued on a year of issue basis,
2 except as stated in subparagraph (ii), with guarantee
3 duration of ten years or less, the average over a period
4 of 12 months, ending on June 30 of the calendar year of
5 issue or purchase, of Moody's Corporate Bond Yield
6 Average--Monthly Average Corporates as published by
7 Moody's Investors Service, Inc.

8 (v) For other annuities with no cash settlement
9 options and for guaranteed interest contracts with no
10 cash settlement options, the average over a period of 12
11 months, ending on June 30 of the calendar year of issue
12 or purchase, of Moody's Corporate Bond Yield Average--
13 Monthly Average Corporates as published by Moody's
14 Investors Service, Inc.

15 (vi) For other annuities with cash settlement
16 options and guaranteed interest contracts with cash
17 settlement options, valued on a change in fund basis,
18 except as stated in subparagraph (ii), the average over a
19 period of 12 months, ending on June 30 of the calendar
20 year of the change in the fund, of Moody's Corporate Bond
21 Yield Average--Monthly Average Corporates as published by
22 Moody's Investors Service, Inc.

23 (5) If Moody's Corporate Bond Yield Average--Monthly
24 Average Corporates is no longer published by Moody's
25 Investors Service, Inc., or if the National Association of
26 Insurance Commissioners determines that Moody's Corporate
27 Bond Yield Average--Monthly Average Corporates is no longer
28 appropriate for the determination of the reference interest
29 rate, then an alternative method for determination of the
30 reference interest rate adopted by the National Association

1 of Insurance Commissioners and approved by regulation of the
2 department may be substituted.

3 (d) Commissioners reserve valuation method.--

4 (1) Except as otherwise provided in paragraph (2), in
5 subsection (e) and in section 705 (relating to minimum
6 reserve requirements of certain companies), reserves
7 according to the commissioners reserve valuation method for
8 the life insurance and endowment benefits of policies
9 providing for a uniform amount of insurance and requiring the
10 payment of uniform premiums shall be the excess, if any, of
11 the present value at the date of valuation of such future
12 guaranteed benefits provided for by those policies, over the
13 then present value of any future modified net premiums
14 therefor. The modified net premiums for any such policy shall
15 be such uniform percentage of the respective contract
16 premiums for such benefits that the present value, at the
17 date of issue of the policy, of all such modified net
18 premiums shall be equal to the sum of the then present value
19 of such benefits provided for by the policy and the excess of
20 (i) over (ii), as follows:

21 (i) A net level annual premium equal to the present
22 value at the date of issue of such benefits provided for
23 after the first policy year, divided by the present value
24 at the date of issue of an annuity of one per annum
25 payable on the first and each subsequent anniversary of
26 such policy on which a premium falls due. However, such
27 net level annual premium shall not exceed the net level
28 annual premium on the 19 year premium whole life plan for
29 insurance of the same amount at an age one year higher
30 than the age at issue of such policy.

1 (ii) A net one year term premium for such benefits
2 provided for in the first policy year.

3 (2) For any life insurance policy issued on or after
4 January 1, 1985, for which the gross premium in the first
5 policy year exceeds that of the second year and for which no
6 comparable additional benefit is provided in the first year
7 for such excess and which provides an endowment benefit or a
8 cash surrender value or a combination thereof in an amount
9 greater than such excess premium, the reserve according to
10 the commissioners reserve valuation method as of any policy
11 anniversary occurring on or before the assumed ending date
12 shall, except as otherwise provided in section 705, be the
13 greater of the reserve as of such policy anniversary
14 calculated as described in paragraph (1) and the reserve as
15 of such policy anniversary calculated as described in
16 paragraph (1), but subject to the following:

17 (i) the value defined in paragraph (1)(i) shall be
18 reduced by 15% of the amount of such excess first year
19 premium;

20 (ii) all present values of benefits and premiums
21 shall be determined without reference to premiums or
22 benefits provided for by the policy after the assumed
23 ending date;

24 (iii) the policy shall be assumed to mature on the
25 assumed ending date as an endowment; and

26 (iv) the cash surrender value provided on the
27 assumed ending date shall be considered as an endowment
28 benefit.

29 In making this comparison the mortality and interest bases
30 stated in subsections (b)(1) and (c) shall be used. As used

1 in this paragraph, the term "assumed ending date" means the
2 first policy anniversary on which the sum of any endowment
3 benefit and any cash surrender value then available is
4 greater than the excess premium.

5 (3) Reserves according to the commissioners reserve
6 valuation method for:

7 (i) life insurance policies providing for a varying
8 amount of insurance or requiring the payment of varying
9 premiums;

10 (ii) group annuity and pure endowment contracts
11 purchased under a retirement plan or plan of deferred
12 compensation, established or maintained by an employer,
13 including a partnership or sole proprietorship, or by an
14 employee organization, or by both, other than a plan
15 providing individual retirement accounts or individual
16 retirement annuities under section 408 of the Internal
17 Revenue Code (68A Stat. 3, 26 U.S.C. § 408);

18 (iii) disability and accidental death benefits in
19 all policies and contracts; and

20 (iv) all other benefits, except life insurance and
21 endowment benefits in life insurance policies and
22 benefits provided by all other annuity and pure endowment
23 contracts;

24 shall be calculated by a method consistent with the
25 principles of this subsection except that any extra premiums
26 charged because of impairments or special hazards shall be
27 disregarded in the determination of modified net premiums.

28 (e) Department's annuity reserve method.--This subsection
29 applies to all annuity and pure endowment contracts other than
30 group annuity and pure endowment contracts purchased under a

1 retirement plan or plan of deferred compensation established or
2 maintained by an employer, including a partnership or sole
3 proprietorship, or by an employee organization, or by both,
4 other than a plan providing individual retirement accounts or
5 individual retirement annuities under section 408 of the
6 Internal Revenue Code. Reserves according to the commissioners
7 annuity reserve method for benefits under annuity or pure
8 endowment contracts, excluding any disability and accidental
9 death benefits in such contracts, shall be the greatest of the
10 respective excesses of the present values at the date of
11 valuation of the future guaranteed benefits, including
12 guaranteed nonforfeiture benefits, provided for by such
13 contracts at the end of each respective contract year, over the
14 present value, at the date of valuation, of any future valuation
15 considerations derived from future gross considerations required
16 by the terms of such contract, that become payable prior to the
17 end of such respective contract year. The future guaranteed
18 benefits shall be determined by using the mortality table, if
19 any, and the interest rate specified in such contracts for
20 determining guaranteed benefits. The valuation considerations
21 are the portions of the respective gross considerations applied
22 under the terms of such contracts to determine nonforfeiture
23 values.

24 (f) Test against nonforfeiture interest rate.--A company's
25 aggregate reserves for all life insurance policies, excluding
26 disability and accidental death benefits, shall not be less than
27 the aggregate reserves calculated in accordance with the methods
28 set forth in subsections (d) and (e) and in section 705, and the
29 mortality table or tables and rate or rates of interest used in
30 calculating nonforfeiture benefits for such policies.

1 (g) Standards producing greater reserves.--Reserves for any
2 category of policies, contracts or benefits as established by
3 the department may be calculated, at the option of the company,
4 according to any standards which produce greater aggregate
5 reserves for such category than those calculated according to
6 the minimum standard provided under this section, but the rate
7 of interest used for policies and contracts other than annuity
8 and pure endowment contracts shall not be higher than the
9 corresponding rate of interest used in calculating any
10 nonforfeiture benefits provided for therein.

11 (h) Destrengthening of reserves.--Any life insurance company
12 which adopts any standard of valuation producing greater
13 aggregate reserves than those calculated according to the
14 minimum standard provided under this section may, with the
15 approval of the department, adopt any lower standard of
16 valuation, but not lower than the minimum provided under this
17 section.

18 § 704. Reserves for special plans.

19 In the case of any plan of life insurance which provides for
20 future premium determination, the amounts of which are to be
21 determined by the insurance company based on then estimates of
22 future experience or, in the case of any plan of life insurance
23 or annuity which is of such a nature that the minimum reserves
24 cannot be determined by the methods described in sections 703(d)
25 and (e) (relating to computation of reserves on recent policies)
26 and 705 (relating to minimum reserve requirements of certain
27 companies), the reserves which are held under the plan shall:

28 (1) be appropriate in relation to the benefits and the
29 pattern of premiums for that plan; and

30 (2) be computed by a method which is consistent with the

principles of this section and section 705, as determined by regulations of the department.

§ 705. Minimum reserve requirements of certain companies.

(a) Reduced premiums.--If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in sections 702 (relating to computation of reserves on prior policies) and 703 (b)(1) and (c) (relating to computation of reserves on recent policies).

(b) Exception.--For any life insurance policy issued on or after January 1, 1985, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the provisions of subsection (a) shall be applied as if the method actually used in calculating the

1 reserve for the policy were the method described in section
2 703(d), ignoring section 703(d)(2). The minimum reserve at each
3 policy anniversary of such policy shall be the greater of the
4 minimum reserve calculated in accordance with section 703(d),
5 including section 703(d)(2), and the minimum reserve calculated
6 in accordance with this section.

7 § 706. Computation of reserves for health and accident
8 insurance.

9 (a) General rule.--The department shall annually value, or
10 shall annually require the insurer to value, the reserve
11 liabilities, as of December 31 of the preceding year, of every
12 life insurance company doing business in this Commonwealth, with
13 respect to its health and accident insurance policies. For all
14 such policies, the company shall maintain an active life reserve
15 which shall place a sound value on its liabilities under such
16 policies and shall be not less than the reserve according to
17 appropriate standards set forth in the regulations of the
18 department and not less in the aggregate than the pro rata gross
19 unearned premiums for the policies.

20 (b) Exception.--This section does not apply to total and
21 permanent disability benefits supplementary to life insurance or
22 annuity policies or contracts.

23 § 707. Valuations by other states.

24 In lieu of the valuation of the reserves required in sections
25 701 (relating to valuation by department) through 704 (relating
26 to reserves for special plans) and section 706 (relating to
27 computation of reserves for health and accident insurance) of
28 any foreign or alien company, the department may accept any
29 valuation made by the insurance supervisory official of any
30 state or other jurisdiction if this valuation complies with the

1 minimum standard provided in those sections and if the official
2 of that state or jurisdiction accepts as sufficient and valid
3 for all legal purposes the certificate of valuation of the
4 department when such certificate states the valuation to have
5 been made in a specified manner according to which the aggregate
6 reserves would be at least as large as if they had been computed
7 in the manner prescribed by the law of that state or
8 jurisdiction. Each company shall furnish to the department, on
9 or before March 1 in each year, a certificate from the proper
10 officer of that state or jurisdiction, setting forth the value
11 of all the policies and contracts of the company in force on the
12 previous December 31. Any company failing to furnish the
13 certificate shall make a complete detailed list of policies to
14 the department and shall be liable for all charges and expenses
15 resulting from the failure to furnish this certificate.

16 § 708. Reserve fund.

17 The aggregate reserves or net value of the policies and
18 contracts of any life insurance company ascertained under this
19 chapter shall be deemed its reserve liability. It shall hold
20 funds in secure investments of an amount equal to the net value
21 above all its other liabilities. The department shall, after
22 having determined the net value of all the policies and
23 contracts in force, confirm compliance with this section.
24 Whenever any life insurance company doing business in this
25 Commonwealth does not have on hand the net value of all policies
26 in force, after all other debts and claims against it, including
27 50% of capital, have been provided for, the department shall
28 notify the company and its agents to issue no new policies until
29 its funds become equal to its liabilities.

30 § 709. Valuation of securities.

(a) General rule.--Bonds or other evidences of debt held by life insurance companies or fraternal benefit societies authorized to do business in this Commonwealth may, if amply secured and if not in default as to principal or interest, be valued as follows:

(1) If purchased at par, at the par value.

(2) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value at maturity and so as to yield meantime the effective rate of interest at which the purchase was made.

The purchase price shall not be taken at a higher figure than the actual market value at the time of purchase. The department shall have full discretion in determining the method of calculating values under this section, and the values found by it in accordance with that method shall be final and binding. Any company or society may return the bonds or other evidences of debt at their market value or their book value, but not at an aggregate value exceeding the aggregate of the values calculated under this section.

(b) Election.--This section does not require any life insurance company or fraternal benefit society authorized to do business in this Commonwealth to value its bonds and other evidences of debt by amortization as provided in this section, but any company or society electing to adopt the amortized basis shall have its bonds valued upon that basis.

SUBCHAPTER B

INSURANCE OTHER THAN LIFE INSURANCE

Sec.

721. Computation of unearned premium liability.

§ 721. Computation of unearned premium liability.

1 (a) General rule.--In determining the liabilities upon its
2 contracts of insurance of any insurance company, other than a
3 life insurance company, and the amount the company should hold
4 as an unearned premium liability, the department shall calculate
5 the amount on a monthly prorata basis or its equivalent on the
6 premiums in force at the end of any quarterly or annual period,
7 except in the case of noncancelable health and accident
8 insurance issued on and after January 1, 1950. The amount shall
9 be calculated according to the methods set out in subsection
10 (b). On perpetual insurance, the department shall charge the
11 cash deposit received, less a surrender charge not exceeding 10%
12 thereof. For marine and inland insurance, the department shall
13 charge 50% of the premium written in the policy upon risks
14 covering more than one passage not terminated, and the full
15 amount of the premium written in the policy upon all other
16 marine and inland risks not terminated; however, the department
17 may charge a premium reserve equal to the unearned portions of
18 the gross premiums charged, computed on each respective risk
19 from the date of the issuance of the policy.

20 (b) Casualty insurance other than noncancelable health and
21 accident insurance.--The department shall, in calculating the
22 reserve against unpaid losses of casualty insurance companies,
23 other than losses under noncancelable health and accident
24 insurance issued on and after January 1, 1950, liability and
25 workmen's compensation policies, set down by careful estimate in
26 each case the loss likely to be incurred against every claim
27 presented or that may be presented pursuant to notice from the
28 insured of the occurrence of an event that may result in a loss.
29 The sum of the items so estimated shall be the total amount of
30 the reserve, except that in credit insurance 50% of the premiums

1 on all credit policies expiring in the months of October,
2 November and December of the current year, less the amount of
3 losses paid on such policies, shall in addition thereto be
4 charged in the loss reserve.

5 (c) Health and accident insurance.--The department shall
6 annually value, or shall annually require the insurer to value,
7 the reserve liabilities, as of December 31 of the preceding
8 year, of every casualty insurance company doing business in this
9 Commonwealth, with respect to all of its health and accident
10 insurance policies. For all such policies the company shall
11 maintain an active life reserve which shall place a sound value
12 on its liabilities under the policies and be not less than the
13 reserve according to appropriate standards set forth in the
14 regulations of the department and not less in the aggregate than
15 the prorata gross unearned premiums for such policies. With
16 respect to any foreign or alien insurer, the department may
17 accept a like valuation of the insurance supervising official of
18 the state, province or foreign country in which the insurer is
19 domiciled if the valuation is made upon a basis and according to
20 standards producing an aggregate reserve not less than under
21 this section.

22 (d) Definition.--As used in this section, the term
23 "noncancelable health and accident insurance" means insurance
24 against disability resulting from sickness, ailment or bodily
25 injury under a policy or contract which the insurer does not
26 have the option to cancel or otherwise terminate the contract at
27 or after the expiration of one year from its effective date,
28 excluding policies or contracts insuring solely against
29 accidental injury, or total and permanent disability benefits,
30 supplementary to life insurance or annuity policies or

1 contracts.

2 SUBCHAPTER C

3 WORKMEN'S COMPENSATION AND LIABILITY INSURANCE

4 Sec.

5 731. Definitions.

6 732. Computation of reserves.

7 733. Distribution of unallocated loss expense payments.

8 734. Power of department to determine reserves.

9 § 731. Definitions.

10 The following words and phrases when used in this subchapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Compensation." All insurance effected by virtue of statutes
14 providing compensation to employees for personal injuries
15 irrespective of fault of the employer.

16 "Earned premiums." Gross premiums charged on all policies
17 written, including all excess and additional premiums and
18 reinsurance premiums accepted, less return premiums other than
19 premiums returned to policyholders as dividends, and less all
20 reinsurance premiums ceded and premiums on policies canceled.
21 Earned premiums attributable to any specific period shall be
22 calculated by adding to the liability for unearned premiums at
23 the beginning of the period, the premiums written during the
24 period and subtracting the liability for unearned premiums at
25 the end of the period.

26 "Even monthly amount." The written premium divided by the
27 number of months for which the premium is written.

28 "Liability." All insurance except compensation insurance
29 against loss or damage from accident to or injuries suffered by
30 an employee or other person and for which the insured is liable.

1 "Loss payments" or "loss expense payments." All payments to
2 claimants, including payments for medical and surgical services,
3 legal expenses, salaries and expenses of investigators,
4 adjusters and field men, rents, salaries and expenses of office
5 employees, home office expenses and all other payments made on
6 account of claims, whether the payments are allocated to
7 specific claims or unallocated.

8 "Monthly prorata basis." The calculation by which written
9 premium becomes earned in even monthly amounts for each entire
10 calendar month or part thereof during which a policy is in
11 force, except that for the calendar months in which a premium is
12 written or expires, one-half the even monthly amount is earned.

13 § 732. Computation of reserves.

14 The reserve required of stock and mutual insurance companies
15 and exchanges for outstanding losses under insurance against
16 loss or damage from accident to or injuries suffered by an
17 employee or other person, and for which the insured is liable,
18 shall be computed as follows:

19 (1) For all liability premiums earned during the three
20 years immediately preceding the date as of which the
21 statement is made, 60% of the earned liability premiums of
22 each of those three years, less all loss and loss expense
23 payments made under liability policies written in the
24 corresponding years.

25 (2) For all compensation claims under policies written
26 more than three years prior to the date as of which the
27 statement is made, the present value at 4% interest of the
28 determined and estimated future payments.

29 (3) For all compensation premiums earned in the three
30 years immediately preceding the date as of which the

statement is made, 65% of the earned compensation premiums of each of those three years, less all loss and loss expense payments made in connection with such claims under policies written in the corresponding years, but not less than the present value at 4% interest of the determined and the estimated unpaid compensation claims under policies written during each of those years.

§ 733. Distribution of unallocated loss expense payments.

All unallocated liability loss expense payments and all unallocated compensation loss expense payments made in a given calendar year in which an insurer has been issuing liability or compensation policies, as appropriate, shall be made in accordance with instructions set forth in the notes pertaining to Schedule P, at page 35 of the Fire and Casualty Companies (Association Edition) Annual Statement Blank for the year ended December 31, 1974, as adopted for use in this Commonwealth by the department.

§ 734. Power of department to determine reserves.

Whenever the department determines that the liability or compensation loss reserves of any insurer calculated in accordance with this subchapter are inadequate, it may require the insurer to maintain additional reserves based upon estimated individual claims or otherwise. Whenever a satisfactory mathematical or actuarial table for valuing compensation loss reserves is approved and promulgated by the department, it may require any insurer under its supervision to maintain upon this tabular basis greater or lesser reserves than those provided under section 732 (relating to computation of reserves).

SUBCHAPTER D

CASUALTY INSURANCE

1 Sec.

2 741. Right of action.

3 742. Notice of impairment of funds.

4 § 741. Right of action.

5 A policy of accident insurance against loss or damage
6 resulting from accident to or injury suffered by an employee or
7 other person and for which the person insured is liable, or
8 against loss or damage to property caused by animals or by any
9 vehicle drawn, propelled or operated by any motive power and for
10 which loss or damage the person is liable, shall not be issued
11 or delivered in this Commonwealth by any corporation or other
12 insurer authorized to do business in this Commonwealth unless
13 the policy contains a provision that the insolvency or
14 bankruptcy of the person insured shall not release the insurance
15 carrier from the payment of damages for injury sustained or loss
16 occasioned during the life of the policy. The provision shall
17 also state that in case execution against the insured is
18 returned unsatisfied because of bankruptcy or insolvency in an
19 action brought by the injured person, or his personal
20 representative in case death results from the accident, then an
21 action may be maintained by the injured person or his personal
22 representative against the corporation under the terms of the
23 policy, for the amount of judgment in the action, not exceeding
24 the amount of the policy.

25 § 742. Notice of impairment of funds.

26 Having charged as a liability the reinsurance and loss
27 reserves for insurance companies and exchanges of this
28 Commonwealth other than life insurance companies and adding
29 thereto all other debts and claims against the company or
30 exchange, the department shall, in case it finds the capital or

1 reserve of the company or exchange impaired to any degree, give
2 notice to the company or exchange to make good the capital or
3 reserve within 30 days.

4 SUBCHAPTER E

5 TITLE INSURANCE

6 Sec.

7 751. Title insurance reserve.

8 752. Reinsurance on liquidation of company.

9 753. Recovery by policyholders.

10 § 751. Title insurance reserve.

11 (a) Reserve fund requirement.--All companies incorporated
12 for the insurance of owners of real estate, mortgages and others
13 interested in real estate, from loss by reason of defective
14 titles, liens and encumbrances, as well as all title insurance
15 and trust companies receiving deposits, heretofore incorporated
16 and authorized by charter or by law to carry on such business,
17 shall establish and maintain a reserve fund for the protection
18 of policyholders.

19 (b) Establishment and maintenance of fund.--The reserve fund
20 shall be established by setting aside a sum equal to 10% of the
21 premium paid on each policy of insurance which the company may
22 issue until the total amount set aside equals \$250,000. The
23 total reserve fund may, with the consent of the department, be
24 set aside at any one time or from time to time out of surplus
25 and undivided profits. The reserve fund shall be maintained as
26 long as liability on any policies is outstanding.

27 (c) Supervision by department.--The custody of the reserve
28 fund shall be retained by the company, and the fund shall be
29 kept separate from other assets of the company. The department
30 shall ascertain that a reserve fund equal to the amount required

1 by subsection (b) is maintained. If any company neglects or
2 refuses to establish or maintain the reserve fund, the
3 department shall direct the company either to comply with the
4 provisions of this section or to discontinue doing title
5 insurance business.

6 (d) Investment of reserve fund.--The company shall invest
7 the reserve fund in first mortgage or other securities
8 designated by law as legal investments for trust funds whenever
9 the accumulated fund amounts to \$1,000 or more. The mortgages or
10 other securities shall be carried at cost price, but not at more
11 than market price. If there is a depreciation in the market
12 price of any securities, the company shall make good the
13 depreciation by the addition of other legal investments so that
14 the fund shall always be maintained at the full amount required
15 by subsection (b). The companies may withdraw from the fund any
16 mortgages or other securities held therein by crediting the fund
17 the amount at which the mortgages or securities are valued if
18 there are immediately substituted therefor other first mortgages
19 or securities.

20 (e) Cancellation of policy.--Whenever any policy of title
21 insurance is surrendered by the holder, canceled or liability
22 thereon completely discharged, the reserve therefor may be
23 withdrawn or credited against reserves that may be due.

24 (f) Status of reserve fund to be a trust fund.--The reserve
25 fund shall be kept separate and apart from the other assets of
26 the company. The income of the reserve fund shall become part of
27 the general assets of the company. The reserve fund shall
28 constitute a separate and distinct trust fund for the protection
29 of policyholders and shall not be subject to distribution among
30 depositors or other creditors until all policyholders have been

1 paid in full or the liability on the policies contingent or
2 actual has been completely discharged.

3 (g) Reinsurance by department.--If the department takes
4 possession of and winds up any company, the department may use
5 the reserve fund to purchase reinsurance for the liabilities
6 represented by the policies outstanding against the fund.
7 Acceptance of the policy of the reinsuring company shall operate
8 as a complete discharge of liability under the policy of the
9 insolvent company. If any policyholder refuses to accept the
10 policy of the reinsuring company, he shall be entitled to
11 receive only the pro rata portion of his reserve that remains
12 upon distribution under subsection (h).

13 (h) Distribution of reserve fund.--The reserve fund in the
14 custody of the department shall be liable only to the following
15 claims:

16 (1) To pay all outstanding claims of indemnity that have
17 arisen by virtue of any policies of insurance.

18 (2) For the purchase of reinsurance to indemnify and
19 protect the remaining outstanding policies.

20 (3) To distribute among policyholders, upon cancellation
21 of their policies, the proportionate share of the reserve
22 fund to which they are entitled, which shall not exceed the
23 proportion which the premium paid for the policy bears to the
24 whole amount of title insurance then outstanding.

25 § 752. Reinsurance on liquidation of company.

26 Whenever the department purchases reinsurance under section
27 751 (relating to title insurance reserve), it may do so by
28 purchasing, from a company incorporated under the law of this
29 Commonwealth with the right to insure titles to real estate to
30 owners, mortgagees and others and having a title insurance

1 reserve of the maximum amount required by section 751, a blanket
2 policy in the name of the Commonwealth for the use of the
3 original policyholders. In this blanket policy, the title
4 insurance company shall agree that it will, on demand of anyone
5 holding an outstanding policy issued by the original company,
6 fulfill for the policyholder the same obligations as were due to
7 him under the original policy, but the amount of recoverable
8 damages shall be limited in accordance with section 753
9 (relating to recovery by policyholders).

10 § 753. Recovery by policyholders.

11 (a) Determinations of insurance and liability.--Prior to
12 purchasing reinsurance, the department shall determine the total
13 amount of insurance issued by the corporation of which it has
14 taken possession and the amount of this insurance upon which the
15 corporation had an outstanding liability on the day the
16 corporation came into its custody. The department shall file
17 written certificates of these determinations in its office and
18 in the records of the court under which its certificate of
19 possession is filed.

20 (b) Reinsurance policy.--The department shall then use the
21 reserve fund in its custody to pay the fee for examinations by
22 the reinsuring company and to purchase as large an amount of
23 insurance as can be acquired. The blanket policy for reinsurance
24 shall contain a clause that each policyholder of the company
25 which originally issued the insurance reinsured shall be
26 entitled to recover in his own name, not according to the amount
27 of the original policy, but in the proportion that the total
28 amount of the reinsurance purchased bears to the total amount of
29 outstanding insurance determined to be in existence by the
30 department and shown by the certificates executed under this

1 section.

2 (c) Limitations on reinsurance liability.--The total
3 liability of the reinsuring company shall not exceed the amount
4 of the blanket policy issued under section 752 (relating to
5 reinsurance on liquidation of company) and shall not be enlarged
6 beyond that of the original company. Claims by policyholders
7 against the reinsuring company shall be subject to all the
8 conditions and limitations of the original insurance as respects
9 the status of the claim and claimant.

10 (d) Rights of policyholders.--Each policyholder of the
11 company which originally issued the insurance reinsured may sue
12 the reinsurance carrier, using his own name as plaintiff,
13 notwithstanding the fact that the reinsurance policy is issued
14 in the name of the Commonwealth.

15 CHAPTER 9

16 DEPOSITS OF SECURITIES TO DO INTERSTATE BUSINESS

17 Sec.

18 901. Deposit of securities with department.

19 902. State Treasurer as custodian.

20 903. Return of securities.

21 904. Actions in equity regarding deposits.

22 § 901. Deposit of securities with department.

23 Any domestic insurance entity desiring to transact business
24 in other states, where the law requires that the entity first
25 deposit securities of a designated value with the department or
26 any proper officer of this Commonwealth in trust and for the
27 benefit of all its policyholders, or any foreign or alien
28 insurance company or association desiring to make the deposit
29 required of foreign companies or associations in order to
30 transact business in the United States, may deposit with the

1 department securities for such an amount as the law of the other
2 states designates, or as the law of this Commonwealth requires
3 for foreign companies or associations. If the department is
4 satisfied that the securities are worth the required amount, it
5 shall receive them or those given in exchange therefor for the
6 purpose of this section. Upon the written request of the
7 insurance entity, the department shall further certify, under
8 its official seal to the proper officer of the other state in
9 which the insurance entity desires to transact business or the
10 official of the Federal Government, that the entity has
11 deposited securities with it, list the securities and certify
12 that it is satisfied they are worth the sum designated by the
13 law of the other state or required by the Federal Government.

14 § 902. State Treasurer as custodian.

15 Upon receipt of any deposit made under section 901 (relating
16 to deposit of securities with department), the department shall
17 immediately place them with the State Treasurer, who shall
18 receive and hold them in the name of the Commonwealth in trust
19 for the purposes for which the deposit is made. The State
20 Treasurer shall be responsible for their custody and
21 safekeeping. The entity making the deposit may from time to time
22 demand and receive from the State Treasurer, on the written
23 order of the department, all or any portion of the securities so
24 deposited, upon depositing with him other securities of at least
25 equal value and may demand, receive, sue for and recover the
26 interest and income from the securities from the payee or
27 obligee thereof as these become due and payable.

28 § 903. Return of securities.

29 Upon request of any domestic entity which has made a deposit
30 under this chapter, the department may authorize the State

1 Treasurer to return to the entity the whole or any portion of
2 the securities held by him on deposit, if the department is
3 satisfied that the securities are subject to no liability and
4 are not required to be longer held under this title, or for the
5 purpose of the original deposit. The State Treasurer may in like
6 manner return to the trustees or other representatives of a
7 foreign or alien insurance company or association authorized for
8 that purpose any deposit made by the company, if the company or
9 association has ceased to do business in this Commonwealth and
10 is under no obligation to policyholders or other persons in this
11 Commonwealth or in the United States, for whose benefit the
12 deposit was made. A deposit shall not be wholly withdrawn or
13 diminished so long as any liability to policy holders remains
14 unsatisfied, except in case of dissolution by a court of any
15 entity making the deposit, in which case the State Treasurer
16 shall, upon the written order of the court, assign and transfer
17 to the receiver all securities or funds in his possession
18 belonging to the entity.

19 § 904. Actions in equity regarding deposits.

20 An insurance entity which has made a deposit under this
21 chapter, or its trustees or resident manager in the United
22 States, or the department, may bring an action in equity against
23 the Commonwealth and other parties properly joined therein, to
24 enforce, administer or terminate the trust created by the
25 deposit. The process in the action shall be served on the State
26 Treasurer, who shall appear and answer on behalf of the
27 Commonwealth and perform such orders and decrees as the court
28 may make.

29 CHAPTER 11

30 AGENTS AND BROKERS

1 Subchapter

2 A. Agents

3 B. Termination of Agency Contracts

4 C. Insurance Brokers

5 D. Prohibited Activities

6 E. Managers and Exclusive General Agents

7 F. Public Adjusters and Solicitors

8 G. MOTOR VEHICLE PHYSICAL DAMAGE APPRAISERS <—

9 G H. Public Remedies for Unlicensed Activity <—

10 SUBCHAPTER A

11 AGENTS

12 Sec.

13 1101. Definition of agent.

14 1102. Certification of agents.

15 1103. Licenses of agents.

16 1104. Penalty for doing business as agent without license.

17 1105. Personal liability of agents for unauthorized entity.

18 1106. Penalty for advertising as agent of unauthorized entity.

19 1107. Penalty for soliciting for nonexistent company.

20 1108. Licensure of nonresident agents.

21 § 1101. Definition of agent.

22 (a) General rule.--As used in this chapter, the term "agent"
23 means any of the following:

24 (1) Any person authorized in writing by an entity:

25 (i) to solicit risks and collect premiums and to
26 issue or countersign policies in its behalf; or

27 (ii) to solicit risks and collect premiums in its
28 behalf.

29 (2) A person, not a licensed insurance broker, who,
30 whether or not for compensation:

1 (i) solicits insurance on behalf of any insurance
2 entity;

3 (ii) transmits for a person other than himself an
4 application for a policy of insurance to or from the
5 entity;

6 (iii) offers or assumes to act in the negotiation of
7 such insurance; or

8 (iv) in any manner aids in transacting the insurance
9 business of any entity by negotiating for or placing
10 risks or delivering policies or collecting premiums for
11 the entity.

12 (b) Exclusions.--The term "agent" does not include:

13 (1) Nonresident salaried employees of foreign exchanges
14 which maintain no offices in this Commonwealth and pay no
15 commissions to such employees.

16 (2) Officers or salaried employees of any insurance
17 entity authorized to transact business in this Commonwealth
18 who do not solicit, negotiate or place risks.

19 ~~(3) Attorneys at law.~~

<—

20 ~~(4) Licensed real estate agents.~~

21 ~~(5) Real estate brokers.~~

22 (c) APPLICABILITY.--Except as provided in Chapter 67

<—

23 (relating to title insurance), this subchapter does not apply to
24 title insurance agents.

25 § 1102. Certification of agents.

26 Insurance entities authorized by law to transact business in
27 this Commonwealth shall from time to time certify to the
28 department the names of all agents appointed by them to solicit
29 insurance in this Commonwealth.

30 § 1103. Licenses of agents.

1 (a) Power to issue license.--The department may issue, upon
2 certification under section 1102 (relating to certification of
3 agents), an agent's license to any person of at least 18 years
4 of age and to any partnership or corporation.

5 (b) Limitations.--A license as agent shall not be granted to
6 any corporation unless by provisions of its charter it is
7 authorized to engage in the business of insurance or real estate
8 and unless individual licenses are also secured for each active
9 officer of such corporation. A license shall not be granted to a
10 partnership or association unless individual licenses are also
11 secured for each active member of the partnership or
12 association.

13 (c) Requirements for licensure.--Before the license is
14 granted, the applicant shall first complete a verified
15 application in a form determined by the department. The answers
16 on the application shall be verified by the applicant and
17 vouched for by endorsement of the entity interested. The
18 application shall also be accompanied by a verified statement by
19 the entity that the applicant is of good business reputation,
20 has experience in underwriting, other than soliciting, and is
21 worthy of a license. Any applicant who has held, for any period
22 during the five years immediately preceding the application, a
23 license to transact as agent any class or kind of insurance
24 business for any entity authorized to transact business in this
25 Commonwealth may, upon proper application, receive a license to
26 transact as agent the same class or kind of insurance business
27 for any other entity which is so authorized, without submitting
28 to an examination. Agents' license fees shall be paid in full at
29 the time of issuance and shall not be apportioned pro rata over
30 the initial license period.

1 (d) License.--When the department is satisfied that the
2 applicant is worthy of license and that he is reasonably
3 familiar with provisions of the insurance law of this
4 Commonwealth, it shall issue a license. The license shall state
5 that the entity represented by the agent has complied with this
6 title and has been authorized by the department to transact
7 business in this Commonwealth and that the agent has been
8 appointed by that entity.

9 (e) Expiration.--The licenses of life insurance agents shall
10 expire annually on March 31, the licenses of fire insurance
11 agents shall expire annually on September 30, and the licenses
12 of casualty and health and accident insurance agents shall
13 expire annually on December 31. However, any such license may be
14 sooner terminated as the result of severance of business
15 relations between the entity and the agent or may be revoked by
16 the department for cause.

17 (f) Domestic mutual fire insurance companies.--This section
18 applies to domestic mutual fire insurance companies, but no
19 agent of such a company acting or authorized to act as such on
20 October 20, 1961, shall be required to take an examination for
21 licensure. This section does not require agents of domestic
22 mutual fire insurance companies, which agents write only
23 coverages other than insurance upon automobiles authorized by
24 section 3302(b)(1), (2) and (3) (relating to authorized classes
25 of insurance), to submit to the examination for licensure.

26 (g) Exemption from examination.--The examination for
27 licensure shall not be required of any person who has received
28 the designation of Chartered Life Underwriter (C.L.U.) from the
29 American College of Life Underwriters, except that the person
30 may be examined on pertinent provisions of the insurance law as

1 determined by the department.

2 § 1104. Penalty for doing business as agent without license.

3 A person commits a misdemeanor of the third degree if he
4 transacts business in this Commonwealth as the agent of an
5 insurance entity without a license as required by this chapter.
6 Prosecutions for violations under this section may be instituted
7 by the department.

8 § 1105. Personal liability of agents for unauthorized entity.

9 An insurance agent shall be personally liable on all
10 contracts of insurance or suretyship unlawfully made by or
11 through him, directly or indirectly, for or in behalf of any
12 entity not authorized to do business in this Commonwealth. This
13 section applies to any person who transacts business in this
14 Commonwealth as an agent of an insurance entity without a
15 license as required by this chapter.

16 § 1106. Penalty for advertising as agent of unauthorized
17 entity.

18 Any person who represents or advertises himself as the agent
19 of any foreign or alien insurance entity which has not complied
20 with the law of this Commonwealth commits a misdemeanor of the
21 third degree.

22 § 1107. Penalty for soliciting for nonexistent company.

23 Any individual, and the officers, managers, agents, owners or
24 representatives of and any corporation, partnership or
25 association, offering in this Commonwealth to sell, procure or
26 obtain policies, certificates, agreements, binders or
27 applications for insurance, surety or indemnity, for or on
28 behalf of any spurious, fictitious, nonexistent, dissolved,
29 inactive, liquidated, liquidating or bankrupt insurance entity,
30 society or order, commits a misdemeanor of the third degree.

1 § 1108. Licensure of nonresident agents.

2 (a) General rule.--The department may issue a license as
3 agent to a person not resident of this Commonwealth, upon
4 compliance with the applicable provisions of this chapter, if
5 the state or the province of the Dominion of Canada of the
6 person's residence accords the same privilege to a resident of
7 this Commonwealth.

8 (b) Waiver of written examination.--The department may enter
9 into reciprocal agreements with the appropriate official of any
10 such other state or province waiving the written examination of
11 any applicant resident in the other state or province if the
12 following conditions obtain:

13 (1) A written examination is required of applicants for
14 an insurance agent's license in the other state or province.

15 (2) The appropriate official certifies that the
16 applicant holds a currently valid license as an insurance
17 agent in the other state or province and either passed a
18 written examination or was the holder of an insurance agent's
19 license prior to the time a written examination was required.

20 (3) In the other state or province a resident of this
21 Commonwealth may obtain an insurance agent's license upon the
22 conditions stated in this subsection, without discrimination
23 as to fees or otherwise in favor of the residents of the
24 other state or province.

25 (c) Life insurance agents.--An applicant or licensee may not
26 have a place of business in this Commonwealth or be an officer,
27 director, stockholder or partner in any corporation or
28 partnership doing business in this Commonwealth as a life
29 insurance agency.

30 (d) Sharing of commissions.--If the law of another state or

1 province of the Dominion of Canada requires the sharing of
2 commissions with resident agents of the state or province on
3 applications for insurance written by nonresident agents, then
4 the same provisions shall apply when resident agents of that
5 state or province licensed as nonresident agents in this
6 Commonwealth write applications for insurance on residents of
7 this Commonwealth.

8 SUBCHAPTER B

9 TERMINATION OF AGENCY CONTRACTS

10 Sec.

11 1121. Definitions.

12 1122. Cancellation of contract.

13 1123. Continuation of business.

14 1124. Exclusions.

15 1125. Penalties.

16 1126. REGULATIONS.

←

17 § 1121. Definitions.

18 The following words and phrases when used in this subchapter
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Agent." An insurance agent authorized to transact and
22 transacting the business of automobile insurance in this
23 Commonwealth.

24 "Insurer." An insurance entity authorized to transact and
25 transacting the business of automobile insurance in this
26 Commonwealth.

27 § 1122. Cancellation of contract.

28 (a) Notice.--After an agency contract has been in effect for
29 a period of five years, no insurer shall terminate its contract
30 with an agent without first providing the agent and the

1 department with written notification at least 90 days prior to
2 the date of termination. The notification shall set forth the
3 insurer's reason for the action.

4 (b) Privileged information.--Any information, document,
5 record or statement so furnished or disclosed to the department
6 shall be absolutely privileged and shall not be admissible as
7 evidence in or as basis for any action against the appointing
8 insurer or against any representative of that insurer.

9 (c) Administrative review.--Any agent may, within 30 days of
10 receipt of notice of termination, request in writing to the
11 department that it review the action of the insurer for the
12 purpose of determining whether the termination was in compliance
13 with this section.

14 (d) Restriction on termination.--An insurer shall not
15 terminate its contract with an agent due to the adverse
16 experience of a single year. Prior to termination it is the
17 obligation of the insurer to demonstrate that it has made a
18 reasonable attempt to rehabilitate the agent.

19 § 1123. Continuation of business.

20 (a) Policies.--If an insurer notifies an agent that its
21 contract will be terminated, the insurer shall offer to continue
22 the policies and any amendments thereto made through the agent
23 for a period of 12 months from the effective date of
24 termination, subject to the insurer's current underwriting
25 standards.

26 (b) Commissions.--The terminated agent shall be entitled to
27 receive commissions on account of all business continued or
28 written pursuant to this section at the insurer's prevailing
29 commission rate for the business.

30 (c) Application of section.--This section does not apply to

1 a business owned by the insurer, and not by the agent, if the
2 insurer offers to continue policies through another of its
3 agents.

4 § 1124. Exclusions.

5 (a) Construction of subchapter.--This subchapter does not
6 prohibit an amendment or addendum subsequent to the inception
7 date of the original agency agreement providing that the
8 original agency agreement may be terminated at a sooner time
9 than is required by this subchapter if the agent agrees in
10 writing to the termination.

11 (b) Certain terminations excepted.--This subchapter does not
12 apply to an agent:

13 (1) whose license has been revoked by the department;

14 (2) whose contract has been terminated for insolvency,
15 abandonment, gross and willful misconduct or failure to pay
16 over to the insurer moneys due to the insurer after his
17 receipt of a written demand therefor; or

18 (3) who has demonstrated gross incompetence which would
19 normally be cause for agency contract termination.

20 § 1125. Penalties.

21 (a) Summary offense.--Any person, agent or insurer who
22 willfully violates this subchapter commits a summary offense. A
23 conviction under this subsection does not bar administrative
24 action by the department under this section.

25 (b) Administrative action.--Upon satisfactory evidence of a
26 violation of this subchapter, the department may do any or all
27 of the following:

28 (1) Suspend or revoke the license of the person, agent
29 or insurer.

30 (2) Refuse, for a period not to exceed one year

1 thereafter, to issue him a new license or to renew his
2 license.

3 (3) Impose a civil penalty of not more than \$500 for
4 each act in violation of this subchapter.

5 (c) Review and appeal.--Any adjudication of the department
6 under subsection (b) shall be subject to review and appeal in
7 accordance with Title 2 (relating to administrative law and
8 procedure).

9 § 1126. REGULATIONS. <—

10 THE DEPARTMENT SHALL PROMULGATE REGULATIONS NECESSARY FOR THE
11 ADMINISTRATION OF THIS SUBCHAPTER.

12 SUBCHAPTER C

13 INSURANCE BROKERS

14 Sec.

15 1131. Definition and applicability.

16 1132. Licenses of brokers.

17 1133. Penalty for acting as broker without license.

18 1134. Doing business with unlicensed brokers.

19 1135. Payment of commissions to brokers.

20 § 1131. Definition and applicability.

21 (a) Definition.--As used in this subchapter and Subchapter D
22 (relating to prohibited activities), the term "insurance broker"
23 means a person, not an officer or agent of the entity
24 interested, who, for compensation, acts or aids in any manner in
25 obtaining insurance, other than title insurance, for a person
26 other than himself.

27 (b) Applicability.--This subchapter does not apply to title
28 insurance brokers.

29 § 1132. Licenses of brokers.

30 (a) Power to issue licenses.--The department may issue to

1 any individual of at least 18 years of age or to any partnership
2 or corporation a license to act as an insurance broker to
3 negotiate contracts of insurance or reinsurance with any
4 insurance entity or the agents thereof authorized by law to
5 transact business in this Commonwealth.

6 (b) Limitations.--A license shall not be issued to any
7 corporation to act as an insurance broker unless by its charter
8 it is authorized to engage in the business of insurance or real
9 estate.

10 (c) Application for license.--Before the license is issued,
11 the applicant shall first complete an application in a form
12 determined by the department. The application shall be verified
13 by the applicant, and the answers shall be vouched for by an
14 endorsement made by at least two agents or the officers of any
15 insurance entity acquainted with the applicant, further stating
16 that the applicant is of good business reputation, has
17 experience in underwriting, other than soliciting, and is worthy
18 of a license. Brokers' license fees shall be paid in full at the
19 time of issuance and shall not be apportioned pro rata over the
20 initial license period.

21 (d) License.--When the department is satisfied that the
22 applicant is worthy of a license and that he is reasonably
23 familiar with the insurance law of this Commonwealth, it shall
24 issue a broker's license to expire annually one year from date
25 of issue, unless sooner revoked by the department for cause.

26 § 1133. Penalty for acting as broker without license.

27 Any person transacting business as an insurance broker in
28 this Commonwealth, or soliciting insurance or transmitting for
29 another partnership, association or corporation an application
30 for a policy of insurance, or offering or assuming to act in the

1 negotiation of such insurance or in any manner aiding in
2 transacting an insurance business, or negotiating for or placing
3 risks, or delivering policies or collecting premiums for
4 policies which are effective in this Commonwealth without a
5 license as broker, or in the case of title insurance without
6 being admitted to practice as an attorney at law or being
7 licensed as a real estate broker or real estate agent, unless
8 the person is acting as a licensed agent and then only for the
9 companies the person is licensed by this Commonwealth to
10 represent, commits a misdemeanor of the third degree.

11 Prosecutions for violations under this section may be instituted
12 by the department.

13 § 1134. Doing business with unlicensed brokers.

14 Any entity or the agent of any entity accepting applications
15 or orders for insurance or securing any insurance business
16 through anyone acting without a license commits a misdemeanor of
17 the third degree. Prosecutions for violations under this section
18 may be instituted by the department.

19 § 1135. Payment of commissions to brokers.

20 Any insurance entity or the agent thereof may pay money,
21 commission or brokerage, or give or allow anything of value to a
22 duly licensed insurance broker for the solicitation or
23 negotiation of contracts for insurance on property or risks in
24 this Commonwealth.

25 SUBCHAPTER D

26 PROHIBITED ACTIVITIES

27 Sec.

28 1141. (Reserved).

29 1142. ~~Theft offense~~ (RESERVED).

30 1143. Commingling funds.

<—

1 1144. Paying or receiving compensation for certain life
2 insurance.

3 1145. Offering rebates and inducements.

4 1146. Acceptance of rebates.

5 1147. Misrepresentation of policy terms.

6 1148. Misrepresentation to induce change of insurers.

7 1149. Penalties imposed by department.

8 1150. Lending institutions, public utilities and holding
9 companies not to be licensed.

10 § 1141. (Reserved).

11 ~~§ 1142. Theft offense (RESERVED).~~ <—

12 ~~An insurance agent or broker who acts in negotiating a~~ <—
13 ~~contract of insurance for an insurance entity lawfully doing~~
14 ~~business in this Commonwealth and who embezzles or fraudulently~~
15 ~~converts to his own use or who, with intent to use or embezzle,~~
16 ~~takes, secretes or otherwise disposes of, or fraudulently~~
17 ~~withholds, appropriates, lends, invests or otherwise uses or~~
18 ~~applies, any money or substitutes for money received by him as~~
19 ~~agent or broker, contrary to the instructions or without the~~
20 ~~consent of the entity for or on account of which the same was~~
21 ~~received him, commits theft and shall be punished as required~~
22 ~~under Title 18 (relating to crimes and offenses).~~

23 § 1143. Commingling funds.

24 Every insurance agent and broker acting as such in this
25 Commonwealth shall be responsible in a fiduciary capacity for
26 all funds received or collected as insurance agent or broker and
27 shall not, without the express consent of his principal, mingle
28 any such funds with his own funds or with funds held by him in
29 any other capacity. This section does not require the agent or
30 broker to maintain a separate bank deposit for the funds of each

1 principal if the funds held for each principal are reasonably
2 ascertainable from the books of account and records of the agent
3 or broker.

4 § 1144. Paying or receiving compensation for certain life
5 insurance.

6 (a) General rule.--A person, insurance agent, broker,
7 solicitor or representative shall not pay or cause to be paid
8 any commission or compensation to any attorney at law, partner,
9 clerk, servant, employee or other person, however hired or
10 employed by or with any insured or any beneficiary named in any
11 policy of life insurance. An attorney at law, partner, clerk,
12 servant, employee or any other person, however hired or employed
13 by or with any insured or any beneficiary named in any policy of
14 life insurance shall not receive, directly or indirectly, any
15 commission, compensation or other benefit by reason of the life
16 insurance being placed, sold or solicited on the life or for the
17 benefit of their respective clients, employers or masters. An
18 attorney at law, officer, clerk, servant or employee of any
19 corporation, partnership, association or individual shall not
20 receive, directly or indirectly, any commission, compensation or
21 benefit by reason of any life insurance being placed, sold or
22 solicited on the life or for the benefit of any attorney at law,
23 officer, clerk, servant or employee of the same corporation,
24 partnership, association or individual, whether or not the
25 attorney, partner, officer, clerk, servant, employee or other
26 person hired or employed by or with the insured or of any
27 beneficiary named in any policy of life insurance is duly
28 licensed by the proper authority in this Commonwealth to place,
29 sell or solicit life insurance.

30 (b) Applicability.--Every such attorney at law, partner,

1 officer, clerk, servant, employee or other person hired or
2 employed or continuing to be hired or employed in that capacity
3 within 90 days before or after the placing, selling or
4 soliciting of life insurance on the life or for the benefit of
5 their respective clients, partners, officers, employees, masters
6 or person in that capacity or any of them, shall be subject to
7 the provisions of this section.

8 (c) Penalty.--Every person, ~~partnership or corporation~~ <—
9 participating in the payment or receipt of any compensation or
10 benefit in violation of this section commits a misdemeanor of
11 the third degree.

12 § 1145. Offering rebates and inducements.

13 An insurance agent, solicitor or broker shall not offer or
14 give, directly or indirectly, any rebate of, or part of, the
15 premium payable on the policy or the agent's commission thereon,
16 or earnings, profit, dividends or other benefit founded,
17 arising, accruing or to accrue thereon or therefrom, or any
18 special advantage in date of policy or age of issue, or any paid
19 employment or contract for services of any kind, or any other
20 valuable consideration or inducement, to or for insurance on any
21 risk in this Commonwealth, which is not specified in the policy
22 contract of insurance. An insurance agent, solicitor or broker
23 shall not personally or otherwise offer, give, option, sell or
24 purchase any stocks, bonds, securities or property, or any
25 dividends or profits accruing or to accrue thereon, or other
26 thing of value, as inducement to insurance or in connection
27 therewith. This section does not prevent the taking of a bona
28 fide obligation, with legal interest, in payment of any premium.

29 § 1146. Acceptance of rebates.

30 An insured person or party or applicant for insurance shall

1 not directly or indirectly receive or accept, or agree to
2 receive or accept, any rebate of premium or any part thereof, or
3 all or any part of any agent's, solicitor's or broker's
4 commission thereon, or any favor, advantage or share in any
5 benefit to accrue under any policy of insurance, or any valuable
6 consideration or inducement, other than those specified in the
7 policy.

8 § 1147. Misrepresentation of policy terms.

9 An agent of an insurance entity or an insurance broker shall
10 not issue, circulate, use or cause or permit to be issued,
11 circulated or used, any written or oral statement or circular
12 misrepresenting the terms of any policy issued or to be issued
13 by the entity or make an estimate, with intent to deceive, of
14 the future dividends payable under the policy.

15 § 1148. Misrepresentation to induce change of insurers.

16 An agent of an insurance entity or an insurance broker, or
17 any person, ~~partnership, association or corporation~~ in behalf of <—
18 the agent, solicitor or broker, shall not make any
19 misrepresentation or incomplete comparison of policies, oral,
20 written or otherwise, to any person insured by any entity for
21 the purpose of inducing or tending to induce a policyholder in
22 the entity to lapse, forfeit or surrender his insurance therein
23 and to take out a policy of insurance in another entity insuring
24 against similar risks.

25 § 1149. Penalties imposed by department.

26 (a) General rule.--Upon satisfactory evidence of the
27 violation of section 1104 (relating to penalty for doing
28 business as agent without license), 1106 (relating to penalty
29 for advertising as agent of unauthorized entity), 1107 (relating
30 to penalty for soliciting for nonexistent company), 1133

1 (relating to penalty for acting as broker without license), 1134
2 (relating to doing business with unlicensed brokers) or ~~1142~~ <—
3 ~~(relating to theft offense)~~ 1143 (RELATING TO COMMINGLING FUNDS) <—
4 through 1148 (relating to misrepresentation to induce change of
5 insurers) by any agent of any insurance entity or by any
6 insurance broker or upon satisfactory evidence of such conduct
7 as would disqualify the agent or broker from initial issuance of
8 a license under section 1103 (relating to licenses of agents) or
9 1132 (relating to licenses of brokers), the department may
10 pursue any one or more of the following courses of action
11 regardless of whether the agent or broker was licensed by the
12 department:

13 (1) Suspend or revoke or refuse to renew the license of
14 offending party or parties.

15 (2) Impose a civil penalty of not more than \$1,000 for
16 each act in violation of any of the ~~criminal provisions~~ <—
17 PROVISIONS LISTED IN THIS SUBSECTION. <—

18 (b) Hearing.--The department shall hold a hearing before
19 taking action under subsection (a). It shall give written notice
20 of the hearing to the person or entity accused, stating
21 specifically the nature of the alleged violation and fixing a
22 time and place, at least ten days thereafter, when the hearing
23 shall be held.

24 (c) Criminal penalty.--Any agent of any insurance entity,
25 insurance broker or other person ~~or corporation~~ violating <—
26 section 1143 (relating to commingling funds), 1145 (relating to
27 offering rebates and inducements), 1146 (relating to acceptance
28 of rebates), 1147 (relating to misrepresentation of policy
29 terms) or 1148 (relating to misrepresentation to induce change
30 of insurers) commits a misdemeanor of the third degree.

(d) Production of evidence.--A person shall not be excused from testifying, or from producing any books, papers, contracts or documents, at any hearing held by the department or at the trial or hearing before any magistrate or judge, of any person charged with violating section 1145, 1146, 1147 or 1148 on the ground that the testimony or evidence may tend to incriminate himself, but no person shall be prosecuted for any act concerning which he shall be compelled to testify or produce evidence except for perjury committed in testifying.

§ 1150. Lending institutions, public utilities and holding companies not to be licensed.

(a) General rule.--No lending institution, public utility, bank holding company, savings and loan holding company or any subsidiary or affiliate of the foregoing, or officer or employee thereof, may, directly or indirectly, be licensed or admitted as an insurer or be licensed to sell insurance in this Commonwealth either as a broker or as an agent except that a lending institution or bank holding company, subsidiary or affiliate of a lending institution may be licensed to sell credit life, health and accident insurance and to sell and underwrite title insurance in accordance with regulations promulgated by the department.

(b) Authority of department.--The department is authorized to promulgate regulations in order to effectuate the purposes of this section, which are to help maintain the separation between lending institutions and public utilities and the insurance business and to minimize the possibilities of unfair competitive practices by lending institutions and public utilities against insurance companies, agents and brokers.

(c) Exclusion.--The provisions of this section do not apply

1 to any lending institution, bank holding company, savings and
2 loan holding company, public utility or public utility holding
3 company, or any subsidiary or affiliate of the foregoing, or any
4 officer, director or employee thereof licensed as an insurance
5 agent or broker or insurer in this Commonwealth on or before
6 February 28, 1975.

7 (d) Definitions.--As used in this section the following
8 words and phrases shall have the meanings given to them in this
9 subsection:

10 "Bank holding company." As defined in section 2 of the Bank
11 Holding Company Act of 1956 (70 Stat. 133, 12 U.S.C. § 1841).
12 However, if on or before February 28, 1975, a bank holding
13 company has been granted an exemption by the Board of Governors
14 of the Federal Reserve System pursuant to section 4(d) of the
15 Bank Holding Company Act of 1956 (12 U.S.C. § 1843(d)), such
16 bank holding company shall not be held to be a bank holding
17 company within the meaning of section 2 of the Bank Holding
18 Company Act of 1956 (12 U.S.C. § 1841).

19 "Credit life, health and accident insurance." Insurance on
20 the life and health of a borrower from a lending institution to
21 secure the repayment of the amount borrowed, in accordance with
22 regulations promulgated by the department.

23 "Deposits." As defined in section 2(3)(1) of the Federal
24 Deposit Insurance Act (64 Stat. 873, 12 U.S.C. § 1813(1)).

25 "Lending institution." Any institution that accepts deposits
26 and lends money in this Commonwealth, including banks and
27 savings and loan associations, but excluding insurance
28 companies.

29 "Public utility." A private employer subject to the
30 jurisdiction of the Pennsylvania Public Utility Commission and

1 engaged in the business of rendering electric, gas, water and
2 steam heat services to the public in this Commonwealth. However,
3 the term does not include rural electrification cooperatives.

4 "Public utility holding company." As defined in section
5 2(a)(7) of the Public Utility Holding Company Act of 1935 (49
6 Stat. 838, 15 U.S.C. § 79b(a)(7)), including electric, gas,
7 water and steam heat services.

8 "Savings and loan holding company." As defined in section
9 408(a)(1)(D), (E) and (F) of the act of June 27, 1934 (48 Stat.
10 1255, 12 U.S.C. § 1730a(a)(1)(D), (E) and (F)).

11 "Subsidiary" or "affiliate." As defined in the regulations
12 promulgated by the department, except that "affiliate" does not
13 apply to an entity which owns an interest in another company or
14 corporation where the ownership interest is not sufficient to
15 permit exercise of effective control, and does not involve
16 direct or indirect ownership or control of 5% or more of the
17 voting stock of such company or corporation, nor does it apply
18 to an entity whose stock is owned by another, if the amount of
19 stock owned by any one company or corporation does not permit
20 effective control and does not exceed 5% of the voting stock of
21 the entity. The term "affiliate" does, subject to the provisions
22 to invest in stock contained in this subsection, include bank
23 holding company, savings and loan holding company, and public
24 utility holding company as defined in this subsection.

25 "Title insurance." As defined in section 6701 (relating to
26 definitions).

27 SUBCHAPTER E

28 MANAGERS AND EXCLUSIVE GENERAL AGENTS

29 Sec.

30 1161. Certification.

1 1162. Licensure.

2 1163. Exclusion, sale or transfer.

3 1164. Revocation and suspension of license.

4 1165. Penalties.

5 § 1161. Certification.

6 Every domestic insurance company operating under a management
7 contract or an exclusive general agency agreement entered into
8 after December 22, 1965, shall certify to the department the
9 name of the manager or exclusive general agent within ten days
10 from the effective date of the contract or agreement and within
11 ten days after the renewal of the license of the manager or
12 exclusive general agent. Certification is not required for an
13 agent or general agent whose authority is limited primarily to
14 production of insurance business with limited underwriting
15 authority. For the purpose of this subchapter the terms
16 "manager" and "exclusive general agent" include partnerships or
17 corporations.

18 § 1162. Licensure.

19 (a) General rule.--A manager or exclusive general agent,
20 except an agent or general agent whose authority is limited
21 primarily to production of insurance business with limited
22 underwriting authority, shall not engage in any activities for
23 which the manager or exclusive general agent is authorized,
24 empowered or designated by a domestic insurance company unless
25 he has been licensed as such by the department.

26 (b) Qualifications.--Upon application filed under rules and
27 regulations prescribed by the department, a manager's license or
28 an exclusive general agent's license may be issued if the
29 department is satisfied that the applicant is of good business
30 reputation and has the responsibility, general character and

1 fitness for the business and that the applicant is worthy of the
2 license.

3 (c) Duration and fee.--Licenses issued under this section
4 shall be in effect for a period of one year from date of
5 issuance. The department shall charge and collect the annual
6 license fee.

7 § 1163. Exclusion, sale or transfer.

8 A manager or exclusive general agent operating under any
9 management contract or exclusive general agency agreement
10 entered into prior to December 22, 1965, shall not be subject to
11 section 1162 (relating to licensure). However, any sale,
12 assignment or transfer of any management contract or exclusive
13 general agency agreement, whether or not the contract or
14 agreement was entered into before December 22, 1965, shall make
15 the purchaser, assignee or transferee subject to the licensing
16 provisions of section 1162, and the companies shall make the
17 certification under section 1161 (relating to certification).

18 § 1164. Revocation and suspension of license.

19 (a) Power to discipline licensee.--The department, upon
20 satisfactory evidence of conduct that would disqualify a
21 licensed manager or exclusive general agent from initial
22 issuance of a license under section 1162 (relating to
23 licensure), may suspend or revoke or refuse to renew the license
24 of the manager or exclusive general agent.

25 (b) Hearing.--The department shall hold a hearing before
26 taking action under subsection (a). It shall give written notice
27 of the hearing to the manager or exclusive general agent,
28 stating specifically the nature of the alleged conduct and
29 fixing a time and place at least ten days thereafter when the
30 hearing shall be held.

1 § 1165. Penalties.

2 (a) Acting without license.--Any individual, partnership or
3 corporation acting as a manager or exclusive general agent of a
4 domestic insurance company without a license under this
5 subchapter commits a misdemeanor of the third degree. Each day
6 the violation continues constitutes a separate offense.

7 (b) Failure to certify.--Any domestic insurance company
8 which fails to file the certification required by section 1161
9 (relating to certification) commits a misdemeanor of the third
10 degree. Each day the violation continues constitutes a separate
11 offense.

12 (c) Authority to prosecute.--Prosecutions for violations
13 referred to in this section may be instituted by the department.

14 SUBCHAPTER F

15 PUBLIC ADJUSTERS AND SOLICITORS

16 Sec.

17 1171. Definitions.

18 1172. Licensure.

19 1173. Fees.

20 1174. Bonds.

21 1175. Contracts.

22 1176. Penalties.

23 1177. Violations.

24 1178. REGULATIONS.

<—

25 § 1171. Definitions.

26 The following words and phrases when used in this subchapter
27 shall have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Public adjuster." Any person, advertising, soliciting
30 business or holding himself out to the public as an adjuster of

1 claims for losses or damages arising out of policies of
2 insurance, surety or indemnity upon property, persons or
3 insurable business interests in this Commonwealth, and receiving
4 any compensation or reward for the giving of advice or
5 assistance to the insured in the adjustment of claims for such
6 losses, or who for compensation or reward, whether by way of
7 salary or commission or otherwise, solicits business,
8 investigates or adjusts losses or advises the insured with
9 reference to claims for losses on behalf of any other person
10 engaged in the business of adjusting losses. The term does not
11 include an agent or employee of an insurance entity through whom
12 a policy of insurance was written, in adjusting loss or damage
13 under such policy, nor does it include a broker or agent acting
14 as an adjuster if the services of the agent or broker in the
15 adjustment are without compensation.

16 "Public adjuster solicitor." Any person who solicits for a
17 fee or in any manner aids in securing for a public adjuster a
18 contract for the adjustment of a loss.

19 "Repairs." Does not include temporary or emergency repairs
20 made for the purpose of protecting the insured property or to
21 comply with policy terms and conditions.

22 § 1172. Licensure.

23 (a) Requirement of license.--A person shall not act as a
24 public adjuster or a public adjuster solicitor without first
25 procuring from the department a license as a public adjuster or
26 public adjuster solicitor, respectively.

27 (b) Power to issue licenses.--The department may issue a
28 license as a public adjuster or public adjuster solicitor to any
29 individual of at least 18 years of age and to any corporation,
30 partnership or association which maintains a bona fide office in

1 this Commonwealth, readily accessible to the general public.

2 (c) Limitations.--A license shall not be granted to any
3 corporation unless by its charter it is authorized to engage in
4 the business of insurance claim adjusting and unless individual
5 licenses are also secured for each active officer of the
6 corporation. A license shall not be granted to a partnership or
7 association unless individual licenses are also secured for each
8 active member of the partnership or association.

9 (d) Application for license.--Before the license is granted,
10 the applicant shall first complete a verified application in a
11 form determined by the department. Any applicant who has held
12 such a license for a period of at least two years prior to
13 December 20, 1983, shall be entitled upon proper application to
14 receive a license without the necessity of submitting to an
15 examination.

16 (e) Approval of license.--When the department is satisfied
17 that the applicant is trustworthy and competent to transact
18 business as a public adjuster or public adjuster solicitor,
19 respectively, it shall issue a license.

20 (f) Nonresident public adjusters and public adjuster
21 solicitors.--The department may issue a license as public
22 adjuster or public adjuster solicitor to a person not a resident
23 of this Commonwealth, upon compliance with the applicable
24 provisions of this subchapter, if the state or the province of
25 the Dominion of Canada of his residence accords the same
26 privilege to a resident of this Commonwealth. The provisions of
27 this subsection relating to noneligibility for licensure do not
28 apply to any nonresident public adjusters and public adjuster
29 solicitors who did business in this Commonwealth as licensed
30 public adjusters or public adjuster solicitors prior to December

20, 1983. The department may enter into reciprocal agreements with the appropriate official of the other state or province waiving the written examination of any applicant resident in the other state if:

(1) a written examination is required of applicants for an insurance public adjuster or public adjuster solicitor license in the other state or province;

(2) the appropriate official of the other state or province certifies that the applicant holds a currently valid license as a public adjuster or public adjuster solicitor in the other state or province and either passed the written examination or was the holder of an insurance agent's license prior to the time a written examination was required; and

(3) in the other state or province a resident of this Commonwealth may obtain a public adjuster or public adjuster solicitor license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of the other state or province.

(g) Persons ineligible for license.--A license as a public adjuster or public adjuster solicitor shall not be issued to any person engaged or interested in, or receiving any profit from, nor shall the holder of a license engage or be interested in, or receive any profit from, any salvage or similar business.

§ 1173. Fees.

(a) Public adjuster's license.--The applicant shall pay the fee to the department for a public adjuster's license at the time application is made and annually thereafter for renewal. If the applicant is a corporation, partnership or association, the fee shall be paid for each individual specified in the license.

(b) Public adjuster solicitor's license.--The applicant

1 shall pay the fee to the department for a public adjuster
2 solicitor's license at the time application is made and annually
3 thereafter for renewal. If the applicant is a corporation,
4 partnership or association, the fee shall be paid for each
5 individual specified in the license.

6 § 1174. Bonds.

7 (a) Public adjuster's bond.--Each person receiving a public
8 adjuster's license shall before transacting any business
9 thereunder execute and deliver to the department a bond in the
10 minimum penal sum of \$40,000 with such sureties as the
11 department approves.

12 (b) Public adjuster solicitor's bond.--Each person receiving
13 a public adjuster solicitor's license shall before transacting
14 any business thereunder execute and deliver to the department a
15 bond in the minimum penal sum of \$8,000 with such sureties as
16 the department approves.

17 (c) Condition of bond.--The bond of the public adjuster and
18 the public adjuster solicitor shall be conditioned that the
19 public adjuster or public adjuster solicitor will faithfully
20 comply with all the requirements of this subchapter and shall
21 not embezzle, take, secrete or otherwise dispose of or
22 fraudulently withhold, appropriate, lend, invest or otherwise
23 use or apply any money or substitutes for money or any salvage,
24 goods or property received by him as a public adjuster or public
25 adjuster solicitor or employee of a public adjuster, contrary to
26 the instructions or without the consent of the insured or his
27 legal representative.

28 (d) Intervention in action by Commonwealth.--Any person,
29 firm or corporation who has entered into a contract with a
30 public adjuster, as provided in section 1175 (relating to

1 contracts), and who suffers loss by reason of the failure of the
2 public adjuster to comply with this subchapter or to faithfully
3 perform his duties may intervene and be made a party to any
4 action instituted by the Commonwealth on the bond of the public
5 adjuster, but his claims shall be subject to the priority of the
6 claim and judgment of the Commonwealth. If the amount of the
7 liability of the surety on the bond is sufficient to pay the
8 full amount due the Commonwealth, the remainder shall be
9 distributed pro rata among the intervenors.

10 (e) Private action.--If no action is brought by the
11 Commonwealth, upon application therefor and furnishing affidavit
12 to the department that loss has been suffered by reason of
13 failure of the public adjuster to comply with this subchapter or
14 faithfully perform his duties, the insured shall be furnished
15 with a certified copy of the bond, upon which he shall have a
16 right of action and may bring action in the name of the
17 Commonwealth for his use and benefit against the public adjuster
18 and his sureties. An action by any insureds on the bond of the
19 public adjuster shall be commenced within one year after the
20 performance and final settlement of the contract. Where an
21 action is so instituted by an insured, no other action shall be
22 brought by any other claimant, but the claimant may file his
23 claim in the action first brought and be made party thereto
24 within one year from the completion of the work under the
25 contract. If two or more actions are brought on the same day,
26 the action in which the largest claim is demanded shall be
27 regarded as the first action. Any creditor who has brought an
28 action within one year but after action brought by another
29 creditor, may intervene in the action first brought within the
30 year, notwithstanding the fact that the intervention in such

1 case is after the expiration of the year, but only within 30
2 days after the expiration of the year. If the recovery on the
3 bond is inadequate to pay the amounts found due to all of the
4 creditors, judgment shall be given to each creditor pro rata of
5 the amount of the recovery.

6 (f) Payment into court.--The surety on the bond may pay into
7 the court for distribution among the claimants and creditors,
8 the penalty named in the bond, less any amount which the surety
9 is or was required to pay to the Commonwealth by reason of the
10 execution of the bond. Upon so doing, the surety will be
11 relieved from further liability.

12 (g) Notice.--In all actions instituted under this
13 subchapter, such personal notice of the pendency of the action,
14 informing them of their right to intervene, as the court may
15 order, shall be given to all known creditors. Notice shall be
16 given by publication in newspapers of general circulation
17 published in the municipality where the contract was performed
18 once a week for at least three successive weeks; however, if the
19 action is begun within three weeks of the end of the year within
20 which action may be brought, notice by publication shall be only
21 for the period intervening between the time of instituting the
22 action and the end of the year.

23 § 1175. Contracts.

24 (a) Form of contract.--A public adjuster shall not, directly
25 or indirectly, act in this Commonwealth as a public adjuster
26 without having entered into a written contract on a form
27 approved by the department and executed in duplicate by the
28 public adjuster and the insured or a duly authorized
29 representative. One copy of this contract shall be kept on file
30 by the public adjuster and available at all times for inspection

1 without notice by the department. A public adjuster solicitor
2 shall not use any form of contract other than that approved for
3 the public adjuster for whom he is soliciting, nor shall he make
4 any contracts or agreements for himself or for the public
5 adjuster other than those specified in the approved contract.

6 (b) Solicitation.--A public adjuster or public adjuster
7 solicitor shall not solicit a client for employment within 24
8 hours of a fire or other catastrophe or occurrence which is the
9 basis of the solicitation. With respect to a fire, the 24-hour
10 period shall begin at such time as the fire department in charge
11 determines that the fire is extinguished.

12 (c) Rescission.--Any contract with a public adjuster may be
13 rescinded by any person signing the contract. Such action must
14 be taken within four calendar days after signature.

15 (d) Limitations on authority.--A public adjuster or public
16 adjuster solicitor shall not adjust or solicit a contract for
17 the adjustment of any claim for losses or damages on behalf of
18 any person except claims by an insured against his own insurance
19 carrier. A public adjuster or public adjuster solicitor shall
20 not act in any manner in relation to claims for personal injury
21 or automobile property damage. A public adjuster or public
22 adjuster solicitor shall not, directly or indirectly, through or
23 with any person in which it has an indirect or beneficial
24 interest, enter into any contract with any insured for the
25 repair, replacement, restoration, renovation or demolition of
26 damaged real or personal property at any time prior to the date
27 a verdict or award is entered or payment is received from the
28 insurance carrier, whichever occurs first.

29 (E) REGULATIONS.--THE DEPARTMENT MAY ISSUE REGULATIONS TO
30 ASSURE THE IMPLEMENTATION OF THIS SECTION.

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1 § 1176. Penalties.

2 (a) Grounds.--The following acts shall be grounds for a fine
3 or suspension or revocation of a public adjuster's or public
4 adjuster solicitor's license:

5 (1) Material misrepresentation of the terms and effect
6 of any insurance contract.

7 (2) Engaging in, or attempting to engage in, any
8 fraudulent transaction with respect to a claim or loss that
9 licensee is adjusting.

10 (3) Misrepresentation of the services offered or the
11 fees or commission to be charged.

12 (4) Conviction by any court of or a plea of nolo
13 contendere to a felony under the laws of this Commonwealth,
14 any other state, the United States or any foreign country.

15 (5) Misappropriation, conversion to his own use or
16 improper withholding of moneys held on behalf of another
17 party to the contract.

18 (6) Paying or causing to be paid any commission or any
19 other compensation or thing of value to any agent, broker,
20 attorney at law, partner, employee or any other person, hired
21 by or employed by or with any insured named in any policy of
22 insurance as an inducement or solicitation to influence the
23 contracting of services for the services of public adjuster
24 or public adjuster solicitor with any insured. A public
25 adjuster may utilize the services of any person authorized by
26 the insurer to assist in connection with an insurance claim
27 if those services do not conflict with the services required
28 to be rendered by a public adjuster.

29 (7) Receiving, directly or indirectly, any compensation,
30 commission or thing of value or profit from any person

1 engaged or interested in the business of salvage, repair,
2 replacement, restoration, renovation or demolition of damaged
3 real or personal property, unless disclosed to the insured
4 and agreed to in the contract.

5 (8) Removal of a public adjuster's or a public adjuster
6 solicitor's office, accounts or records from this
7 Commonwealth.

8 (9) Closure of a licensee's office for a period in
9 excess of 30 days, unless granted permission to do so by the
10 department.

11 (10) Violation of any provision of this subchapter or
12 any rule or regulation promulgated thereunder.

13 (11) Making a material misstatement in the application
14 for any license under this subchapter.

15 (12) Commission of fraudulent practices.

16 (13) Incompetency or untrustworthiness to transact the
17 business of a public adjuster.

18 (b) Civil penalty.--Regardless of whether or not the public
19 adjuster or public adjuster solicitor was licensed, the
20 department may impose a civil penalty of not more than \$1,000
21 for each violation of this subchapter.

22 (c) Notice and hearing.--The department shall hold a hearing
23 before taking any action under this section. It shall give
24 written notice of the hearing to the person accused of violating
25 the law, stating specifically the nature of the alleged
26 violation and fixing a time and place, at least ten days
27 thereafter, when the hearing shall be held.

28 (d) Responsibility of adjusters and solicitors.--Any public
29 adjuster or public adjuster solicitor employing or using the
30 services of any person to solicit business shall be held

1 responsible for the conduct of that person in connection with
2 business dealings, including, but not limited to, making certain
3 that he has a valid license as a public adjuster or public
4 adjuster solicitor.

5 § 1177. Violations.

6 Any person violating any of the provisions of this subchapter
7 commits a misdemeanor of the third degree. Prosecutions for
8 violations under this section may be instituted by the
9 department or an authorized representative.

10 § 1178. REGULATIONS.

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11 THE DEPARTMENT SHALL ADMINISTER AND ENFORCE THIS SUBCHAPTER
12 AND SHALL PRESCRIBE, PUBLISH, ADOPT AND PROMULGATE REGULATIONS
13 IN CONNECTION WITH THE ADMINISTRATION AND ENFORCEMENT OF THIS
14 SUBCHAPTER.

15 SUBCHAPTER G

16 MOTOR VEHICLE PHYSICAL DAMAGE APPRAISERS

17 Sec.

18 1181. Short title of subchapter.

19 1182. Legislative intent.

20 1183. Definitions.

21 1184. Licensure.

22 1185. Expiration and renewal.

23 1186. Denial, suspension, revocation or refusal to renew
24 license.

25 1187. Hearings and appeals.

26 1188. Conduct of business.

27 1188.1. REGULATIONS.

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28 1189. Penalty.

29 § 1181. Short title of subchapter.

30 This subchapter shall be known and may be cited as the Motor

1 Vehicle Physical Damage Appraiser Act.

2 § 1182. Legislative intent.

3 This subchapter does not apply unless an appraisal has been
4 assigned. Recognition is given to the fact that many minor
5 damage claims do not require a formal appraisal, and to require
6 such an appraisal would be an undue burden upon the parties
7 involved.

8 § 1183. Definitions.

9 The following words and phrases when used in this subchapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Appraiser." A person who practices the appraisal of motor
13 vehicle physical damage.

14 "Insurer." Includes self-insurers.

15 § 1184. Licensure.

16 (a) General rule.--A person shall not, directly or
17 indirectly, act or hold himself out as an appraiser unless he
18 has first secured a license from the department under this
19 subchapter. The department shall issue an appraiser's license to
20 every person who applies therefor, pays the fee, passes the
21 required examinations and otherwise is found by the department
22 to possess the qualifications for licensure under this
23 subchapter.

24 (b) Qualifications.--No person shall be licensed as an
25 appraiser unless he first establishes his qualifications
26 therefor and passes the examination. The applicant for the
27 license shall be at least 18 years of age, shall be a resident
28 of this Commonwealth or a resident of any other state or country
29 which permits residents of this Commonwealth to act as
30 appraisers in that state or country, shall be trustworthy and

1 shall otherwise establish to the satisfaction of the department
2 that he has had sufficient experience or special education or
3 training with reference to appraising of physical damage to
4 motor vehicles to permit him to fulfill competently the
5 responsibilities of an appraiser.

6 (c) Applications.--Applications for the license shall be
7 made to the department upon forms prescribed and furnished by
8 the department and shall be accompanied by the fee required
9 under section 612-A(5) of the act of April 9, 1929 (P.L.177,
10 No.175), known as The Administrative Code of 1929. The fee shall
11 not be returnable upon failure to pass the examination. Each
12 applicant shall provide the department with such information
13 concerning his identity and personal history, and such other
14 information as shall be necessary to establish his
15 qualifications.

16 (d) Examinations.--The examination for licensure shall be
17 given under the supervision of the department. It shall consist
18 of a written examination that shall include the appraisal of one
19 or more damaged motor vehicles and an oral examination. At the
20 discretion of the department, an oral examination in lieu of the
21 written examination may be given, but only for reason of the
22 physical handicap of the applicant. An oral examination shall
23 include the appraisal of one or more damaged motor vehicles. The
24 examinations shall be given at reasonable times and places
25 within this Commonwealth. Any applicant who fails to pass the
26 examination may not retake the examination for 30 days from the
27 date of his failure. The department shall prepare and make
28 available to applicants a manual setting forth in general terms
29 the subject matter to be covered in the examination.

30 (e) Form of license.--The department shall prescribe the

1 form of the license, which shall contain:

2 (1) The name of the appraiser.

3 (2) The address of the appraiser's place of business.

4 (3) The date of issuance and the expiration date of the
5 license.

6 (4) Any other information which the department
7 determines is necessary.

8 § 1185. Expiration and renewal.

9 Each appraiser's license shall expire annually on June 30.

10 Subject to the right of the department to suspend, revoke or
11 refuse to renew an appraiser's license, any such license may be
12 renewed for another annual period commencing July 1 and expiring
13 on June 30 next following by filing with the department on or
14 before the expiration date a written request for renewal, by or
15 on behalf of the licensee, accompanied by payment of the renewal
16 fee required under section 612-A(5) of the act of April 9, 1929
17 (P.L.177, No.175), known as The Administrative Code of 1929. If
18 the request, accompanied by the renewal fee, is filed with the
19 department prior to the expiration of the existing license, the
20 licensee may continue to act under the license, unless sooner
21 revoked or suspended, until the issuance of the renewal license
22 or until five days after the department has refused to renew the
23 license and has mailed notice of refusal to the licensee. Any
24 request for renewal not so filed until after the date of
25 expiration may be considered by the department as an application
26 for a new license.

27 § 1186. Denial, suspension, revocation or refusal to renew
28 license.

29 (a) Grounds.--The department may deny initial issuance of,
30 suspend, revoke or refuse to renew any appraiser's license for

any cause specified in this subchapter, or for any of the following causes:

(1) For any cause for which issuance of the license could have been refused had it existed and been known to the department.

(2) The licensee has willfully violated or failed to comply with or has knowingly participated in the violation of or failure to comply with this subchapter or any regulation promulgated thereunder.

(3) The licensee has obtained or attempted to obtain any such license through willful misrepresentation or fraud, or has failed to pass any examination required under this subchapter.

(4) The licensee has, with intent to deceive, materially misrepresented the terms or effect of any insurance contract, or has engaged or is about to engage in any fraudulent transaction.

(5) The licensee has been convicted of a felony.

(6) In the conduct of his affairs under the license, the licensee has shown himself to be, and is so deemed by the department, incompetent, untrustworthy or a source of injury and loss to the public.

(b) Period of suspension.--Any order suspending the license shall specify the period during which the suspension will be effective, which shall not exceed 12 months.

(c) Surrender of license.--The holder of any license which has been revoked or suspended shall surrender the license to the department at the department's request.

(d) Reinstatement or relicensure.--The department shall not reinstate the license or relicensure any person whose license has

1 been suspended or revoked or the renewal of whose license has
2 been refused while the cause for the suspension, revocation or
3 refusal of renewal persists.

4 § 1187. Hearings and appeals.

5 Except as otherwise provided in this subchapter, all actions
6 of the department shall be taken subject to the right of notice,
7 hearing and adjudication, and the right of appeal therefrom as
8 provided by law.

9 § 1188. Conduct of business.

10 (a) Display of license.--An appraiser, while engaged in
11 appraisal duties, shall carry the license and shall display it,
12 upon request, to an owner whose vehicle is being inspected, to
13 the repair shop representative involved or to any authorized
14 representative of the department.

15 (b) Appraisals.--The appraiser shall leave a legible copy of
16 his appraisal with that of the repair shop selected by the
17 consumer to make the repairs and furnish a copy to the owner of
18 the vehicle. This appraisal shall contain the name of the
19 insurance company ordering it, if any, the insurance file
20 number, the number of the appraiser's license and the
21 identification number of the vehicle being inspected. All
22 unrelated or old damage should be clearly indicated on the
23 appraisal. The appraisal shall include an itemized listing of
24 all damages, specifying those parts to be replaced or repaired.
25 Because an appraiser is charged with a high degree of regard for
26 the public safety, the operational safety of the vehicle shall
27 be paramount in considering the specification of new parts. This
28 consideration is vitally important where the parts involved
29 pertain to the drive train, steering gear, suspension units,
30 brake system or tires.

1 (c) Required acts.--Every appraiser shall do the following:

2 (1) Conduct himself in such a manner as to inspire
3 public confidence by fair and honorable dealings.

4 (2) Approach the appraisal of damaged property without
5 prejudice against, or favoritism toward, any party involved
6 in order to make fair and impartial appraisals.

7 (3) Disregard any efforts on the part of others to
8 influence his judgment in the interest of the parties
9 involved.

10 (4) Prepare an independent appraisal of damage.

11 (5) Inspect a vehicle within six working days of
12 assignment to him unless such circumstances as catastrophe,
13 death or failure of the parties to cooperate render such
14 inspection impossible.

15 (6) Promptly reinspect damaged vehicles prior to repair
16 when a supplementary allowance is requested by a repair shop
17 and the amount or extent of damage is in dispute.

18 (d) Prohibited acts.--AN APPRAISER OR EMPLOYER OF AN
19 APPRAISER SHALL NOT REQUIRE THAT REPAIRS BE MADE IN ANY
20 SPECIFIED REPAIR SHOP. An appraiser shall not do the following:

21 (1) Receive, directly or indirectly, any gratuity or
22 other consideration in connection with his appraisal services
23 from any person except his employer or, if self-employed, his
24 customer.

25 (2) Traffic in automobile salvage if such salvage is
26 obtained as a result of appraisal services rendered by him
27 for his own benefit.

28 (3) Obtain or use repair estimates that have been
29 obtained by the use of photographs, telephone calls or in any
30 manner other than a personal inspection.

<—

1 ~~An appraiser or employer of an appraiser shall not require that~~ <—
2 ~~repairs be made in any specified repair shop.~~

3 § 1188.1. REGULATIONS. <—

4 THE DEPARTMENT SHALL ADMINISTER AND ENFORCE THIS SUBCHAPTER
5 AND SHALL PRESCRIBE, ADOPT AND PROMULGATE REGULATIONS IN
6 CONNECTION WITH THE ADMINISTRATION AND ENFORCEMENT OF THIS
7 SUBCHAPTER.

8 § 1189. Penalty.

9 Any person who violates this subchapter commits a misdemeanor
10 of the third degree.

11 SUBCHAPTER H

12 PUBLIC REMEDIES FOR UNLICENSED ACTIVITY

13 Sec.

14 1191. Injunction or other process.

15 § 1191. Injunction or other process.

16 (a) Authority to file.--The department, upon advice of the
17 Attorney General, may maintain an action in the name of the
18 Commonwealth for an injunction or other process against any
19 person to restrain and prevent him from transacting business as
20 an agent of any insurance entity or as an insurance broker,
21 manager or exclusive general agent of a domestic insurance
22 entity, or as a public adjuster or public adjuster solicitor
23 without a license, in violation of this chapter.

24 (b) Bonds and costs.--A bond shall not be required of and
25 costs shall not be taxed against the department on account of
26 any such action.

27 (c) Construction of section.--An action brought under this
28 section does not prevent the prosecution or institution of any
29 civil or criminal action otherwise provided by law for violation
30 of any licensing statute or departmental regulation promulgated

1 thereunder.

2 CHAPTER 13

3 UNLICENSED INSURERS

4 Sec.

5 1301. Purpose of chapter.

6 1302. Definitions.

7 1303. Aiding unlicensed insurers.

8 1304. Surplus lines insurance.

9 1305. Exclusions.

10 1306. Declarations.

11 1307. Eligible surplus lines insurers.

12 1308. Licensure of surplus lines agents.

13 1309. Bond of surplus lines agents.

14 1310. Penalties.

15 1311. Surplus lines tax.

16 1312. Information required on contract.

17 1313. ~~(Reserved)~~ REGULATIONS.

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18 1314. Rights of insured.

19 1315. Penalties.

20 § 1301. Purpose of chapter.

21 The purpose of this chapter is to:

22 (1) Promote the public welfare and to protect the public
23 interest by regulating, taxing, supervising and controlling
24 the placing of insurance on risks located in this
25 Commonwealth with insurers not licensed to transact insurance
26 business in this Commonwealth.

27 (2) Protect citizens of this Commonwealth purchasing
28 insurance from unlicensed insurers.

29 (3) Define and regulate the persons through whom
30 insurance may be placed.

(4) Protect licensed insurers from unregulated and unfair competition from unlicensed insurers.

(5) Establish reasonable standards to be met by unlicensed insurers.

§ 1302. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Eligible surplus lines insurer." An unlicensed entity which has been so designated by the department under this chapter.

"Insured." Any person who procures insurance on a subject of insurance resident, located or to be performed in this Commonwealth.

"Licensed insurer." An entity licensed and authorized by the department to transact any insurance business in this Commonwealth.

"Producing broker." A person licensed as an insurance broker under this title, who is acting as a representative of the insured or prospective insured in a transaction involving placement of insurance coverage with an unlicensed insurer and who may receive a commission therefor.

"Surplus lines activity." Any business activity incident to the placement of insurance with an unlicensed insurer, except the performance of routine accounting or clerical tasks.

"Surplus lines agent." A person who is licensed as such by the department to effect placement of insurance coverage with an unlicensed insurer and who may receive a commission therefor.

"Unlicensed insurer." An entity which is not a licensed insurer.

§ 1303. Aiding unlicensed insurers.

1 (a) General rule.--A person in this Commonwealth shall not
2 directly or indirectly act as agent for, or otherwise represent
3 or aid on behalf of another, any insurer not licensed to
4 transact insurance in this Commonwealth in the solicitation,
5 negotiation, procurement, effectuation or renewal of insurance,
6 forwarding of applications, delivery of policies or contracts or
7 inspection of risks, fixing of rates, investigation or
8 adjustment of claims or losses, collection or forwarding of
9 premiums, or in any other manner represent or assist the insurer
10 in the transaction of insurance.

11 (b) Exceptions.--Subsection (a) does not apply to:

12 (1) Surplus lines insurance effected and written under
13 this chapter.

14 (2) Transactions subsequent to issuance of a policy not
15 covering domestic risks at time of issuance and lawfully
16 solicited, written or delivered outside this Commonwealth.

17 § 1304. Surplus lines insurance.

18 (a) Requirements for placement.--Insurance shall not be
19 placed with an unlicensed insurer by a surplus lines agent
20 unless the insurance meets each of the following requirements:

21 (1) The full amount of insurance required is not
22 procurable, after the producing broker has made a diligent
23 effort to do so, from licensed insurers authorized to
24 transact the class of insurance involved and which actually
25 do accept in the usual course of business insurance on risks
26 of the same class as the particular risk proposed.

27 (2) The surplus lines agent handling the transaction is
28 not aware of any licensed insurer satisfactory to the insured
29 from which the desired coverage may be obtained.

30 (3) The premium rate at which insurance is placed in an

1 unlicensed insurer is not lower than the lowest published
2 rate which has been approved by the department for use by any
3 licensed insurer.

4 (4) The policy or contract form used by the insurer does
5 not differ materially from policies or contracts customarily
6 used by licensed insurers for the class of insurance for the
7 class of insurance involved. However, coverage may be placed
8 with an unlicensed insurer using a unique form of policy
9 designed for the particular subject of insurance if a copy of
10 the form is first filed with the department by the surplus
11 lines agent desiring to use it. The form shall be deemed
12 approved by the department unless within ten days after
13 receipt the department finds that the use of the form will be
14 contrary to law or public policy.

15 (b) Diligent effort.--The requirements for the diligent
16 effort to procure insurance from licensed insurers under
17 subsection (a)(1) shall be as follows:

18 (1) At least three licensed insurers, all of which
19 actually issue insurance on the class in question in their
20 normal course of business, refuse to insure the particular
21 risk or refuse to increase the amount of insurance on the
22 risk.

23 (2) This refusal is made by a full-time employee of the
24 insurer in question, or a full-time employee of a firm acting
25 in the capacity of underwriting manager for the insurer;
26 refusal by the producing broker in his capacity as an agent
27 of an insurer, or by any other "local agent," as the term is
28 generally used in the insurance business, shall not be deemed
29 a refusal for the purpose of this section.

30 (c) Renewals.--Any insurance which has been placed

1 continuously with an unlicensed insurer for a period of not less
2 than three consecutive years immediately preceding the current
3 placement may be placed with the unlicensed insurer. In this
4 case, neither the producing broker nor the surplus lines agent
5 shall be required to execute the declaration required by section
6 1306(a) (relating to declarations).

7 § 1305. Exclusions.

8 The provisions of this chapter do not apply to the following:

9 (1) Life insurance and annuities.

10 (2) Reinsurance.

11 (3) Insurance on the property and operation of railroads
12 or aircraft engaged in interstate or foreign commerce,
13 insurance of vessels, crafts or hulls, cargoes, marine
14 builders' risks, marine protection and indemnity, lessees and
15 charterers' liability or other risks, including strikes and
16 war risks commonly insured under ocean or wet marine forms of
17 policies.

18 (4) Insurance on subjects located, resident or to be
19 performed wholly outside this Commonwealth.

20 (5) Title insurance.

21 § 1306. Declarations.

22 (a) Initial placements.--In the case of each placement of
23 insurance with an unlicensed insurer under section 1304(a) or
24 (b) (relating to surplus lines insurance), both the producing
25 broker and surplus lines agent shall execute written
26 declarations in a form prescribed by the department, the
27 producing broker as to his having made a diligent effort to
28 procure the desired coverage from licensed insurers, and the
29 surplus lines agent as to his lack of knowledge as to how the
30 coverage can be obtained from licensed insurers. If the

1 producing broker and surplus lines agent are one and the same
2 entity, he shall execute both declarations. Within 21 days after
3 insurance which has been placed with an unlicensed insurer
4 becomes effective, the surplus lines agent shall file with the
5 department his own written declaration and the written
6 declaration of the producing broker, as set forth in this
7 subsection, and shall at that time advise the department of the
8 identity of any unlicensed insurer from which he has obtained
9 the insurance and other information in such form as the
10 department shall prescribe. ~~The surplus lines agent shall~~ <—

11 ~~maintain in his office written records showing the exact amount~~
12 ~~of insurance placed, the name of the insured, the subject of the~~
13 ~~insurance, a description of the coverage, the gross premium, the~~
14 ~~name of the insurer and the number, effective date and term of~~
15 ~~the policy, cover note or other instrument of insurance.~~

16 (b) Continuation of placement.--In the case of each
17 placement of insurance with an unlicensed insurer under the
18 provisions of section 1304(c) within 21 days after insurance
19 which has been placed with an unlicensed insurer becomes
20 effective, the surplus lines agent shall file with the
21 department his written declaration setting forth the identity of
22 each unlicensed insurer with which the insurance has been placed
23 for the three years immediately preceding the current placement,
24 the identity of each unlicensed insurer with which the current
25 placement is made and the fact that the current placement is the
26 renewal or replacement of prior existing coverage on the same
27 subject of insurance.

28 (c) Perjury.--Declarations wherever required by this section
29 shall be made subject to the penalties provided for perjury and
30 are to be construed in the same way as affidavits.

1 (C.1) MAINTENANCE OF RECORDS.--WITH RESPECT TO ANY
2 PLACEMENTS DESCRIBED IN SUBSECTION (A) OR (B), THE SURPLUS LINES
3 AGENT SHALL MAINTAIN IN HIS OFFICE WRITTEN RECORDS SHOWING THE
4 EXACT AMOUNT OF INSURANCE PLACED, THE NAME OF THE INSURED, THE
5 SUBJECT OF THE INSURANCE, A DESCRIPTION OF THE COVERAGE, THE
6 GROSS PREMIUM, THE NAME OF THE INSURER AND THE NUMBER, EFFECTIVE
7 DATE AND TERM OF THE POLICY, COVER NOTE OR OTHER INSTRUMENT OF
8 INSURANCE.

9 (d) Availability of records.--Records required under this
10 section shall be made available at any time during normal
11 business hours to the department and shall be kept in the office
12 of the surplus lines agent for not less than three years after
13 the expiration or cancellation of the insurance.

14 (e) Notice of change of insurer.--If there is any change in
15 the insurer or in the distribution of the risk among two or more
16 insurers during the term of an insurance policy or contract, the
17 surplus lines agent shall notify the insured and the department
18 to that effect within ten days of his knowledge thereof.

19 § 1307. Eligible surplus lines insurers.

20 (a) Prohibition on placement.--A surplus lines agent shall
21 not place any insurance with any unlicensed insurer who is not
22 then an eligible surplus lines insurer.

23 (b) Determination of eligibility.--An unlicensed insurer
24 shall not be an eligible surplus lines insurer unless declared
25 eligible by the department in accordance with the following
26 conditions:

27 (1) A licensed surplus lines agent shall request the
28 department, in writing, to declare the particular unlicensed
29 insurer eligible.

30 (2) The insurer shall be currently a licensed insurer in

1 the state or country of its domicile as to the kind or kinds
2 of insurance which it proposes to provide and shall have been
3 so currently licensed for a period of time sufficient for the
4 department to ascertain that the other requirements of this
5 chapter have been met, including operational procedures and
6 claims practices.

7 (3) The surplus lines agent requesting such declaration
8 shall furnish the department with duly authenticated copies
9 of the insurer's current annual financial statement, one in
10 the language and currency of the country of its domicile and
11 the other in the English language and United States currency
12 at the current exchange rate, and such additional information
13 relative to the insurer as the department may require.

14 (4) The insurer shall have a surplus as to policyholders
15 of not less than the amount required of a like foreign
16 insurer licensed in this Commonwealth and, if an alien
17 insurer, shall have and maintain, in a bank or trust company
18 which is a member of the United States Federal Reserve
19 System, a trust fund established under terms reasonably
20 adequate for the protection of all of its policyholders in
21 the United States in an amount of not less than \$400,000. In
22 the case of a group of individual unincorporated insurers,
23 the trust fund shall be not less than \$50,000,000. The
24 department may require larger trust funds than those required
25 under this paragraph if the volume of business being
26 transacted or proposed to be transacted warrants larger
27 amounts. To the extent of these minimum amounts, the trust
28 funds shall consist of United States currency, public
29 obligations of the United States or a political subdivision
30 thereof, or other investments of the same general character

1 and quality as are required for like funds of the same class
2 of insurers licensed in this Commonwealth.

3 (5) The insurer shall be of good reputation as to the
4 providing of service to its policyholders and the payment of
5 losses and claims.

6 (6) An insurer shall not be eligible if its management
7 is considered by the department to be incompetent,
8 untrustworthy or lacking in sufficient managerial experience,
9 or if the department has reason to believe the insurer is
10 affiliated directly or indirectly through ownership, control,
11 reinsurance transactions or other insurance or business
12 relationships, with any entity whose business operations may
13 be or have been detrimental to the interests of
14 policyholders, stockholders, investors, creditors or the
15 public.

16 (c) List of eligible insurers.--The department shall from
17 time to time publish a list of all currently eligible surplus
18 lines insurers and shall mail a copy thereof to each licensed
19 surplus lines agent at his last office of record with the
20 department.

21 (d) Determination of ineligibility.--An eligible surplus
22 lines insurer shall furnish at least annually to the department
23 the information required by subsection (b)(3). If the department
24 has reason to believe that any unlicensed insurer then on the
25 list of eligible surplus lines insurers is impaired financially
26 or no longer meets the requirements for eligibility, it shall
27 declare the insurer ineligible as a surplus lines insurer. If,
28 after a hearing of which reasonable notice is given to all
29 licensed surplus lines agents, the department determines that an
30 insurer currently eligible as a surplus lines insurer has

1 willfully violated the law or has failed to make reasonably
2 prompt settlement of just claims for losses or return premiums,
3 it may declare the insurer no longer an eligible surplus lines
4 insurer. The department shall promptly mail notice of all such
5 declarations to each surplus lines agent at his last address of
6 record with the department.

7 (e) Significance of eligibility.--This section does not
8 impose on the department any duty or responsibility to determine
9 the actual financial condition or claims practices of any
10 unlicensed insurer. The status of eligible surplus lines
11 insurer, if granted by the department, shall mean only that the
12 insurer appears to be sound financially and to have satisfactory
13 claims practices and that the department has no credible
14 evidence to the contrary.

15 § 1308. Licensure of surplus lines agents.

16 (a) Individuals.--Any individual licensed insurance broker
17 who is a resident of this Commonwealth and who is found by the
18 department to have had sufficient experience in the insurance
19 business to be competent for the purpose, may be licensed as a
20 surplus lines agent upon passing a written examination on his
21 knowledge of this chapter and his general knowledge of surplus
22 lines activity, the content of such examination to be prescribed
23 by the department.

24 (b) Partnerships and corporations.--Any partnership or
25 corporation licensed insurance broker resident of this
26 Commonwealth may become licensed as a surplus lines agent if all
27 members of the partnership or all officers of the corporation,
28 as the case may be, who are actively engaged in the surplus
29 lines activity of the partnership or corporation possess the
30 requisite experience and pass the written examination described

1 in subsection (a). The department shall issue a certificate of
2 eligibility to all such partners or officers who so qualify to
3 handle surplus lines activity. Partners or officers not holding
4 the certificate of eligibility shall not engage in any phase of
5 the partnership's or corporation's surplus lines activity.

6 (c) Exemption from examination.--Any person who held a valid
7 excess insurance broker's license on March 1, 1966, shall be
8 deemed qualified for a license as a surplus lines agent without
9 the necessity of passing an examination. Partners of
10 partnerships and officers of corporations who were certified to
11 the department as having been actively engaged in the surplus
12 lines activity of the partnership or corporation on March 1,
13 1966, shall be considered qualified for a certificate of
14 eligibility without the necessity of passing an examination.

15 (d) Forms.--Initial and renewal applications for the
16 licenses and certificates shall be made to the department on
17 forms prescribed and furnished by it.

18 (e) Renewal.--The licenses and certificates shall be issued
19 for a term of 12 months and shall be renewable upon written
20 request therefor filed with the department and accompanied by
21 payment of the license fee prior to expiration.

22 (f) Payment of fees.--The fees required by the department to
23 administer this section, including the surplus lines agent's
24 annual license fee, the fee for the annual certificate of
25 eligibility and the examination fee, shall be paid in advance.

26 § 1309. Bond of surplus lines agents.

27 Prior to the issuance of a license, the applicant shall
28 furnish the department and shall keep in force for as long as
29 any such license remains in effect a bond in favor of the
30 Commonwealth in the amount of not less than \$25,000 aggregate

1 liability, such bond to be issued by a licensed and authorized
2 corporate surety or sureties approved by the department. The
3 bond shall be conditioned that the surplus lines agent will
4 comply with all the requirements of section 1311 (relating to
5 surplus lines tax). The department may require a bond in a
6 larger amount if the volume of business transacted or to be
7 transacted by a particular surplus lines agent warrants a larger
8 amount. The aggregate liability of the surety for any and all
9 claims on any such bond shall not exceed the amount thereof. The
10 bond shall not be terminated except upon not less than 30 days'
11 prior written notice thereof given to the licensee, the
12 department and the Department of Revenue.

13 § 1310. Penalties.

14 (a) Surplus lines agents.--The department may suspend,
15 revoke or refuse to renew the license of a surplus lines agent
16 or impose a fine of not more than \$1000 for each violation of
17 this chapter upon any one or more of the following grounds:

18 (1) Removal of the licensee's office or of the accounts
19 and records of his surplus lines activity from this
20 Commonwealth.

21 (2) Closure of the licensee's office for a period in
22 excess of 30 consecutive days, unless granted permission by
23 the department to close the office for a longer period.

24 (3) Failure to file reports when due or to remit taxes
25 under section 1311 (relating to surplus lines tax).

26 (4) Failure to maintain the bond under section 1309
27 (relating to bond of surplus lines agents).

28 (5) Failure to remit premiums due insurers or return
29 premiums due insureds in the normal course of business and
30 within reasonable time limits.

1 (6) Suspension, revocation or refusal to renew any other
2 license or certificate issued by the department to the
3 licensee.

4 (7) Violation of any provision of this chapter.

5 (b) Other agents.--When any licensed insurance agent, broker
6 or licensed insurer violates this chapter, the department may
7 suspend, revoke or refuse to renew the license of the agent or
8 broker or impose a fine of not more than \$1000 upon the agent,
9 broker or licensed insurer for each violation of this chapter.

10 (c) Notice and hearing.--The department shall hold a hearing
11 before taking any action under subsections (a) and (b). It shall
12 give written notice of the hearing to the person charged with
13 the violation, stating specifically the nature of the alleged
14 violation and fixing a time and place at least ten days
15 thereafter when the hearing shall be held.

16 § 1311. Surplus lines tax.

17 (a) Imposition.--A tax of 3% shall be levied on all premiums
18 charged for insurance which is placed with an unlicensed insurer
19 under this chapter, based on the gross premiums charged less any
20 return premiums. This tax shall be in addition to the full
21 amount of the gross premium charged by the insurer for the
22 insurance, except that the tax on any unearned portion of the
23 premium shall be returned to the insured.

24 (b) Payment.--A surplus lines agent or producing broker
25 shall not directly or indirectly pay the tax or any portion
26 thereof, either as an inducement to the insured to purchase the
27 insurance or for any other reason. In the case where a
28 transaction is handled by a licensed surplus lines agent for
29 another licensed surplus lines agent, the surplus lines agent
30 dealing directly with the insurer is responsible to the

1 Commonwealth for reporting the transaction and paying the tax.

2 (c) Return by agent.--The surplus lines agent shall collect
3 from the insured or the producing broker the amount of the tax
4 at the time of delivery of the initial policy, cover note or
5 other instrument of insurance or at such time thereafter as is
6 reasonably consistent with normal credit terms customary in the
7 business. Each surplus lines agent shall, on or before January
8 31 of each year, file with the Department of Revenue on forms
9 prescribed and furnished by the Department of Revenue a report
10 of all transactions involving the placement of insurance with
11 unlicensed insurers during the previous calendar year. This
12 report shall set forth the name of the insured, the
13 identification of the insurer, the type of insurance, the gross
14 premiums charged less any return premiums allowed and the tax
15 due as provided in this section. The remittance for the taxes
16 due shall accompany this report. A copy of the report shall be
17 filed with the department by the surplus lines agent.

18 (d) Return by insured.--The tax provided by subsection (a)
19 shall be imposed upon an insured who procures insurance on a
20 subject of insurance which is resident, located or to be
21 performed in this Commonwealth from an unlicensed insurer or
22 continues or renews such insurance, other than insurance
23 procured through a surplus lines agent in accordance with this
24 chapter. The insured shall, within 30 days after the date when
25 the insurance was procured, continued or renewed, report the
26 transaction on forms prescribed by the Department of Revenue.
27 This report shall set forth the information required of surplus
28 lines agents as required in subsection (c). The tax shall be
29 paid on the date the report is due under this section. A copy of
30 the report shall be filed with the department by the insured.

1 (e) Risks related in other states.--In the case where a
2 placement of insurance, either by a surplus lines agent or by
3 the insured himself, involves subjects of insurance resident,
4 located or to be performed in one or more other states the
5 premium taxes shall be levied only on that portion of the
6 premium reasonably ascribable to that portion of the risk
7 situated in this Commonwealth.

8 (f) Applicability of Fiscal Code.--The settlement and
9 resettlement of taxes under this section, including the granting
10 of extensions of time to file reports and the rights of the
11 taxpayers to present and prosecute a petition for resettlement,
12 a petition for review or an appeal to court or to file a
13 petition for refund and the imposition of interest and
14 penalties, shall be governed by the act of April 9, 1929
15 (P.L.343, No.176), known as The Fiscal Code, as approved in the
16 case of capital stock and franchise taxes.

17 § 1312. Information required on contract.

18 Every policy, cover note or other instrument of insurance
19 delivered to the insured and placed with an unlicensed insurer
20 in accordance with this chapter shall have printed, typed or
21 stamped on it, in not less than ten-point print, the following
22 legend: "This insurance contract is issued by an insurer neither
23 licensed by nor under the jurisdiction of the Pennsylvania
24 Insurance Department and is written pursuant to the Pennsylvania
25 Surplus Lines Law. Placed by (name and office address of surplus
26 lines agent)." This legend shall not be concealed by a policy
27 label or sticker or in any other manner.

28 § 1313. ~~(Reserved)~~ REGULATIONS.

←

29 THE DEPARTMENT MAY MAKE AND ENFORCE SUCH REGULATIONS AS IT
30 DEEMS NECESSARY FOR THE ADMINISTRATION OF THIS CHAPTER.

1 § 1314. Rights of insured.

2 This chapter does not prevent an insured from enforcing his
3 rights under the terms and conditions of a contract of insurance
4 entered into in violation of this chapter.

5 § 1315. Penalties.

6 Any person who in this Commonwealth violates any provision of
7 this chapter commits a misdemeanor of the third degree.

8 CHAPTER 15

9 UNFAIR INSURANCE PRACTICES

10 Sec.

11 1501. Short title of chapter.

12 1502. Purpose of chapter.

13 1503. Definitions.

14 1504. Unfair practices.

15 1505. Immunity for statements or information.

16 1506. Powers of department.

17 1507. Administrative action.

18 1508. Injunction.

19 1509. Civil penalties.

20 1510. Exclusions.

21 § 1501. Short title of chapter.

22 This chapter shall be known and may be cited as the Unfair
23 Insurance Practices Act.

24 § 1502. Purpose of chapter.

25 The purpose of this chapter is to regulate trade practices in
26 the business of insurance in accordance with the intent of
27 Congress as expressed in the Federal act of March 9, 1945
28 (Public Law 79-15, 15 U.S.C. § 1011 et seq.) by defining or
29 providing for the determination of all practices in this
30 Commonwealth which constitute unfair methods of competition or

1 unfair or deceptive acts or practices and by prohibiting those
2 practices.

3 § 1503. Definitions.

4 The following words and phrases when used in this chapter
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Insurance policy" or "insurance contract." Any contract of
8 insurance, indemnity, health care, suretyship, title insurance
9 or annuity issued, proposed for issuance or intended for
10 issuance by any person.

11 "Person." ~~Any partnership,~~ INCLUDES ANY reciprocal exchange, <—
12 inter-insurer, Lloyds insurer, fraternal benefit society as
13 defined in section 4502 (relating to definitions), beneficial
14 society or association, health maintenance organization as
15 defined in section 7303 (relating to definitions), hospital plan
16 corporation as defined in section 7501 (relating to definitions)
17 and professional health service corporation as defined in
18 section 7702 (relating to definitions) and any other legal
19 entity engaged in the business of insurance, including agents,
20 brokers and adjusters. For the purposes of this chapter, health
21 care plans, fraternal benefit societies and beneficial societies
22 shall be deemed to be engaged in the business of insurance.

23 "Renewal" or "to renew." The issuance and delivery by an
24 insurer of a policy superseding at the end of the policy period
25 a policy previously issued and delivered by the same insurer,
26 such renewal policy to provide types and limits of coverage at
27 least equal to those contained in the policy being superseded,
28 or the issuance and delivery of a certificate or notice
29 extending the term of a policy beyond its policy period or term
30 with types and limits of coverage at least equal to those

1 contained in the policy being extended. Any policy with a policy
2 period or term of less than 12 months or any period with no
3 fixed expiration date shall for the purpose of this chapter be
4 considered as if written for successive policy periods or terms
5 of 12 months.

6 § 1504. Unfair practices.

7 (a) ~~Practices included~~ GENERAL RULE.--A person shall not <—
8 engage in this Commonwealth in any trade practice which is
9 DEFINED OR determined to be an unfair method of competition or <—
10 an unfair or deceptive act or ~~practice in the business of~~ <—
11 ~~insurance. An unfair method of~~ PRACTICE IN THE BUSINESS OF <—
12 INSURANCE PURSUANT TO THIS CHAPTER.

13 (B) UNFAIR PRACTICES DEFINED.--AN UNFAIR METHOD OF
14 competition or an unfair or deceptive act or practice in the
15 business of insurance is defined to be:

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

20 (i) Misrepresents the benefits, advantages,
21 conditions or terms of any insurance policy.

22 (ii) Misrepresents the premium overcharge commonly
23 called dividends or share of the surplus to be received
24 on any insurance policy.

25 (iii) Misrepresents the facts regarding the
26 dividends or share of surplus previously paid on any
27 insurance policy.

28 (iv) Misleads or misrepresents as to the financial
29 condition of any person or as to the legal reserve system
30 upon which any insurer operates.

1 (v) Uses any name or title of any insurance policy
2 or class of insurance policies misrepresenting the true
3 nature thereof.

4 (vi) Misrepresents for the purpose of inducing or
5 tending to induce the lapse, forfeiture, exchange,
6 conversion or surrender of any insurance policy.

7 (vii) Misrepresent for the purpose of effecting a
8 pledge or assignment of or effecting a loan against any
9 insurance policy.

10 (viii) Misrepresents any insurance policy as being
11 shares of stock.

12 (2) Making, issuing, publishing or circulating in any
13 manner an advertisement, announcement or statement containing
14 any representation or statement with respect to the business
15 of insurance or with respect to any person in the conduct of
16 his insurance business which is untrue, deceptive or
17 misleading.

18 (3) Making, issuing, publishing or circulating any oral
19 or written statement which is false or maliciously critical
20 of or derogatory to the financial condition of any person and
21 which is calculated to injure the person.

22 (4) Entering into any agreement to commit, or by any
23 concerted action committing, any act of boycott, coercion or
24 intimidation resulting in or tending to result in
25 unreasonable restraint of, or monopoly in, the business of
26 insurance.

27 (5) Knowingly filing with any supervisory or other
28 public official, or knowingly making, issuing, publishing or
29 circulating any false material statement of fact as to the
30 financial condition of a person, or knowingly making any

1 false entry of a material fact in any book, report or
2 statement of any person or knowingly omitting to make a true
3 entry of any material fact pertaining to the business of such
4 person in any book, report or statement of such person.

5 (6) Issuing or delivering or permitting agents, officers
6 or employees to issue or deliver agency company stock or
7 other capital stock, or benefit certificates or shares in any
8 corporation, or securities or any special or advisory board
9 contracts or other contracts of any kind promising returns
10 and profits as an inducement to insurance.

11 (7) Unfairly discriminating in any of the following
12 ways:

13 (i) Making or permitting any unfair discrimination
14 between individuals of the same class and equal
15 expectation of life in the rates charged for any contract
16 of life insurance or of life annuity or in the dividends
17 or other benefits payable thereon, or in any other of the
18 terms and conditions of such contract.

19 (ii) Making or permitting any unfair discrimination
20 between individuals of the same class and of essentially
21 the same hazard in the amount of premium, policy, fees or
22 rates charged for any policy or contract of insurance or
23 in the benefits payable thereunder, in any of the terms
24 or conditions of the contract or in any other manner.

25 (iii) Making or permitting any unfair discrimination
26 between individuals of the same class and essentially the
27 same hazard with regard to underwriting standards and
28 practices or eligibility requirements by reason of race,
29 religion, nationality or ethnic group, age, sex, family
30 size, occupation, place of residence or marital status.

1 The terms "underwriting standards and practices" and
2 "eligibility rules" do not include the promulgation of
3 rates if made or promulgated under Chapter 19 (relating
4 to insurance rates).

5 (8) Except as otherwise provided by law, knowingly
6 permitting or offering to make or making any contract of
7 insurance or agreement as to such contract other than as
8 plainly expressed in the insurance contract issued thereon,
9 or paying or allowing or giving or offering to pay, allow or
10 give, as inducement to such insurance, any rebate of premiums
11 payable on the contract, or any special favor or advantage in
12 the dividends or other benefits thereon, or any valuable
13 consideration, inducement or anything of value which is not
14 specified in the contract.

15 (9) Canceling any policy of insurance covering owner-
16 occupied private residential properties or personal property
17 of individuals that has been in force for 60 days or more or
18 refusing to renew any policy unless:

19 (i) the policy was obtained through material
20 misrepresentation, fraudulent statements or omissions or
21 concealment of fact material to the acceptance of the
22 risk or to the hazard assumed by the company;

23 (ii) there has been a substantial change or increase
24 in hazard in the risk assumed by the company subsequent
25 to the date the policy was issued;

26 (iii) there is a substantial increase in hazards
27 insured against by reason of willful or negligent acts or
28 omissions by the insured;

29 (iv) the insured has failed to pay any premium when
30 due whether the premium is payable directly to the

1 company or its agent or indirectly under any premium
2 finance plan or extension of credit; or

3 (v) the policy may be canceled on other grounds
4 under regulations promulgated by the department.

5 (10) Any of the following acts in connection with the
6 compromise or settlement of claims by insured arising under
7 insurance policies, if committed or performed with such
8 frequency as to indicate a business practice:

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

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

14 (iii) Failing to adopt and implement reasonable
15 standards for the prompt investigation of the claims.

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

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

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

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

1 (viii) Attempting to settle a claim for less than
2 the amount to which a reasonable man would have believed
3 he was entitled by reference to written or printed
4 advertising material accompanying or made part of an
5 application.

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

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

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

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

24 (xiii) Failing to promptly settle claims, where
25 liability has become reasonably clear, under one portion
26 of the insurance policy coverage in order to influence
27 settlements under other portions of the insurance policy
28 coverage or under other policies of insurance.

29 (xiv) Failing to promptly provide a reasonable
30 explanation of the basis in the insurance policy in

1 relation to the facts or applicable law for denial of a
2 claim or for the offer of a compromise settlement.

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

5 (A) the insured claims sovereign, diplomatic,
6 military service or other immunity from suit or
7 liability with respect to the claim;

8 (B) the insured is granted the right under the
9 policy of insurance to consent to settlement of
10 claims; or

11 (C) the refusal of payment is based upon the
12 insurer's independent evaluation of the insured's
13 liability based upon all available information.

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

23 (12) Making false or fraudulent statements or
24 representations on or relative to an application for an
25 insurance policy for the purpose of obtaining a fee,
26 commission, money or other benefit from any insurer, agent,
27 broker or individual.

28 (13) Making, issuing, publishing or circulating an
29 advertisement, announcement or statement offering permanent
30 life insurance to persons 50 years of age or older without

1 accompanying disclosures of any applicable reduction in the
2 face amount payable and the period thereof.

3 ~~(b)~~ (C) Exclusions.--

<—

4 (1) Subsection ~~(a)~~ (B)(7) or (8) does not include within
5 the definition of discrimination or rebates any of the
6 following practices:

<—

7 (i) In the case of any contract of life insurance or
8 life annuity, paying bonuses to policyholders or
9 otherwise abating their premiums out of surplus
10 accumulated from nonparticipating insurance if any such
11 bonuses or abatement of premiums are fair and equitable
12 to policyholders and for the best interests of the
13 company and its policyholders.

14 (ii) In the case of life insurance policies issued
15 on the industrial or debit plan, making allowance to
16 policyholders who have continuously for a specified
17 period made premium payments directly to an office of the
18 insurer in an amount which fairly represents the saving
19 in collection expense.

20 (iii) Readjustment of the rate of premium for a
21 group insurance policy based on the loss or expense
22 experience thereunder, at the end of the first or any
23 subsequent policy year of insurance thereunder, which may
24 be made retroactive only for such policy year.

25 (2) ~~Subsection (a)(9) does~~ SUBSECTIONS (B)(9) AND (D) DO
26 not apply under any of the following circumstances:

<—

27 (i) If the insurer has manifested its willingness to
28 renew by issuing or offering to issue a renewal policy,
29 certificate or other evidence of renewal, including the
30 mailing of a renewal premium notice to the insured not

1 less than 30 days in advance of the expiration date of
2 the policy.

3 (ii) If the named insured has demonstrated by some
4 overt action to the insurer or its agent other than mere
5 nonpayment of premium that he wishes the policy to be
6 canceled or that he does not wish the policy to be
7 renewed.

8 (iii) To any policy of insurance which has been in
9 effect less than 60 days, including any notice of
10 termination period, unless it is a renewal policy. Any
11 declination of coverage within the 60-day period provided
12 in this clause shall, for purposes of review by the
13 department, be deemed a refusal to write and shall not be
14 subject to the provisions of ~~subsection (a)(9)~~ <—

15 SUBSECTIONS (B)(9) AND (D). <—

16 ~~(c) Cancellation of homeowner~~ (D) CANCELLATION OR <—
17 NONRENEWAL OF CERTAIN policies.--In the case of any policy of
18 insurance covering owner-occupied private residential properties
19 or personal property of individuals, the insured may, within ten
20 days of the receipt by the insured of notice of cancellation or
21 notice of intention not to renew, request in writing to the
22 department that it review that action of the insurer. A
23 cancellation or refusal to renew by any person shall not be
24 effective unless a written notice of the cancellation or refusal
25 to renew THE POLICY is received by the insured either at the <—
26 address shown in the policy or at a forwarding address. The
27 notice shall:

28 (1) Be approved as to form by the department prior to
29 use.

30 (2) State the date, not less than 30 days after the date

1 of delivery or mailing, on which such cancellation or refusal
2 to renew shall become effective.

3 (3) State the specific reason or reasons of the insurer
4 for cancellation or refusal to renew.

5 (4) Advise the insured of his right to file a written
6 request for review under this subsection, within ten days of
7 the receipt of the notice.

8 (5) Advise the insured of his possible eligibility for
9 insurance under Chapter 57 (relating to Pennsylvania Fair
10 Plan) or the Pennsylvania Assigned Risk Plan.

11 (6) Advise the insured in a form commonly understandable
12 of the provisions of paragraphs (2), (3) and (4) as they
13 limit permissible time and reasons for cancellation.

14 (7) Advise the insured of the procedures to be followed
15 in prosecuting an appeal.

16 § 1505. Immunity for statements or information.

17 There shall be no liability on the part of and no cause of
18 action of any nature shall arise against the commissioner, any
19 insurer, the authorized representatives, agents and employees of
20 the department or the insurer, or of any firm or person
21 furnishing to the insurer information as to reasons for
22 cancellation or refusal to renew for any statement made by them
23 in complying with this chapter or for providing information
24 pertaining thereto.

25 § 1506. Powers of department.

26 The department may examine and investigate the affairs of
27 every person engaged in the business of insurance in this
28 Commonwealth in order to determine whether such person has been
29 or is engaged in any unfair method of competition or in any
30 unfair or deceptive act or practice prohibited by this chapter.

1 § 1507. Administrative action.

2 (a) Notice and hearing.--If, as a result of investigation,
3 the department has good cause to believe that any person is
4 violating any provision of this chapter, the department shall
5 send notice of the violation by registered mail to the person
6 believed to be in violation. The notice shall state the time and
7 place for hearing which shall not be less than 30 days from the
8 date of the notice. At the hearing, the person shall have an
9 opportunity to be heard and to show cause why an order should
10 not be made by the department to cease and desist from acts
11 constituting a violation of this chapter and why administrative
12 penalties should not be assessed.

13 (b) Intervention.--Upon good cause shown, the department
14 shall permit any person to intervene, appear and be heard at the
15 hearing, either in person or by counsel.

16 (c) Procedure.--The department may administer oaths, examine
17 and cross-examine witnesses, receive oral and documentary
18 evidence and subpoena witnesses, compel their attendance and
19 require the production of books, papers, records or other
20 documents which it deems relevant to the hearing. The department
21 shall cause a record of all evidence and all proceedings at the
22 hearing to be kept.

23 (d) Order.--Following the hearing, the department shall
24 issue a written order resolving the factual issues presented at
25 the hearing and stating what remedial action, if any, is
26 required of the person charged. The department shall send a copy
27 of the order to those persons participating in the hearing.

28 (e) Administrative penalty.--Upon a determination that this
29 chapter has been violated, the department may issue an order
30 requiring the person to cease and desist from engaging in the

1 violation or, if such violation is a method of competition, act
2 or practice defined in section 1504 (relating to unfair
3 practices), the department may suspend or revoke the person's
4 license.

5 § 1508. Injunction.

6 If the alleged violator fails to comply with an order of the
7 department following hearing to cease and desist from unfair
8 methods of competition or an unfair or deceptive act or
9 practice, the department may cause an action for injunction to
10 be filed in the Commonwealth Court or the court of the county in
11 which the violation occurred.

12 § 1509. Civil penalties.

13 In addition to any penalties imposed pursuant to this
14 chapter, the court may, in an action filed by the department,
15 impose the following civil penalties:

16 (1) For each method of competition, act or practice
17 referred to in section 1504 (relating to unfair practices) or
18 otherwise in violation of this chapter which the person knew
19 or reasonably should have known was such a violation, a
20 penalty of not more than \$5,000 for each violation but not to
21 exceed an aggregate penalty of \$50,000 in any six-month
22 period.

23 (2) For each such method of competition, act or practice
24 which the person did not know nor reasonably should have
25 known was a violation, a penalty of not more than \$1,000 for
26 each violation but not to exceed an aggregate penalty of
27 \$10,000 in any six-month period.

28 (3) For each violation of an order issued by the
29 department pursuant to section 1507(e) (relating to
30 administrative action) while such order is in effect, a

1 penalty of not more than \$10,000.

2 § 1510. Exclusions.

3 Health care plans administered by joint boards of trustees
4 pursuant to section 302 of the Labor Management Relations Act of
5 1947 (61 Stat. 157, 29 U.S.C. § 186) and health care plans
6 administered by the employer pursuant to collective bargaining
7 agreements which pay benefits from the assets of the trust or
8 the funds of the employer as opposed to payments through an
9 insurance company are not subject to this chapter.

10 CHAPTER 17

11 REPORTING REQUIREMENTS

12 Sec.

13 1701. Definitions.

14 1702. Disposal of assets.

15 1703. Ceding or reinsurance.

16 1703.1 REGULATIONS.

<—

17 1704. Business operations.

18 1705. Reports of financial condition.

19 1706. Additional reports from foreign or alien entities.

20 § 1701. Definitions.

21 The following words and phrases when used in this chapter
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Assets." All the property and rights of every kind held by
25 the entity.

26 "Disposal." Any sale, transfer, exchange, assignment,
27 alienation or other conveyance of an interest in assets. The
28 term does not include a ceding of policies pursuant to a
29 reinsurance contract.

30 "Total assets." The dollar amount of the entity's total

1 assets as reported in its most recent convention statement.

2 § 1702. Disposal of assets.

3 Any domestic insurance entity which within any period of 30
4 days, by one or more transactions, disposes of assets which, in
5 the aggregate, amount to more than 10% of its total assets,
6 shall send written notification thereof to the department. The
7 notification shall be given within ten business days prior to
8 the making of the disposal, specify the nature and amount
9 thereof and identify all of the parties thereto.

10 § 1703. Ceding or reinsurance.

11 Any domestic insurance entity, except a domestic life
12 insurance company, which during any period of 12 consecutive
13 months, by any contract of reinsurance, cedes an amount of its
14 insurance on which the total gross reinsurance premiums are more
15 than 50% of the unearned premiums on the net amount of its
16 insurance in force at the beginning of such period, shall give
17 written notification thereof to the department. Any domestic
18 life insurance company which reinsures its whole risk on any
19 individual life or joint lives or reinsures policies which,
20 during any period of 12 consecutive months, in the aggregate,
21 amount to more than 50% of its insurance in force shall give
22 written notification thereof to the department. The notification
23 required hereunder shall be given at least ten business days
24 before the date the reinsurance takes effect and shall specify
25 the nature and amount thereof and identify the parties thereto.
26 The requirements of this section do not apply to reinsurance
27 made in the ordinary course of business covering reinsurance of
28 specified individual risks under agreements relating to current
29 business and shall be in addition to the requirements contained
30 in section 3512 (relating to reinsurance).

1 § 1703.1. REGULATIONS.

2 THE DEPARTMENT SHALL PRESCRIBE THE REGULATIONS NECESSARY FOR
3 THE ADMINISTRATION OF SECTIONS 1701 (RELATING TO DEFINITIONS)
4 THROUGH 1703 (RELATING TO CEDING OR REINSURANCE).

5 § 1704. Business operations.

6 (a) General rule.--Each stock or mutual insurance entity or
7 employers mutual liability association and organization,
8 including the State Workmen's Insurance Fund, which is subject
9 to Chapter 19 (relating to insurance rates) or section 5523
10 (relating to rating plans) shall maintain uniform
11 classifications of accounts and records as may be prescribed by
12 the department and shall file such uniform reports relative to
13 their business and transactions as the department deems
14 necessary. These reports, except when otherwise provided by law,
15 shall be filed on the date and in the form determined by the
16 department.

17 (b) Penalties.--Any insurance entity or organization which
18 violates subsection (a) shall pay a sum not to exceed \$100 per
19 day for each day during which the violation continues and, upon
20 notice by the department, its authority to do new business shall
21 cease during that time. For willfully making false reports, any
22 insurance entity or organization subject to this section and the
23 persons making oath to or subscribing the same shall severally
24 be punished by a fine of not less than \$500 nor more than
25 \$5,000. A person who willfully makes oath to such false report
26 commits perjury.

27 (c) Procedures.--An action shall not be taken by the
28 department under subsection (b) except after a hearing held upon
29 ten days' written notice to the parties concerned.

30 Classifications of accounts and records or reports shall be

1 prescribed by the department under subsection (a) only upon
2 notice and after hearing to all parties affected thereby and
3 regulations relating thereto shall be promulgated by the
4 department at least six months before the effective date
5 thereof.

6 § 1705. Reports of financial condition.

7 (a) General rule.--Every stock and mutual insurance entity,
8 if subject to Part III (relating to organization of insurance
9 entities), shall annually, by March 1, file with the department
10 a statement showing its financial condition on December 31 of
11 the previous year and its business of that year. These entities
12 shall, within 30 days after requested by the department, render
13 any additional statement concerning its affairs and financial
14 condition which the department may require. The department shall
15 prescribe and furnish forms to each of the entities for their
16 statements. Any alien insurance company, if subject to Part III
17 and doing business in this Commonwealth, shall disclose only the
18 business done in the United States and the assets held by and
19 for it within the United States for the protection of
20 policyholders in the United States.

21 (b) Failure to file.--Any entity which neglects to timely
22 file a statement required under subsection (a) in the required
23 form shall pay to the department a sum not to exceed \$100 for
24 each day during which the neglect continues. Upon notice by the
25 department, its authority to do new business shall cease while
26 the default continues.

27 (c) False statements.--For willfully making false entries in
28 a statement filed under subsection (a), the entity and the
29 individuals making oath to or subscribing to the oath shall
30 severally be subject to a fine of not less than \$500 nor more

1 than \$5,000.

2 § 1706. Additional reports from foreign or alien entities.

3 (a) General rule.--Every foreign or alien stock or mutual
4 insurance entity authorized to do business in this Commonwealth,
5 if subject to Part III (relating to organization of insurance
6 entities), shall annually report to the Department of Revenue by
7 March 15 under oath of its president, secretary or attorney. The
8 report shall show the gross premiums of every character and
9 description received from business transacted in this
10 Commonwealth during the year ending the preceding December 31,
11 whether the premiums were received in money or in the form of
12 notes, credits or any other substitute for money and whether
13 they were collected in this Commonwealth or elsewhere.

14 (b) Taxation.--The entity shall pay to the State Treasury
15 the requisite tax upon all these premiums. In making the report,
16 the entities may deduct, from the gross premiums received, all
17 premiums returned on policies canceled or not taken and all
18 premiums actually received for reinsurances. Stock companies
19 with participating features may also deduct that portion of the
20 premiums returned to the policyholders. Life insurance companies
21 may deduct dividends declared and actually used by policyholders
22 in payment of renewal premiums. Mutual entities may deduct that
23 proportion of the advance premium or deposit returned to members
24 upon the expiration or termination of their contracts. To the
25 extent the provisions of this section supply provisions of the
26 act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
27 Code, relating to amounts which foreign entities may deduct from
28 gross premiums received from business transacted in this
29 Commonwealth in making reports with the Department of Revenue,
30 the provisions of this section shall supersede those provisions

1 of The Fiscal Code.

2 ~~(c) Applicability. This section does not apply to domestic~~ <—
3 ~~fire insurance companies as to policies covering only those~~
4 ~~classes of insurance authorized by section 3302(b)(1), (2) or~~
5 ~~(3) (relating to authorized classes of insurance), other than~~
6 ~~insurance upon automobiles.~~

7 (C) (RESERVED). <—

8 (d) Definition.--As used in this section the term "gross
9 premium" means the amount of dues, fees and premiums stated in
10 the policy contracts.

11 CHAPTER 19

12 INSURANCE RATES

13 Sec.

14 1901. General provisions.

15 1902. Scope of chapter.

16 1903. Ratemaking.

17 1904. Rate filings.

18 1905. Disapproval of filings.

19 1906. Rating organizations.

20 1907. Deviations.

21 1908. Appeal by minority.

22 1909. Information to be furnished insureds.

23 1910. Hearings and appeals of insureds.

24 1911. Advisory organizations.

25 1912. Joint underwriting or joint reinsurance.

26 1913. Examinations.

27 1914. Recording and reporting of loss and expense experience.

28 1915. False or misleading information.

29 1916. Assigned risks.

30 1916.1. REGULATIONS. <—

1 1916.2. CONSULTATION WITH OTHER STATES.

2 1917. Penalties.

3 1918. Hearing procedure and judicial review.

4 § 1901. General provisions.

5 (a) Short title of chapter.--This chapter shall be known and
6 may be cited as the Insurance Rate Regulatory Act.

7 (b) Purpose of chapter.--The purpose of this chapter is to
8 promote the public welfare by regulating insurance rates to the
9 end that they shall not be excessive, inadequate or unfairly
10 discriminatory, to enable authorized insurers to meet all
11 requirements of the insuring public of this Commonwealth, and to
12 authorize and regulate cooperative action among insurers in
13 ratemaking and in other matters within the scope of this
14 chapter. This chapter is not intended to prohibit or discourage
15 reasonable competition or prohibit or encourage uniformity in
16 insurance rates, rating systems, rating plans or practices. This
17 chapter shall be liberally interpreted to carry into effect its
18 purposes as set forth in this section.

19 § 1902. Scope of chapter.

20 (a) Casualty insurance.--This chapter applies to all classes
21 and kinds of insurance which may be written by stock or mutual
22 casualty insurance entities, including fidelity, surety and
23 guaranty bonds and all other forms of motor vehicle insurance,
24 and to title insurance on risks or operations in this
25 Commonwealth.

26 (b) Fire and marine insurance.--This chapter also applies to
27 all classes and kinds of insurance which may be written by stock
28 or mutual fire, marine or fire and marine insurance entities on
29 risks located in this Commonwealth. Inland marine insurance
30 shall be deemed to include insurance defined by law or by ruling

1 of the department or as established by general custom of the
2 business as inland marine insurance.

3 (c) Exclusions relating to casualty insurance.--With respect
4 to insurance described in subsection (a), this chapter does not
5 apply to:

6 (1) Reinsurance, other than joint reinsurance to the
7 extent stated in section 1912 (relating to joint underwriting
8 or joint reinsurance).

9 (2) Accident and health insurance.

10 (3) Insurance against loss or damage to aircraft or
11 against liability arising out of the ownership, maintenance
12 or use of aircraft.

13 (4) Workmen's compensation insurance.

14 (5) Insurance covering loss in excess of at least
15 \$10,000 from any one event issued to self-insurers as defined
16 in regulations which the department shall promulgate where
17 the rate is not made by a rating organization.

18 (d) Exclusions relating to fire and marine insurance.--With
19 respect to insurance described in subsection (b), this chapter
20 does not apply to:

21 (1) Reinsurance, other than joint reinsurance to the
22 extent stated in section 1912.

23 (2) Insurance of vessels or craft, their cargoes, marine
24 builders' risks, marine protection and indemnity, or other
25 risks commonly insured under marine as distinguished from
26 inland marine insurance policies.

27 (3) Insurance of hulls of aircraft, including their
28 accessories and equipment, or against liability arising out
29 of the ownership, maintenance or use of aircraft.

30 (4) Motor vehicle insurance or insurance against

1 liability arising out of the ownership, maintenance or use of
2 motor vehicles.

3 (5) Perpetual policies of insurance issued in
4 consideration of an initial deposit of moneys with the
5 insurer to be held by it during the time such policies are in
6 force and to be returned to the insureds, in whole or in
7 part, upon cancellation of the policies.

8 (e) Conflicting regulation.--If any kind of insurance,
9 subdivision or combination thereof, or type of coverage subject
10 to this chapter, is also subject to regulation by any other
11 provision of this title which regulates rates, an insurer to
12 which both provisions are otherwise applicable shall file with
13 the department a designation as to which set of provisions shall
14 be applicable to it with respect to the kind of insurance,
15 subdivision or combination thereof, or type of coverage.

16 § 1903. Ratemaking.

17 All rates shall be made in accordance with the following
18 provisions:

19 (1) Due consideration shall be given to past and
20 prospective loss experience in and outside this Commonwealth;
21 to physical hazards; to safety and loss prevention factors;
22 to underwriting practice and judgment to the extent
23 appropriate; to conflagration and catastrophe hazards, if
24 any; to a reasonable margin for underwriting profit and
25 contingencies; to dividends, savings or unabsorbed premium
26 deposits allowed or returned by insurers to their
27 policyholders, members or subscribers; to past and
28 prospective expenses in and outside this Commonwealth; and to
29 all other relevant factors in and outside this Commonwealth.

30 In the case of fire insurance rates, consideration shall be

1 given to the experience of the fire insurance business during
2 a period of not less than the most recent five-year period
3 for which such experience is available.

4 (2) In the case of insurance described in section
5 1902(a) (relating to scope of chapter), the systems of
6 expense provisions included in the rates for use by any
7 insurer or group of insurers may differ from those of other
8 insurers or groups of insurers to reflect the requirements of
9 the operating methods of any such insurer or group with
10 respect to any kind of insurance, or with respect to any
11 subdivision or combination thereof for which subdivision or
12 combination separate expense provisions are applicable.

13 (3) In the case of insurance described in section
14 1902(a), risks may be grouped by classifications for the
15 establishment of rates and minimum premiums. Classification
16 rates may be modified to produce rates for individual risks
17 in accordance with rating plans which establish standards for
18 measuring variations in hazards or expense provisions, or
19 both. These standards may measure any differences among risks
20 that can be demonstrated to have a probable effect upon
21 losses or expenses.

22 (4) In the case of insurance described in section
23 1902(b), manual, minimum, class rates, rating schedules or
24 rating plans shall be made and adopted, except in the case of
25 specific inland marine rates on risks specially rated, and
26 except in the case of special rates on other than inland
27 marine risks where manual, minimum, class rates, rating
28 schedules or rating plans are not applicable.

29 (5) Rates shall not be excessive, inadequate or unfairly
30 discriminatory.

1 (6) No rate shall be held to be unfairly discriminatory
2 unless, allowing for practical limitations, it clearly fails
3 to reflect with reasonable accuracy the differences in
4 expected losses and expenses. A rate is not unfairly
5 discriminatory because different premiums result for
6 policyholders with like loss exposures but different expense
7 factors, so long as the rate reflects the differences with
8 reasonable accuracy. A rate is not unfairly discriminatory if
9 it is averaged broadly among persons insured under a group,
10 franchise or blanket policy. This paragraph applies to
11 insurance described in section 1902(a).

12 (7) This section does not prohibit rates for automobile
13 insurance which are based, in whole or in part, on factors,
14 including, but not limited to, sex, if the use of such a
15 factor is supported by sound actuarial principles or is
16 related to actual or reasonable anticipated experience;
17 however, such factors shall not include race, religion or
18 national origin.

19 § 1904. Rate filings.

20 (a) General rule.--Every insurer shall file with the
21 department, except as to inland marine risks which by general
22 custom of the business are not written according to manual rates
23 or rating plans, every manual, minimum, class rate, rating
24 schedule or rating plan, every other rating rule and every
25 modification of any of the foregoing which it proposes to use,
26 and shall file every special rate on other than inland marine
27 risks as mentioned in section 1903(4) (relating to ratemaking).
28 Every such filing shall state the proposed effective date
29 thereof and shall indicate the character and extent of the
30 coverage contemplated. When a filing is not accompanied by

1 supporting information and the department lacks sufficient
2 information to determine whether the filing meets the
3 requirements of this chapter, it may require the insurer to
4 furnish that information. Any filing may be supported by the
5 experience or judgment of the insurer or rating organization
6 making the filing, the experience of other insurers or rating
7 organizations, or any other factors which the insurer or rating
8 organization deems relevant. A filing and any supporting
9 information shall be open to public inspection after the filing
10 becomes effective. Specific inland marine rates on risks
11 specially rated, made by a rating organization, shall be filed
12 with the department. An insurer shall not make or issue a
13 contract or policy except in accordance with filings or rates
14 which are in effect for the insurer under this chapter, unless
15 permitted to do so under this chapter.

16 (b) Rating organization.--An insurer may satisfy its
17 obligations to make the required filings by becoming a member
18 of, or a subscriber to, a licensed rating organization which
19 makes such filings, and by authorizing the department to accept
20 the organization's filings on its behalf.

21 (c) Review.--The department shall review such of the filings
22 as may be necessary to review in order to carry out the purposes
23 of this chapter.

24 (d) Effect of filing.--Subject to the exceptions under
25 subsections (e) and (f), each filing shall be on file for a
26 waiting period of 30 days before it becomes effective, which
27 period may be extended by the department for an additional
28 period not to exceed 30 days upon written notice within the
29 waiting period to the insurer or rating organization which made
30 the filing. Upon written application by the insurer or rating

1 organization, the department may authorize a filing or a part
2 thereof which it has reviewed to become effective before the
3 expiration of the waiting period or any extension thereof. A
4 filing shall be deemed to meet the requirements of this chapter
5 and to become effective unless disapproved by the department
6 within the waiting period or any extension thereof.

7 (e) Special filings.--With respect to insurance described in
8 section 1902(a) (relating to scope of chapter), any filing with
9 respect to a surety or guaranty bond required by law or by court
10 or executive order or by order, rule or regulation of a public
11 body, not covered by a previous filing, or any filing with
12 respect to a contract or a policy covering any risk or kind of
13 insurance or subdivision thereof for which classification rates
14 do not generally exist in the industry, or which by reason of
15 rarity or peculiar characteristics does not lend itself to
16 normal classification or rating procedure, shall become
17 effective when filed and shall be deemed to meet the
18 requirements of this chapter.

19 (f) Fire and marine insurance.--With respect to insurance
20 described in section 1902(b), specific inland marine rates on
21 risks specially rated by a rating organization shall become
22 effective when filed and shall be deemed to meet the
23 requirements of this chapter until such time as the department
24 reviews the filing and so long thereafter as the filing remains
25 in effect. Any special rate mentioned in section 1903(4) on a
26 contract or policy covering other than inland marine risks shall
27 be deemed to meet the requirements of this chapter until such
28 time as the department reviews the filing and so long thereafter
29 as the filing remains in effect.

30 (g) Waiver or modification.--Under such rules and

1 regulations as it shall adopt, the department may by written
2 order suspend or modify the requirement of filing as to any kind
3 of insurance, subdivision or combination thereof, or as to
4 classes of risks, the rates for which cannot practicably be
5 filed before they are used. These orders, rules and regulations
6 shall be made known to insurers and rating organizations
7 affected thereby. The department may make such examination as it
8 may deem advisable to ensure that any rates affected by the
9 order are not excessive, inadequate or unfairly discriminatory.

10 (h) Modification for specific risks.--Upon the written
11 consent of the insured stating his reasons therefor, filed with
12 and approved by the department, a rate in excess of that
13 provided by a filing otherwise applicable may be used on any
14 specific risk. The rate shall become effective when the consent
15 is filed and shall be deemed to meet the requirements of this
16 chapter until such time as the department reviews the filing and
17 so long thereafter as the filing remains in effect.

18 § 1905. Disapproval of filings.

19 (a) Standard of review.--A filing or modification thereof
20 shall not be disapproved if the rates in connection therewith
21 meet the requirements of this chapter.

22 (b) Hearing for insurer.--Upon the review at any time by the
23 department of a filing, it shall, before issuing an order of
24 disapproval, hold a hearing upon not less than ten days' written
25 notice, specifying the matters to be considered at the hearing,
26 to every insurer and rating organization which made the filing.
27 An insurer or organization may at any time withdraw a filing or
28 a part thereof, subject to the provisions of section 1907
29 (relating to deviations) in the case of a deviation filing.

30 (c) Hearing for aggrieved parties.--Any person or

1 organization aggrieved with respect to any filing which is in
2 effect, except the insurer or rating organization which made the
3 filing, may make written application to the department for a
4 hearing thereon. The application shall specify the grounds to be
5 relied upon. If the department finds that the application may
6 justify relief it shall, within 30 days after receipt of the
7 application, hold a hearing upon not less than ten days' written
8 notice to the applicant and to every insurer and rating
9 organization which made the filing.

10 (d) Decision of department.--If, after the hearing, the
11 department finds that the filing or a part thereof does not meet
12 the requirements of this chapter, it shall issue an order
13 specifying in what respects it is found that the filing or part
14 thereof fails to meet those requirements. If the filing has
15 become effective under section 1904 (relating to rate filings)
16 or otherwise, the order shall state a time within a reasonable
17 period thereafter, at which the filing or part thereof shall be
18 deemed no longer effective. Copies of the order shall be sent to
19 the applicant and to every insurer and rating organization
20 affected. The order shall not affect any contract or policy made
21 or issued prior to the expiration of the period set forth in the
22 order.

23 § 1906. Rating organizations.

24 (a) General rule.--Any person located in or outside this
25 Commonwealth may apply to the department for a license as a
26 rating organization for the kinds of insurance or subdivisions,
27 classes of risk or part or combination thereof specified in its
28 application. The application shall include:

29 (1) A copy of the applicant's constitution, its articles
30 of agreement or association, or its certificate of

1 incorporation, and of its bylaws, rules and regulations
2 governing the conduct of its business.

3 (2) A list of its members and subscribers.

4 (3) The name and address of a resident of this
5 Commonwealth upon whom notices or orders of the department or
6 process affecting the rating organization may be served.

7 (4) A statement of its qualifications as a rating
8 organization.

9 If the department finds that the applicant is competent,
10 trustworthy and otherwise qualified to act as a rating
11 organization and that the documents submitted under paragraph
12 (1) conform to the requirements of law, it shall issue a license
13 specifying the kinds of insurance or subdivisions, classes of
14 risk or part or combination thereof for which the applicant is
15 authorized to act as a rating organization. The application
16 shall be granted or denied in whole or in part by the department
17 within 60 days of the date of its filing with it. Licenses
18 issued under this section shall remain in effect for three years
19 unless sooner suspended or revoked by the department. The fee
20 for the license shall be \$25. Licenses may be suspended or
21 revoked by the department after hearing upon notice, if the
22 rating organization ceases to meet the requirements for
23 licensure under this section. Every rating organization shall
24 notify the department promptly of every change in the items
25 listed in paragraph (1), (2) or (3).

26 (b) Subscribers.--Subject to rules and regulations approved
27 by the department, each rating organization shall permit any
28 insurer, not a member, to be a subscriber to its rating services
29 for any kind of insurance, subdivision, class of risk or part or
30 combination thereof for which it is authorized to act as a

1 rating organization. Notice of proposed changes in its rules and
2 regulations shall be given to subscribers. Each rating
3 organization shall furnish its rating services without
4 discrimination to its members and subscribers. The
5 reasonableness of any rule or regulation in its application to
6 subscribers or the refusal of any rating organization to admit
7 an insurer as a subscriber shall, at the request of any
8 subscriber or any such insurer, be reviewed by the department at
9 a hearing held upon at least ten days' written notice to the
10 rating organization and to the subscriber or insurer. If the
11 department finds that the rule or regulation is unreasonable in
12 its application to subscribers, it shall order that the rule or
13 regulation shall not apply to the subscribers. If the rating
14 organization fails to grant or reject an insurer's application
15 for subscribership within 30 days after it is made, the insurer
16 may request a review by the department as if the application had
17 been rejected. If the department finds that the insurer has been
18 refused admittance to the rating organization as a subscriber
19 without justification, it shall order the rating organization to
20 admit the insurer as a subscriber. If the department finds that
21 the action of the rating organization was justified, it shall
22 make an order affirming its action.

23 (c) Limitations on certain payments.--A rating organization
24 shall not adopt any rule the effect of which would be to
25 prohibit or regulate the payment of dividends, savings or
26 unabsorbed premium deposits allowed or returned by insurers to
27 their policyholders, members or subscribers.

28 (d) Cooperative activities.--Cooperation among rating
29 organizations or among rating organizations and insurers, and
30 concert of action among insurers under the same general

1 management and control in ratemaking or in other matters within
2 the scope of this chapter is permitted, but the filings
3 resulting therefrom are subject to this chapter. The department
4 may review these activities and practices and, if after a
5 hearing it finds that any activity or practice is unfair,
6 unreasonable or otherwise inconsistent with this chapter, it may
7 issue a written order specifying its objections and requiring
8 the discontinuance thereof.

9 (e) Fire and marine insurance.--With respect to activities
10 of rating organizations relating to insurance described in
11 section 1902(b) (relating to scope of chapter):

12 (1) The rating organization may provide for the
13 examination of policies, daily reports, binders, renewal
14 certificates, endorsements or other evidences of insurance,
15 or the cancellation thereof and may make reasonable rules
16 governing their submission. The rules shall contain a
17 provision that if any insurer does not within 60 days furnish
18 satisfactory evidence to the rating organization of the
19 correction of any error or omission previously called to its
20 attention by the rating organization, the rating organization
21 shall notify the department thereof. All information so
22 submitted for examination shall be confidential.

23 (2) The rating organization may subscribe for or
24 purchase actuarial, technical or other services, which shall
25 be available to all members and subscribers without
26 discrimination.

27 § 1907. Deviations.

28 Every member of or subscriber to a rating organization shall
29 adhere to the filings made on its behalf by the organization
30 except as follows:

1 (1) In the case of insurance described in section
2 1902(a) (relating to scope of chapter), the insurer may file
3 with the department a uniform percentage decrease or increase
4 to be applied to the premiums produced by the rating system
5 so filed for a kind of insurance, or for a class of insurance
6 which is found by the department to be a proper rating unit
7 for the application of such uniform percentage decrease or
8 increase, or for a subdivision of a kind of insurance either
9 comprised of a group of manual classifications which is
10 treated as a separate unit for ratemaking purposes or for
11 which separate expense provisions are included in the filings
12 of the rating organization. The deviation filing shall
13 specify the basis for the modification and shall be
14 accompanied by the data upon which the applicant relies. A
15 copy of the filing and data shall be sent simultaneously to
16 the rating organization.

17 (2) In the case of insurance described in section
18 1902(b) the insurer may file with the department a deviation
19 from the class rates, schedules, rating plans or rules,
20 respecting any kind of insurance, or class of risk within a
21 kind of insurance or combination thereof. The deviation
22 filing shall specify the basis for the modification, and a
23 copy thereof shall be sent to the rating organization at the
24 time of filing.

25 Each deviation filing shall be on file for 30 days before it
26 becomes effective, unless the department reviews and authorizes
27 the filing to become effective sooner, and shall be subject to
28 the provisions of section 1905 (relating to disapproval of
29 filings). Each deviation shall be effective for a period of not
30 less than one year from the date the deviation is filed unless

1 terminated sooner with the approval of the department or under
2 section 1905.

3 § 1908. Appeal by minority.

4 (a) Right of appeal.--Any member of or subscriber to a
5 rating organization may appeal to the department from any action
6 or decision of the rating organization approving or rejecting
7 any proposed change in or addition to the filings of the rating
8 organization. The failure of a rating organization to take
9 action or make a decision within 30 days after submission to it
10 of a proposal under this section shall be deemed a rejection of
11 the proposal.

12 (b) Decision by department.--The department shall, after a
13 hearing held upon not less than ten days' written notice to the
14 appellant and to the rating organization, issue an order
15 approving the decision of the rating organization or directing
16 it to give further consideration to the proposal and to take
17 action upon it within 30 days. If the appeal is from a decision
18 of the rating organization rejecting a proposed addition to its
19 filings, the department may issue an order directing the rating
20 organization to make an addition to its filings on behalf of its
21 members and subscribers consistent with its findings within a
22 reasonable time. If the appeal is from a decision of the rating
23 organization with regard to a rate on a proposed change in or
24 addition to its filings relating to the character and extent of
25 coverage, it shall approve the rate applied by the rating
26 organization or the rate suggested by the appellant if either
27 rate is in accordance with this chapter.

28 (c) Casualty insurance.--In the case of insurance described
29 in section 1902(a) (relating to scope of chapter), if the appeal
30 is based upon the failure of the rating organization to make a

1 filing on behalf of the member or subscriber which is based on a
2 system of expense provisions which differs, in accordance with
3 section 1903(2) (relating to ratemaking), from the system of
4 expense provisions included in a filing made by the rating
5 organization, the department shall, if it grants the appeal,
6 order the rating organization to make the requested filing for
7 use by the appellant. In deciding the appeal, the department
8 shall apply the standards set forth in section 1903.

9 § 1909. Information to be furnished insureds.

10 Every rating organization and every insurer which makes its
11 own rates shall, within a reasonable time after receiving
12 written request therefor and upon payment of such reasonable
13 charge as it may make, furnish all pertinent information as to
14 the rate to any insured affected by a rate made by it or to the
15 authorized representative of such an insured. Any rating
16 organization or insurer which makes its own rate, with respect
17 to rates of fire insurance on property located in this
18 Commonwealth, is subject to section 12 of the act of April 27,
19 1927 (P.L.450, No.291), referred to as the State Fire Marshal
20 Law.

21 § 1910. Hearings and appeals of insureds.

22 Every rating organization and every insurer which makes its
23 own rates shall provide, within this Commonwealth, reasonable
24 means whereby any person aggrieved by the application of its
25 rating system may be heard, in person or by his authorized
26 representative, on his written request to review the manner in
27 which the rating system has been applied in connection with the
28 insurance afforded him. If the rating organization or insurer
29 fails to grant or reject such request within 30 days after it is
30 made, the applicant may proceed as if his application had been

1 rejected. Any party affected by the action of the rating
2 organization or insurer on the request may, within 30 days after
3 written notice of the action, appeal to the department, which,
4 after a hearing held upon not less than ten days' written notice
5 to the appellant and to the rating organization or insurer, may
6 affirm or reverse the action.

7 § 1911. Advisory organizations.

8 (a) Filing with department.--Every advisory organization
9 shall file with the department:

10 (1) A copy of its constitution, its articles of
11 agreement or association or its certificate of incorporation
12 and of its bylaws, rules and regulations governing its
13 activities.

14 (2) A list of its members.

15 (3) The name and address of a resident of this
16 Commonwealth upon whom notices or orders of the department or
17 process issued at his discretion may be served.

18 (4) An agreement that the department may examine the
19 advisory organization in accordance with section 1913
20 (relating to examinations).

21 (b) Unreasonable practices.--If, after a hearing, the
22 department finds that the furnishing of such information or
23 assistance involves any act or practice which is unfair or
24 unreasonable or otherwise inconsistent with the provisions of
25 this chapter, it may issue a written order specifying in what
26 respects the act or practice is unfair or unreasonable or
27 otherwise inconsistent with the provisions of this chapter and
28 requiring the discontinuance of the act or practice.

29 (c) Violation of orders.--An insurer which makes its own
30 filings or rating organization shall not support its filings by

1 statistics or adopt ratemaking recommendations furnished to it
2 by an advisory organization if the organization has failed to
3 comply with this section or with an order under subsection (b)
4 involving its statistics or recommendations. If the department
5 finds the insurer or rating organization to be in violation of
6 this subsection, it may issue an order requiring the
7 discontinuance of the violation.

8 (d) Definition.--As used in this section the term "advisory
9 organization" means any group, association or other organization
10 of insurers, located in or outside this Commonwealth, which
11 assists insurers which make their own filings or rating
12 organizations in ratemaking, by the collection and furnishing of
13 loss or expense statistics or by the submission of
14 recommendations, but does not make filings under this chapter.
15 § 1912. Joint underwriting or joint reinsurance.

16 (a) Applicability.--Every group, association or other
17 organization of insurers which engages in joint underwriting or
18 joint reinsurance shall be subject to this section and shall be
19 subject, with respect to joint underwriting, to all provisions
20 of this chapter and, with respect to joint reinsurance, to
21 sections 1913 (relating to examinations), 1917 (relating to
22 penalties) and 1918 (relating to hearing procedure and judicial
23 review). This section does not apply to the group action of
24 insurers under the same general management and control.

25 (b) Administrative action.--If, after a hearing, the
26 department finds that any activity or practice of any such
27 group, association or other organization is unfair or
28 unreasonable or otherwise inconsistent with the provisions of
29 this chapter, it may issue a written order specifying its
30 objections and requiring the discontinuance of the activity or

1 practice.

2 § 1913. Examinations.

3 The department shall, at least once in five years, make an
4 examination of each rating organization licensed in this
5 Commonwealth under section 1906 (relating to rating
6 organizations), and may, as often as necessary, make an
7 examination of each advisory organization referred to in section
8 1911 (relating to advisory organizations) and of each group,
9 association or other organization referred to in section 1912
10 (relating to joint underwriting or joint reinsurance). The
11 reasonable costs of any examination shall be paid by the
12 organization examined upon presentation to it of a detailed
13 account of these costs. The officers, managers, agents and
14 employees of any such organization may be examined at any time
15 under oath and shall exhibit all books, records, accounts,
16 documents or agreements governing its method of operation. The
17 department shall furnish two copies of the examination report to
18 the organization examined and shall notify it that it may,
19 within 20 days thereafter, request a hearing on the report or on
20 any facts or recommendations therein. Before filing a report for
21 public inspection, the department shall grant a hearing to the
22 organization examined. The report of any examination, when filed
23 for public inspection, shall be admissible in evidence in any
24 action or proceeding brought by the department against the
25 organization examined or its officers or agents and shall be
26 prima facie evidence of the facts stated therein. The department
27 may withhold the report of any examination from public
28 inspection for such time as it deems proper. In lieu of an
29 examination, the department may accept the report of an
30 examination made by the insurance supervisory official of

1 another state pursuant to the laws of that state.

2 § 1914. Recording and reporting of loss and expense experience.

3 The department shall promulgate reasonable rules and
4 statistical plans, reasonably adapted to each of the rating
5 systems on file with it, which may be modified from time to time
6 and which shall be used by each insurer in the recording and
7 reporting of its loss and countrywide expense experience, in
8 order that the experience of all insurers may be made available
9 at least annually in such form and detail as necessary to aid it
10 in determining whether rating systems comply with the standards
11 set forth in this chapter. These rules and plans may also
12 provide for the recording and reporting of expense experience
13 items which are specifically applicable to this Commonwealth and
14 are not susceptible of determination by a prorating of
15 countrywide expense experience. In promulgating the rules and
16 plans, the department shall give due consideration to the rating
17 systems on file with it and, in order that the rules and plans
18 may be as uniform as practicable among the several states, to
19 the rules and the form of the plans used for rating systems in
20 other states. The rules and plans shall be drafted so as not to
21 place an unreasonable burden of expense on any insurer. An
22 insurer shall not be required to record or report its loss
23 experience on a classification basis that is inconsistent with
24 the rating system filed by it, nor shall any insurer be required
25 to report its experience to any agency of which it is not a
26 member or subscriber. The department may designate one or more
27 rating organizations or other agencies to assist it in making
28 compilations of experience information; these compilations shall
29 be made available, subject to reasonable regulations promulgated
30 by the department, to insurers and rating organizations.

1 § 1915. False or misleading information.

2 A person or organization shall not willfully withhold
3 information from, or knowingly give false or misleading
4 information to, the department, any statistical agency
5 designated by the department, any rating organization or any
6 insurer, which will affect the rates or premiums chargeable
7 under this chapter.

8 § 1916. Assigned risks.

9 With respect to insurance described in section 1902(a)
10 (relating to scope of chapter), agreements may be made among
11 insurers with respect to the equitable apportionment among them
12 of insurance which may be afforded applicants who are in good
13 faith entitled to but who are unable to procure such insurance
14 through ordinary methods, and the insurers may agree among
15 themselves on the use of reasonable rate modifications for such
16 insurance. These agreements and rate modifications shall be
17 subject to the approval of the department.

18 § 1916.1. REGULATIONS.

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19 (A) GENERAL RULE.--THE DEPARTMENT SHALL ENFORCE AND CARRY
20 OUT THIS CHAPTER BY REGULATIONS, ORDERS OR OTHERWISE. THE
21 DEPARTMENT MAY MAKE SUCH REASONABLE REGULATIONS, NOT
22 INCONSISTENT WITH THIS CHAPTER, AS MAY BE NECESSARY OR PROPER IN
23 THE EXERCISE OF ITS POWERS OR FOR THE PERFORMANCE OF ITS DUTIES
24 UNDER THIS CHAPTER.

25 (B) INTERCHANGE OF RATING PLAN DATE.--REASONABLE REGULATIONS
26 AND PLANS MAY BE PROMULGATED BY THE DEPARTMENT FOR THE
27 INTERCHANGE OF DATA NECESSARY FOR THE APPLICATION OF RATING
28 PLANS.

29 § 1916.2. CONSULTATION WITH OTHER STATES.

30 IN ORDER TO FURTHER UNIFORM ADMINISTRATION OF RATE REGULATORY

1 LAWS, THE DEPARTMENT AND EVERY INSURER AND RATING ORGANIZATION
2 MAY EXCHANGE INFORMATION AND EXPERIENCE DATA WITH INSURANCE
3 SUPERVISORY OFFICIALS, INSURERS AND RATING ORGANIZATIONS IN
4 OTHER STATES AND MAY CONSULT WITH THEM WITH RESPECT TO
5 RATEMAKING AND THE APPLICATION OF RATING SYSTEMS.

6 § 1917. Penalties.

7 (a) Fines.--The department may, if it finds that any person
8 or organization has violated this chapter, impose a penalty of
9 not more than \$50 for each violation, but, if it finds the
10 violation to be willful, it may impose a penalty of not more
11 than \$500 for the violation. These penalties may be in addition
12 to any other penalty provided by law.

13 (b) Suspension of license.--The department may suspend the
14 license of any rating organization or insurer which fails to
15 comply with an order of the department within the time limited
16 by the order or any extension thereof granted by the department.
17 The department shall not suspend the license of any rating
18 organization or insurer for failure to comply with an order
19 until the time prescribed for an appeal therefrom has expired
20 or, if an appeal has been taken, until the order has been
21 affirmed. The department may determine when a suspension of
22 license shall become effective, and it shall remain in effect
23 for the period fixed by it, unless it modifies or rescinds the
24 suspension, or until the order upon which suspension is based is
25 modified, rescinded or reversed by a court.

26 (c) Procedure.--A penalty shall not be imposed or a license
27 shall not be suspended or revoked except upon a written order of
28 the department, stating its findings, made after a hearing held
29 upon not less than ten days' written notice to the person or
30 organization specifying the alleged violation.

1 § 1918. Hearing procedure and judicial review.

2 (a) Right to hearing.--Any insurer, rating organization or
3 other person aggrieved by any action of the department, except
4 disapproval of a filing or a part thereof under section 1905
5 (relating to disapproval of filings), or by any rule or
6 regulation promulgated by the department, may file a complaint
7 with the department and have a hearing thereon before it.

8 Pending the hearing and the decision thereon, the department may
9 suspend or postpone the effective date of its previous action,
10 rule or regulation.

11 (b) Procedure.--All such hearings and all hearings provided
12 for in section 1905 shall be conducted, and the decision of the
13 department on the issue or filing involved shall be rendered,
14 under Title 2 (relating to administrative law and procedure).

15 (c) Right to appeal.--Any insurer, rating organization or
16 person aggrieved by any adjudication, including a disapproval of
17 a filing or portion thereof under section 1905, may appeal to
18 the court therefrom.

19 CHAPTER 21

20 RECIPROCAL AND INTER-INSURANCE EXCHANGES

21 Sec.

22 2101. General provisions.

23 2102. Authority to exchange.

24 2103. Declarations.

25 2104. Certificates of attorney.

26 2105. Statements to be filed by attorney.

27 2106. Examination by department.

28 2107. Reserves.

29 2108. Fees and taxes.

30 2109. Penalty.

1 § 2101. General provisions.

2 (a) Definitions.--The following words and phrases when used
3 in this chapter shall have the meanings given to them in this
4 subsection unless the context clearly indicates otherwise:

5 "Attorney." The attorney, agent or other representative
6 authorized by the subscribers to perform the duties set forth in
7 this chapter on their behalf.

8 "Subscriber." Any person who exchanges reciprocal or inter-
9 insurance contracts.

10 (b) Applicability.--This chapter does not apply to title
11 insurance agents and brokers or to the business of title
12 insurance.

13 § 2102. Authority to exchange.

14 (a) General rule.--Persons of this Commonwealth may exchange
15 reciprocal or inter-insurance contracts with each other, or with
16 persons of other states and countries, providing indemnity among
17 themselves from any loss on any insurance under this title,
18 except life insurance.

19 (b) Corporations.--Any corporation organized under the laws
20 of this Commonwealth shall, in addition to the rights, powers
21 and franchises specified in its articles of incorporation, have
22 full power and authority to exchange insurance contracts of the
23 kind and character mentioned in this chapter.

24 (c) Execution of contracts.--Contracts authorized by this
25 chapter may be executed by the attorney.

26 § 2103. Declarations.

27 The subscribers shall, through their attorney, file with the
28 department a declaration verified by the attorney, setting forth
29 the following:

30 (1) The name of the office at which the subscribers

1 propose to exchange the indemnity contracts. This name shall
2 not be so similar to any other name previously adopted by a
3 similar exchange or association or by any insurance company
4 as, in the opinion of the department, to result in confusion
5 or deception.

6 (2) The kind or kinds of insurance to be effected or
7 exchanged.

8 (3) A copy of the form of policy, contract or agreement
9 by which the insurance is to be effected or exchanged.

10 (4) A copy of the form of power of attorney, or other
11 authority of the attorney, under which the insurance is to be
12 effected or exchanged, and which shall provide that the
13 liability of the subscribers, exchanging contracts of
14 indemnity, shall make provision for contingent liability
15 equal to not less than one additional annual premium or
16 deposit charged. If an exchange has a surplus equal to the
17 minimum capital and surplus required of a stock insurance
18 company transacting the same kind or kinds of business, its
19 power of attorney need not provide for contingent liability
20 of subscribers, and the exchange, so long as it maintains the
21 surplus, may issue to its subscribers policies or contracts
22 without contingent liability.

23 (5) The location of each office from which the contracts
24 or agreements are to be issued.

25 (6) A statement that applications have been made for
26 indemnity upon at least 100 separate risks, aggregating not
27 less than \$1,500,000, as represented by executed contracts or
28 bona fide applications to become concurrently effective, or,
29 in the case of employees' liability or workmen's compensation
30 insurance, covering a total payroll of not less than

1 \$1,500,000.

2 (7) A statement that there is in the possession of the
3 attorney, available for the payment of losses, a sum of not
4 less than \$100,000.

5 § 2104. Certificates of attorney.

6 Each attorney shall annually obtain from the department a
7 certificate of authority stating that all the requirements of
8 this chapter have been complied with. Upon the payment of the
9 fees required, the department shall issue the certificate. The
10 department may revoke or suspend any certificate of authority.

11 § 2105. Statements to be filed by attorney.

12 (a) Indemnity.--The attorney shall file with the department
13 his verified statement showing the maximum amount of indemnity
14 upon any single risk. Whenever required by the department, the
15 attorney shall file his verified statement to the effect that he
16 has examined the commercial rating of the subscribers, as shown
17 by the reference book of a commercial agency having at least
18 100,000 subscribers, and that, from his examination or from
19 other information in his possession, it appears that no
20 subscriber has assumed on any single risk an amount greater than
21 10% of the net worth of such subscriber.

22 (b) Statement of conditions.--The attorney shall make a
23 report to the department for each calendar year, on or before
24 March 1, showing the financial condition of the office where the
25 contracts are issued, and shall furnish such additional
26 information and reports as the department requires. The attorney
27 shall not be required to furnish the names and addresses of any
28 subscribers, nor the loss ratio of any particular subscriber.

29 § 2106. Examination by department.

30 The business affairs and assets of organizations under this

1 chapter shall be subject to examination by the department.

2 § 2107. Reserves.

3 There shall at all times be maintained as a reserve a sum in
4 cash, or in securities of the character permitted by the law of
5 the state under which the exchange is organized for the
6 investment of the capital and funds of an insurance company,
7 equal to 50% of the aggregate net annual deposits collected and
8 credited to the account of the subscribers on policies having
9 one year or less to run, and pro rata on those for longer
10 periods. As used in this section the term "net annual deposits"
11 shall mean the advance payments of subscriber, after deducting
12 therefrom the amounts specifically provided in the subscribers'
13 agreements for expenses. If the reserves at any time do not
14 amount to \$100,000, then there shall be maintained on deposit at
15 the exchange at all times additional funds in cash or such
16 securities which together with the reserves will equal \$100,000.
17 In calculating the foregoing reserves, the funds or amounts
18 provided for under section 2103(7) (relating to declarations)
19 shall be included. There shall also be maintained as a claim or
20 loss reserve, cash or such securities, as authorized, sufficient
21 to discharge all liabilities on all outstanding losses arising
22 under policies issued. If at any time the amounts on hand are
23 less than the foregoing requirements, the subscribers or their
24 attorney shall make up the deficiency under penalty of
25 revocation of the license. These advances shall be repaid only
26 out of the surplus funds of the exchange.

27 § 2108. Fees and taxes.

28 The attorney shall pay to the Commonwealth the same fees and
29 taxes as are now required by law to be paid by stock and mutual
30 companies transacting like kinds of business in this

1 Commonwealth. In the payment of taxes, he may deduct from the
2 gross premiums or deposits received during the calendar year,
3 all amounts returned to subscribers or credited to their
4 accounts, other than for losses.

5 § 2109. Penalty.

6 Any attorney who, except for the purpose of applying for a
7 certificate of attorney under section 2104 (relating to
8 certificates of attorney), exchanges any contracts of indemnity
9 of the kind specified in this chapter, or directly or indirectly
10 solicits or negotiates any applications therefor, without first
11 complying with this chapter, commits a misdemeanor of the third
12 degree.

13 CHAPTER 23

14 LLOYDS ASSOCIATIONS

15 Sec.

16 2301. Definition.

17 2302. Authorization.

18 2303. Declarations.

19 2304. Certification to do business.

20 2305. Examination by department.

21 2306. Deposits by alien underwriters.

22 2307. Return of deposits.

23 2308. Additional and substituted underwriters.

24 2309. Information to be furnished to department.

25 2310. Maximum amount of risks.

26 2311. Applicability of other provisions.

27 2312. Penalties.

28 § 2301. Definition.

29 As used in this chapter, the term "underwriter" means any
30 individual, partnership or association of individuals which

1 engages in the business of insurance as insurers on the Lloyds
2 plan.

3 § 2302. Authorization.

4 (a) General rule.--Individuals, partnerships or associations
5 of individuals are authorized to engage in the business of
6 insurance as insurers on the Lloyds plan in accordance with this
7 chapter.

8 (b) Authorized classes of insurance.--Underwriters, when
9 authorized under this chapter, may insure the following classes
10 of risks:

11 (1) On dwelling houses, stores and all kinds of
12 buildings and household furniture and other property, against
13 loss or damage, including loss of use or occupancy, by fire,
14 lightning and explosion, except by explosion on risks
15 specified in section 3302(c)(5) (relating to authorized
16 classes of insurance), and by storms, earthquakes, hail,
17 frost, sleet, snow or flood; against loss or damage by water
18 to any goods or premises arising from the breakage, leakage
19 of sprinklers, pumps or other apparatus erected for
20 extinguishing fires and of water pipes; against accidental
21 injury to sprinklers, pumps or other apparatus; against loss
22 or damage caused by the caving in of the surface of the earth
23 above coal mines; against loss or damage caused by
24 bombardment, invasion, insurrection, riot, civil war or
25 commotion, and military or usurped power; and to effect
26 reinsurance of any risk provided for in this paragraph.

27 (2) The risks listed in section 3302(b)(2).

28 (3) The risks listed in section 3302(b)(3).

29 (4) Any form of insurance other than life insurance, not
30 included in this section, if the insurance is not contrary to

1 law and is allied or in harmony with the classes of insurance
2 listed in this section. This insurance shall be transacted
3 only on express license by the department and upon the terms
4 and conditions prescribed by it.

5 § 2303. Declarations.

6 The underwriters shall file with the department a
7 declaration, verified by their duly authorized attorney-in-fact,
8 setting forth:

9 (1) The name or title under which the business is to be
10 conducted, which name shall not be so similar to any existing
11 association of insurers on the Lloyds or inter-insurance plan
12 or insurance corporation as to result in confusion or
13 deception, in the opinion of the department.

14 (2) The location of the principal office at which the
15 business is to be conducted.

16 (3) A copy of the form of power of attorney, agreement
17 or other authority of the attorney-in-fact, setting forth the
18 character of their representatives and their authority and
19 the agreement between the underwriters.

20 (4) Copies of the forms of policy, contracts or
21 agreements under which insurance is to be effected.

22 (5) The names and addresses of all the underwriters
23 proposing to engage in the business.

24 (6) If a foreign association, the designation and
25 appointment of the department for service of legal process.

26 (7) Each kind of insurance to be written.

27 (8) That a fund for the protection of policyholders is
28 in the possession, within the United States, of the attorney-
29 in-fact or a committee for the underwriters and is either in
30 cash or invested as required by the law of the state in which

1 the principal office of the underwriters is located in
2 respect to securities deposited by the insurance corporations
3 authorized to transact similar kinds of insurance. The fund
4 shall be in an amount not less than \$100,000 if the
5 applicants desire to be authorized to insure any single class
6 of risk mentioned in section 2302(b)(1), (2) or (3) (relating
7 to authorization), respectively, or in section 2302(b)(1) and
8 (3) only or section 2302(b)(2) and (3) only. The fund shall
9 be in an amount not less than \$200,000 if the applicants
10 desire to be authorized to insure all the classes of risk
11 mentioned in section 2302(b)(1), (2) and (3) or those classes
12 mentioned in section 2302(b)(1) and (2) only.

13 (9) The number of underwriters, which shall not be less
14 than 25, and that each underwriter is worth, in his own
15 right, not less than \$20,000 over and above all his debts and
16 liabilities.

17 (10) A statement showing a list of all cash and invested
18 assets owned by the associated underwriters as such, and
19 their estimated value.

20 § 2304. Certification to do business.

21 Upon the filing of the documents specified in section 2303
22 (relating to declarations), the department shall examine them,
23 and, if it appears that all the statements made in the
24 declaration are true and that the rights of the policyholders
25 will be protected thereunder, it may issue a certificate of
26 authority to the underwriters, under the name chosen and
27 approved, stating that they are authorized to transact the
28 business of insurance specified in the declaration. The
29 certificate of authority shall be renewed annually. An
30 underwriter, attorney-in-fact, agent or other person shall not

1 transact the business of insurance in this Commonwealth for the
2 underwriters until the certificate has been issued, nor during
3 its suspension or revocation.

4 § 2305. Examination by department.

5 Prior to the issuance of the certificate of authority, the
6 department may cause an examination to be made of the affairs
7 and assets of the underwriters applying for the certificate.

8 § 2306. Deposits by alien underwriters.

9 If any of the underwriters applying for a certificate of
10 authority is not a citizen of the United States, each alien
11 underwriter shall, at the time of the making of the application
12 for certificate of authority, deposit with the department \$5,000
13 in cash or in the kinds of securities required for the
14 investment of the capital of insurance corporations authorized
15 to do similar kinds of insurance business in this Commonwealth,
16 or in the kinds of securities approved by it. The provisions of
17 this section as to deposits shall not apply if the alien
18 underwriter:

19 (1) is one of an association of underwriters having on
20 deposit with the insurance department of any state, or in the
21 hands of a bank or trust company as trustee, a cash deposit
22 or approved securities, worth not less than \$100,000, held in
23 trust for the benefit of all their policyholders in the
24 United States; or

25 (2) is one of an association of underwriters 90% of whom
26 are at all times citizens of the United States and who have
27 complied with all other provisions of this chapter.

28 § 2307. Return of deposits.

29 After the conditions of any deposits made under this chapter
30 have been fulfilled and the certificate of authority granted to

1 the underwriters has been canceled or they have voluntarily
2 withdrawn from and have ceased doing business in this
3 Commonwealth, the department shall return to the underwriters,
4 or their authorized representative for this purpose specifically
5 designated by them or their principal attorney-in-fact, all
6 securities and cash so deposited in this Commonwealth.

7 § 2308. Additional and substituted underwriters.

8 Whenever underwriters applying for certificates of authority
9 under this chapter, after the issue of the certificate, are
10 joined by additional or substituted underwriters, the additional
11 or substituted underwriters shall comply with the provisions of
12 this chapter and shall be bound by the documents on file with
13 the department concerning such authorized underwriters, to the
14 same extent as though they had been original applicants for the
15 certificates of authority.

16 § 2309. Information to be furnished to department.

17 Any association of underwriters authorized under this chapter
18 shall from time to time furnish to the department, under oath of
19 their attorney-in-fact, such information as the department
20 requires respecting the conduct of their affairs, changes in the
21 name under which the business is done, the establishment of
22 branch offices and their location and any change in the
23 membership of the underwriters and their attorney-in-fact,
24 including any amendment to the power of attorney, agreements or
25 articles of association of underwriters.

26 § 2310. Maximum amount of risks.

27 An association of underwriters authorized to do business in
28 this Commonwealth under this chapter shall not expose themselves
29 to loss on any one risk in an amount in excess of 20% of their
30 cash and invested assets, including therein the underwriting

1 liability of the individual underwriters, unless any excess is
2 promptly reinsured by the underwriters.

3 § 2311. Applicability of other provisions.

4 (a) General rule.--All associations of underwriters
5 authorized under this chapter and their representatives shall be
6 subject to the same supervision by and shall be required to make
7 the same reports to the department and shall pay the same taxes
8 and license fees as are required of foreign insurance companies
9 and their representatives transacting the same or similar kinds
10 of insurance in this Commonwealth.

11 (b) Inter-insurers or reciprocal underwriters.--This chapter
12 does not apply to inter-insurers or reciprocal underwriters.

13 § 2312. Penalties.

14 (a) Certificate of authority.--Upon violation of any
15 provision of this chapter, the department may revoke or suspend
16 any certificate of authority issued under this chapter.

17 (b) Criminal penalty.--Any person who, as principal,
18 attorney, agent, broker or other representatives, engages in the
19 business contemplated by this chapter, or any variety or part
20 thereof, without complying with the requirements thereof, or who
21 violates any provision of this chapter commits a misdemeanor of
22 the third degree and, upon conviction, shall be sentenced to pay
23 a fine not exceeding \$500.

24 PART III

25 ORGANIZATION OF INSURANCE ENTITIES

26 Chapter

27 31. General Provisions

28 33. Incorporation of Insurance Companies

29 35. Corporate Operations

30 37. International Operations

1 39. Suspension of Business and Dissolution
2 41. Beneficial Societies
3 43. (Reserved)
4 45. Fraternal Benefit ~~Society Code~~ SOCIETIES
5 47. Mutual Companies

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6 CHAPTER 31

7 GENERAL PROVISIONS

8 Sec.

9 3101. Scope of part.

10 3102. Acceptance of part.

11 3103. Exemption from part.

12 3104. Power of General Assembly regarding charters.

13 3105. Persons prohibited from insurance business.

14 3106. Judicial proceedings.

15 § 3101. Scope of part.

16 (a) Applicability.--Except as provided in this part, this
17 part applies to all of the following:

18 (1) Domestic insurance companies incorporated under the
19 provisions of this part.

20 (2) Domestic insurance companies incorporated under
21 general or special laws since October 13, 1857.

22 (3) Domestic insurance corporations which have accepted
23 the provisions of the Constitution of Pennsylvania and the
24 general insurance laws enacted since October 13, 1857.

25 (4) Domestic insurance corporations incorporated prior
26 to October 13, 1857, which, by the terms of their charters or
27 the statutes under which they were incorporated hold charters
28 subject to alteration or revocation.

29 (5) Other domestic insurance corporations incorporated
30 prior to October 13, 1857, which accept the provisions of

1 this part.

2 (6) Foreign insurance companies doing business in this
3 Commonwealth.

4 (7) Domestic and foreign associations and exchanges
5 doing insurance business in this Commonwealth.

6 (b) Authority.--All insurance companies to which this part
7 applies and which have the required capital and reserve may
8 transact any one or more of the classes of insurance authorized
9 by section 3302 (relating to authorized classes of insurance) in
10 the same manner and to the same extent as insurance companies
11 incorporated under the provisions of this part.

12 (c) Exemptions.--An insurance company created before May 21,
13 1921, to which this part applies, shall not be deprived of any
14 right which it enjoys under its charter to engage in any
15 business other than insurance. This title shall not interfere
16 with the charter provisions or operations of any domestic mutual
17 fire insurance company organized before May 21, 1921, under any
18 general or special law of this Commonwealth.

19 (d) Business Corporation Law.--The act of May 5, 1933
20 (P.L.364, No.106), known as the Business Corporation Law, does
21 not apply to corporations organized under Chapter 33 (relating
22 to incorporation of insurance companies), except for section
23 1014B of that act AND EXCEPT AS PROVIDED IN SECTION 6723
24 (RELATING TO MERGERS AND CONSOLIDATIONS).

25 § 3102. Acceptance of part.

26 Any insurance company organized before May 21, 1921, under
27 any general or special law of this Commonwealth to transact any
28 of the classes of insurance authorized in this part and to which
29 this part does not apply may transact any one or more of the
30 classes of insurance authorized by section 3302 (relating to

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1 authorized classes of insurance) and become subject to the
2 provisions of this part, by providing the capital and reserve
3 required for such companies organized under this title and by
4 filing with the department a resolution of the board of
5 directors or trustees, approved by the stockholders or members
6 at a meeting specially called for that purpose, accepting the
7 provisions of the Constitution and of this part, and agreeing to
8 be governed thereby as fully as though organized hereunder. The
9 charters of all insurance companies accepting the provisions of
10 this part shall, after such acceptance, be repealed and of no
11 effect insofar as these are inconsistent with this part. Any
12 domestic mutual fire company or association may elect to become
13 subject to the provisions of this part, in lieu of any acts
14 previously governing the company or association, by resolution
15 of its board of directors, duly approved by a majority of the
16 members present at any annual meeting or special meeting called
17 for that purpose, of which all members shall be given at least
18 two weeks notice by mail. These resolutions and the vote
19 approving them certified to by the president and secretary shall
20 be filed with the department, and, when approved by it, the
21 company shall become subject to the provisions of this part.

22 § 3103. Exemption from part.

23 Except for Chapters 41 (relating to beneficial societies) and
24 45 (relating to ~~Fraternal Benefit Society Code~~ FRATERNAL BENEFIT
25 SOCIETIES), this part does not apply to assessment associations
26 or to fraternal benefit societies, orders or associations having
27 a lodge system with ritualistic form of work and representative
28 form of government; or to beneficial and relief associations
29 formed by churches or societies, partnerships, associations or
30 corporations, with or without ritualistic form of work, the

1 privileges and membership in which are confined to the members
2 of those churches or societies, and to members and employees of
3 those partnerships, associations or corporations.

4 § 3104. Power of General Assembly regarding charters.

5 The General Assembly may alter, revoke or annul any charter
6 granted or accepted under this part whenever, in the opinion of
7 the General Assembly, it may be injurious to the citizens of
8 this Commonwealth, in such manner that no injustice shall be
9 done to the incorporators or their successors.

10 § 3105. Persons prohibited from insurance business.

11 (a) General rule.--Except as provided in this part, the
12 doing of any insurance business in this Commonwealth as
13 prescribed in this part, for insurance companies by any private
14 individual, association or partnership is prohibited.

15 (b) Enforcement--Any person who solicits or obtains in this
16 Commonwealth applications for insurance by any such private
17 individual, association or partnership, in violation of this
18 part shall be liable to pay \$100 for the use of the Commonwealth
19 for every application obtained. This penalty shall be sued for
20 and recovered by the Attorney General or district attorney of
21 the proper county, either by civil action or by criminal
22 prosecution. Any person who has paid to any agent of an
23 unauthorized individual, association or partnership any premiums
24 for insurance granted or to be granted may recover them by an
25 action at law from such agent or from the person, ~~association or~~ <—
26 ~~partnership~~ for which he acted.

27 (c) Exemptions.--This section does not prohibit the doing of
28 insurance business by Lloyds associations or the exchange of
29 inter-insurance or reciprocal contracts of insurance authorized
30 by Chapter 21 (relating to reciprocal and inter-insurance

1 exchanges), nor does this part prohibit anyone from becoming or
2 being accepted as personal surety or guarantor. This section
3 does not apply to title insurance companies or to the business
4 of title insurance.

5 § 3106. Judicial proceedings.

6 Any person transacting business under this title may maintain
7 or defend judicial proceedings.

8 CHAPTER 33

9 INCORPORATION OF INSURANCE COMPANIES

10 Subchapter

11 A. Formation of Corporations

12 B. ~~Promotion~~ (RESERVED) <—

13 C. Authorization

14 D. Valuation of Securities

15 E. Conversion of Mutual Companies to Corporations

16 SUBCHAPTER A

17 FORMATION OF CORPORATIONS

18 Sec.

19 3301. Classes of insurance companies.

20 3302. Authorized classes of insurance.

21 3303. Articles of agreement.

22 3304. Name of company.

23 3305. Capital stock.

24 3306. Minimum capital stock and financial requirements.

25 3307. Officers and directors.

26 3308. Subscriptions.

27 § 3301. Classes of insurance companies.

28 Subject to this title, insurance companies of any of the
29 following classes may be incorporated:

30 (1) Stock life insurance companies.

1 (2) Mutual life insurance companies.

2 (3) Stock fire, stock marine, and stock fire and marine
3 insurance companies.

4 (4) Stock casualty insurance companies.

5 (5) Mutual insurance companies of any kind other than
6 mutual life insurance companies.

7 § 3302. Authorized classes of insurance.

8 (a) Life insurance companies.--Stock or mutual life
9 insurance companies may be incorporated for any or all of the
10 following purposes:

11 (1) To insure the lives of persons and every insurance
12 appertaining thereto; to grant and dispose of annuities,
13 variable life insurance contracts and variable annuity
14 contracts under which values or payments or both vary in
15 relation to the investment experience of the issuer or a
16 separate account or accounts maintained by the issuer; and to
17 insure against the risks listed in paragraph (2) when written
18 as a part of a policy of life insurance.

19 (2) To insure against personal injury, disability or
20 death resulting from traveling or general accidents and
21 against disability resulting from sickness and every
22 insurance appertaining thereto, but no life insurance company
23 may be incorporated for the purposes mentioned in this
24 paragraph unless it is also incorporated for the purposes
25 mentioned in paragraph (1).

26 (b) Fire and marine insurance companies.--Stock fire
27 insurance companies may be incorporated for any or all of the
28 purposes mentioned in paragraphs (1) and (2); stock marine
29 insurance companies may be incorporated for any or all of the
30 purposes mentioned in paragraphs (2) and (3); and stock fire and

1 marine insurance companies may be incorporated for any or all of
2 the purposes mentioned in paragraphs (1), (2) and (3). The
3 permissible subjects and risks under this subsection are:

4 (1) Insuring dwelling houses, stores and all kinds of
5 buildings and household furniture and other property against
6 loss or damage, including loss of use or occupancy, by any or
7 all risks, and effecting reinsurance of any such risk.

8 (2) Insuring vessels, boats, cargoes, goods, personal
9 property, merchandise, freight and other property, against
10 loss or damage by all or any of the risks of lake, river,
11 canal and inland navigation and transportation, including all
12 personal property floater risks, upon automobiles or
13 aircraft, whether stationary, in operation or in transit,
14 against loss or damage by fire, explosion, transportation,
15 collision, burglary, larceny or theft, not including, in any
16 case, insurances against loss by reason of bodily injury; and
17 effecting reinsurance of any such risk.

18 (3) Insuring vessels, freight, goods, wares,
19 merchandise, specie, bullion, jewels, profits, commissions,
20 bank notes, bills of exchange and other evidence of debt,
21 bottomry and respondentia interests; providing insurance upon
22 or connected with marine risks and risks of transportation
23 and navigation; and effecting reinsurance of any such risk.

24 (c) Casualty insurance.--Stock casualty insurance companies
25 may be incorporated for any or all of the following purposes:

26 (1) To guarantee the fidelity of persons holding places
27 of public or private trust; to guarantee the performance of
28 contracts other than insurance policies; to guarantee the
29 performance of insurance contracts where surety bonds are
30 accepted from insurance companies by states or municipalities

1 in lieu of actual deposits; to execute or guarantee bonds and
2 undertakings required or permitted in all actions or
3 proceedings or permitted by law; and to indemnify banks,
4 bankers, brokers, financial associations or financial
5 corporations against the loss of any bills of exchange,
6 notes, drafts, acceptances of drafts, bonds, securities,
7 evidences of debt, deeds, mortgages, warehouse receipts,
8 bills of lading, documents, currency, money, gold, platinum,
9 silver and other precious metals and articles made therefrom;
10 jewelry, watches, necklaces, bracelets, gems and precious and
11 semi-precious stones, and also against loss resulting from
12 damage, except by fire, to the insured's premises,
13 furnishings, fixtures, equipment, safes and vaults therein,
14 caused by burglary, robbery, theft or larceny, or attempt
15 thereat, except against loss caused by marine risks or risks
16 of transportation or navigation, but indemnification against
17 the loss of such property may include loss occurring during
18 transportation by an armored motor vehicle accompanied by one
19 or more armed guards.

20 (2) To insure against injury, disability or death
21 resulting from traveling or general accident, and against
22 disability resulting from sickness, and every insurance
23 appertaining thereto, including a funeral benefit to an
24 amount not exceeding \$100.

25 (3) To insure against loss of and damage to glass,
26 including lettering and ornamentation thereon, and the frame
27 in which the glass is set, resulting from breakage of the
28 insured glass.

29 (4) To insure against loss or damage resulting from
30 accident to, or injury, fatal or nonfatal, suffered by any

1 person for which the person insured is liable; to insure
2 against medical, hospital, surgical and funeral expenses
3 incurred by or on behalf of the persons accidentally injured,
4 including the person insured; to insure against loss or
5 damage to property caused by horses, or by any vehicle drawn
6 by animal power, for which loss or damage the person insured
7 is liable; and to insure against loss or damage to property,
8 for which loss or damage the person insured is liable, but
9 not including any kind of property damage insurance specified
10 in other paragraphs. This paragraph does not apply to any
11 kind of insurance against loss or damage resulting from the
12 ownership, maintenance or use of a motor vehicle. This
13 paragraph does not apply to workmen's compensation insurance
14 against loss or damage resulting from accident to, or injury,
15 fatal or nonfatal, suffered by an employee for which the
16 person insured is liable or against medical, hospital,
17 surgical and funeral expenses incurred by or on behalf of the
18 employe accidentally injured as provided for in paragraph
19 (14).

20 (5) To insure steam boilers, pipes and machinery
21 connected therewith or operated thereby, against loss caused
22 by explosion or accident, against loss of or damage to life,
23 person or property resulting therefrom and against loss of
24 use and occupancy caused thereby; and to make inspection of,
25 and issue certificates of inspection upon, such boilers,
26 pipes and machinery.

27 (6) To insure against loss or damage by burglary,
28 larceny, theft, robbery, forgery, fraud, vandalism or
29 malicious mischief; to insure against loss or damage to
30 moneys, securities, currencies, scrip, coins, bullion, bonds,

1 notes, drafts, acceptance drafts, bills of exchange and other
2 valuable papers or documents, except while in the custody or
3 possession of, and being transported by, a carrier for hire
4 or in the mail; and to insure against loss or damage to
5 automobiles and aircraft by burglary, larceny, theft,
6 vandalism or malicious mischief, confiscation or wrongful
7 conversion, disposal or concealment, whether held under
8 conditional sale contract or subject to a security interest
9 or otherwise.

10 (7) To carry on the business of credit insurance or
11 guaranty, either by agreeing to purchase uncollectible debts
12 or otherwise; and to insure against loss or damage from the
13 failure of persons indebted to the insured to meet their
14 liabilities.

15 (8) To insure any goods or premises against loss or
16 damage by water or other fluid, caused by the breakage or
17 leakage of sprinklers, pumps or other apparatus erected for
18 extinguishing fires, or of other conduits or containers, or
19 of water pipes, or caused by casual water entering through
20 leaks or openings in buildings; and to insure them against
21 accidental injury from causes other than fire or lightning to
22 sprinklers, pumps, water pipes, conduits, containers or other
23 apparatus; and to insure them against damage from use or
24 occupancy of premises by reason of such loss or damage.

25 (9) To insure against loss or damage to elevators or
26 other property, except loss or damage by fire, caused by the
27 maintenance, operation or use of elevators and machinery; and
28 to insure against legal liability for damage to property
29 resulting from such operation, maintenance or use of
30 elevators.

1 (10) To insure livestock.

2 (11) To insure against loss or damage to motor vehicles
3 or aircraft, except loss or damage by fire or while being
4 transported in any conveyance by land or water, including
5 loss by legal liability for damage to property resulting from
6 the maintenance and use of motor vehicles or aircraft; to
7 insure against loss or damage resulting from accident to, or
8 injury, fatal or nonfatal, suffered by another person, for
9 which the person insured is liable resulting from the
10 ownership, maintenance or use of a motor vehicle; and to
11 insure against medical, hospital, surgical and funeral
12 expenses incurred by or on behalf of the persons accidentally
13 injured as a result of the ownership, maintenance or use of a
14 motor vehicle, including the person insured, and, in the case
15 of motor vehicle liability insurance, including also an
16 obligation of the insurer to pay disability benefits to
17 injured persons and death benefits to dependents,
18 beneficiaries or personal representatives of persons who are
19 killed, irrespective of the legal liability of the insured
20 when such insurance is issued with and supplemental to such
21 liability insurance.

22 (12) To insure against loss or damage to machinery,
23 pumps, transporting, hoisting and ventilating apparatus, and
24 equipment of mines while located underground, and loss or
25 damage to underground passageways, gangways, airways, drifts,
26 slopes, shafts, overcasts and stoppings in the mines. An
27 authorized casualty company shall not expose itself to any
28 loss or hazard on any one risk authorized by this paragraph
29 in an amount exceeding 10% of its capital and surplus unless
30 it is protected in excess of that amount by reinsurance.

1 (13) To insure by means of an all-risk type of policy,
2 commonly known as the "personal property floater policy,"
3 against all risks of loss of or damage to personal property
4 owned by any individual other than merchandise, motor
5 vehicles, aircraft, watercraft (except canoes, rowboats,
6 sailboats less than 21 feet in length and outboard motor
7 boats) or personal property pertaining to the business, trade
8 or profession of the insured, except professional books,
9 instruments and other professional equipment owned by the
10 insured.

11 (14) To insure against loss or damage resulting from
12 accident to, or injury, fatal or nonfatal, suffered by an
13 employee for which the person insured is liable and to insure
14 against medical, hospital, surgical and funeral expenses
15 incurred by or on behalf of the employee accidentally
16 injured, including the person insured.

17 (d) Mutual companies.--Mutual insurance companies of any
18 kind, other than life insurance companies, may be incorporated
19 to make contracts of insurance, or to reinsure and accept
20 reinsurance, for any and all kinds of insurance, other than life
21 insurance, which are not prohibited by statute or at common law
22 from being the subject of insurance, but no such mutual company
23 may transact any kind of insurance other than those which may be
24 transacted by a corporation writing the same kinds of insurance.
25 A mutual company possessing charter powers set forth in
26 subsection (b)(2) or (c)(11) shall not write assessable bodily
27 injury and property damage liability insurance policies upon
28 automobiles or motor vehicles, except insurance coverage
29 providing for collision damage or other direct loss or damage to
30 the insured automobile or motor vehicle; or a mutual company

1 possessing the charter powers set forth in subsection (c)(14)
2 shall not write assessable workmen's compensation policies. All
3 assessable policies shall have the words "This is an assessable
4 policy" printed prominently on the backer or policy panel, as
5 well as on the face of the policy in letters not less than
6 sixteen point in size. ~~An assessable policy upon automobiles and~~ <—
7 ~~motor vehicles shall not be written, issued, reissued or~~
8 ~~renewed, except insurance coverage providing for collision~~
9 ~~damage or other direct loss or damage to the insured automobile~~
10 ~~or motor vehicle.~~

11 (e) Other forms of insurance.--Domestic stock and mutual
12 insurance companies, other than life, and, if their charters
13 permit, foreign or alien companies may transact any form of
14 insurance not included in this section if the insurance is not
15 contrary to law and is allied or in harmony with the classes of
16 insurance provided in this section. This additional insurance
17 shall be transacted only on express license by the department
18 and upon such terms and conditions as are from time to time
19 prescribed by it.

20 (f) Fire, marine and casualty insurance.--Domestic stock and
21 mutual insurance companies, other than life or title, and, if
22 their charters permit, foreign or alien companies may transact
23 any or all of the kinds of insurance included in subsections (b)
24 and (c) upon compliance with all of the financial and other
25 requirements prescribed by the law of this Commonwealth for
26 fire, marine, fire and marine, and casualty insurance companies
27 transacting those kinds of insurance. Stock fire, stock marine,
28 stock fire and marine, and stock casualty insurance companies
29 may be incorporated for any or all of the purposes mentioned in
30 subsections (b) and (c).

1 § 3303. Articles of agreement.

2 Any ten or more individuals of full age and either sex,
3 married or single, at least two-thirds of whom are citizens of
4 the United States or its territories or possessions, may
5 associate in accordance with this part and form a corporation of
6 any of the classes enumerated in section 3301 (relating to
7 classes of insurance companies). The persons shall associate by
8 written articles of agreement, which shall specify:

9 (1) The name by which the company shall be known.

10 (2) The class of insurance for the transaction of which
11 it is constituted.

12 (3) The plan or principle upon which the business is to
13 be conducted.

14 (4) The place in which it is to be established or
15 located.

16 (5) In the case of a stock company, the amount of its
17 capital.

18 (6) The general objects of the company.

19 (7) The proposed duration of the company, which may be
20 limited or perpetual.

21 (8) The powers it proposes to have and exercise.

22 § 3304. Name of company.

23 The subscribers to the articles of agreement of any company
24 to be incorporated under this part may adopt any name not
25 previously used by any existing company, but the name must
26 clearly designate the object and purpose of the company. In the
27 case of a mutual company, the word "mutual" shall appear in its
28 name. The department may prohibit the use of any name when, in
29 its judgment, it too closely resembles that of any existing
30 company or is likely to confuse or mislead the public.

1 § 3305. Capital stock.

2 (a) Par value.--The capital stock of all stock insurance
3 companies shall be divided into shares with par value of not
4 less than \$1 a share.

5 (b) Payment of subscriptions.--All payments on accounts of
6 capital stock in any stock insurance company, except for stock
7 issued in connection with an authorized merger or consolidation
8 or as consideration for the purchase or acquisition of
9 authorized investments or as a stock dividend, shall be made in
10 lawful money. A note or obligation given by a stockholder,
11 whether secured by pledge or otherwise, shall not be considered
12 as a payment of any part of the capital stock. Ten percent of
13 the total subscription price shall be paid on each share at the
14 time of subscribing, and the balance on such shares shall be
15 paid at such times as the company may direct, but full payments
16 on all shares shall be made within a period of nine months from
17 the date of organization.

18 (c) Forfeitures.--Any stock insurance company may prescribe
19 rules with regard to the forfeiture of partial payments on
20 subscriptions, which rules shall be binding upon subscribers if
21 made known at the time of the subscription.

22 § 3306. Minimum capital stock and financial requirements.

23 (a) Life insurance companies.--Stock life insurance
24 companies organized under section 3302(a)(1) (relating to
25 authorized classes of insurance) shall have a paid-up capital
26 stock of at least \$1,000,000. Stock life insurance companies
27 organized under this part for all of the purposes mentioned in
28 section 3302(a) shall have a paid-up capital stock of at least
29 \$1,100,000. Every such company shall, in addition thereto, have
30 a surplus paid in at least equal to 50% of the subscribed

1 capital stock.

2 (b) Fire and marine insurance companies.--Stock fire, stock
3 marine and stock fire and marine insurance companies organized
4 under this part for any of the purposes mentioned in section
5 3302(b)(1) or (2) shall have paid-up capital stock of at least
6 \$100,000; if organized for all the purposes mentioned in section
7 3302(b)(1) and (2) or in section 3302(b)(3), at least \$200,000;
8 and, if organized for all of the purposes mentioned in section
9 3302(b)(1), (2) and (3), at least \$400,000. Every such company
10 shall, in addition thereto, have a surplus paid in at least
11 equal to 50% of the subscribed capital stock.

12 (c) Casualty insurance companies.--

13 (1) Stock casualty companies organized under this part
14 for any of the purposes of insurance mentioned in section
15 3302(c) shall have a paid-up capital stock of at least
16 \$100,000, except:

17 (i) Companies organized for the purpose of credit
18 insurance, which shall have a paid-up capital stock of at
19 least \$200,000.

20 (ii) Companies organized for the purposes mentioned
21 in section 3302(c)(11), which shall have a paid-up
22 capital stock of at least \$500,000.

23 (iii) Companies organized for the purpose of
24 workmen's compensation insurance as provided for in
25 section 3302(c)(14), which shall have a paid-up capital
26 stock of at least \$750,000.

27 (iv) Companies organized to guarantee the fidelity
28 of persons and contracts of suretyship, which shall have
29 a paid-up capital stock of at least \$250,000.

30 (2) Stock casualty companies organized under this part

1 may undertake two or more classes of insurance mentioned in
2 section 3302(c) by providing at least \$50,000 additional
3 paid-up capital stock for each additional class of insurance,
4 except as follows:

5 (i) If credit or fidelity and surety insurance is
6 added to any other line or lines, in which case the
7 additional paid-up capital stock for credit insurance
8 shall be at least \$100,000, and the additional paid-up
9 capital stock for fidelity and surety insurance shall be
10 at least \$200,000.

11 (ii) If insurance for the purposes mentioned in
12 section 3302(c)(11) is added to any other line or lines,
13 in which case the additional paid-up capital stock shall
14 be at least \$500,000.

15 (iii) If workmen's compensation insurance as
16 provided for in section 3302(c)(14) is added to any other
17 line or lines, in which case the additional paid-up
18 capital stock shall be at least \$750,000.

19 (3) Any such stock casualty company with a paid-up
20 capital stock of at least \$300,000 may transact all of the
21 classes of insurance mentioned in section 3302(c) except
22 credit, livestock and fidelity and surety insurance, and
23 except insurance for the purposes mentioned in section
24 3302(c)(11) and except workmen's compensation insurance as
25 provided for in section 3302(c)(14). A company with a paid up
26 capital stock of at least \$1,950,000 may transact all of the
27 classes of insurance mentioned in section 3302(c).

28 (4) Every such company shall, in addition to the paid-up
29 capital stock required under this subsection, have a surplus
30 paid in at least equal to 50% of the subscribed capital

1 stock.

2 (d) Mutual companies generally.--Companies organized under
3 this part to insure lives on the mutual plan must have
4 applications for insurance, in the amount of at least
5 \$1,000,000, by not less than 400 individuals. Companies
6 organized under this part to insure lives on the mutual plan
7 shall also have a guarantee capital before commencing business
8 of at least \$500,000 and shall maintain unimpaired a
9 policyholders' surplus of at least \$250,000 out of guarantee
10 capital, surplus or any combination thereof.

11 (e) Certain mutual companies.--Mutual companies, other than
12 mutual life companies and title insurance companies, organized
13 under this part, and mutual companies which determine to add a
14 line or lines of insurance business shall comply with the
15 following conditions:

16 (1) The company shall hold bona fide applications for at
17 least 20 policies, to be issued promptly and simultaneously
18 to at least 20 policyholders or members upon not less than
19 200 separate risks, each within the maximum single risk
20 described in this paragraph upon the granting of the
21 certificate of authority to do business. The maximum single
22 risk shall not exceed three times the average risk or 1% of
23 the total insurance applied for, whichever is greater.

24 (2) It shall have collected at least an annual cash
25 premium upon each of such applications, which shall be held
26 in cash or securities in which such insurance companies are
27 authorized to invest. In the case of companies organized for
28 any of the purposes mentioned in section 3302(b)(1), (2) or
29 (3), the cash premiums, together with any amounts advanced
30 under section 4710 (relating to loans to companies), shall be

1 at least \$25,000 for the purpose mentioned in each paragraph
2 of section 3302(b). If organized for all of the purposes
3 mentioned in section 3302(b)(1), (2) and (3), the cash
4 premiums, together with any amounts advanced under section
5 4710, shall be at least \$50,000. In the case of companies
6 organized for any one of the purposes mentioned in section
7 3302(c), except paragraphs (1), (4), (11) and (14), the cash
8 premiums collected, together with any amounts advanced under
9 section 4710, shall be at least \$10,000 for the purpose
10 mentioned in each paragraph of section 3302(c). In the case
11 of companies authorized to issue nonassessable policies of
12 insurance for the purposes mentioned in section 3302(c)(11)
13 or (14), the cash premiums collected, together with any
14 amounts advanced under section 4710, shall be \$750,000. For
15 the purpose mentioned in section 3302(c)(1) or (4) the cash
16 premiums collected, together with any amounts advanced under
17 section 4710, shall be at least \$25,000. A company shall not
18 be organized for any of the purposes mentioned in section
19 3302(c) unless the cash premiums collected, together with the
20 amounts advanced under section 4710, are at least \$50,000;
21 nor shall a company be organized for all of the purposes
22 mentioned in section 3302(c), except paragraph (11) or (14),
23 unless the cash premiums collected together with the amounts
24 advanced under section 4710 are at least \$350,000.

25 (3) In the case of companies hereafter organized under
26 this part for the purposes mentioned in section 3302(b) and
27 (c), the company shall meet the requirements of paragraphs
28 (1) and (2) of this subsection, and the cash premiums
29 collected, together with any amounts advanced under section
30 4710, shall be at least the aggregate of the sums required

1 under this paragraph for the purposes for which the company
2 is to be incorporated.

3 (4) For the purpose of transacting employers' liability
4 and workmen's compensation insurance, the application shall
5 cover not less than 5,000 employees, and each employee shall
6 be considered a separate risk for determining the maximum
7 single risk.

8 (5) A company writing nonassessable policies shall
9 maintain unimpaired so much of its surplus as is equal to the
10 minimum capital required for stock companies authorized to
11 transact the same class or classes of insurance. A company
12 writing assessable policies shall maintain unimpaired 50% of
13 its required surplus.

14 (f) Fire, marine and casualty companies.--A stock fire,
15 stock marine, stock fire and marine or stock casualty company,
16 organized under this part for any or all of the purposes
17 mentioned in both section 3302(b) and (c), shall have paid-up
18 capital and paid-in surplus of not less than the aggregate
19 amount of paid-up capital and paid-in surplus required for such
20 purpose or purposes of a stock fire, stock marine and stock fire
21 and marine insurance company in subsection (b) and of a stock
22 casualty insurance company in subsection (c).

23 § 3307. Officers and directors.

24 The subscribers to the articles of agreement shall choose
25 from their number a president, a secretary and a treasurer. The
26 subscribers shall also choose from their number the number of
27 directors or trustees they deem advisable, but not less than
28 seven. Any person chosen, elected or appointed as director,
29 trustee, president, secretary or treasurer by the subscribers
30 shall continue in office unless the department, after such

1 investigation as it deems proper, determines that his
2 responsibility, character and general fitness for the business
3 are not such as to command the confidence of the public and to
4 warrant the belief that the business of the company will be
5 honestly and efficiently conducted in accordance with this
6 title. The officers and directors so chosen shall continue in
7 office until the first annual meeting of the stockholders or, in
8 the case of a mutual company, of the members, and until their
9 successors are duly chosen and qualified. Any adjudication by
10 the department under this section shall be subject to Title 2
11 (relating to administrative law and procedure).

12 § 3308. Subscriptions.

13 (a) Stock companies.--In any case where a stock insurance
14 company is to be organized, the subscribers shall open books for
15 the subscription to stock in the company at such times and
16 places as they deem convenient and proper and shall keep them
17 open until the full amount of capital stock specified in the
18 articles of agreement is subscribed.

19 (b) Mutual companies.--In any case where any mutual
20 insurance company is to be organized, the subscribers to the
21 articles of agreement shall open books to receive applications
22 for insurance at such times and places as they shall deem
23 convenient and proper and shall keep them open until
24 applications for insurance have been obtained in sufficient
25 number and amount to comply with the requirements of this title.
26 In the case of mutual life insurance companies, the subscribers
27 shall also, in the same manner as in the case of a stock
28 company, open books to receive subscriptions to the guarantee
29 capital as provided for in this title.

30 SUBCHAPTER B

2 ~~Sec.~~

<—

3 ~~3321.— Definitions.~~

4 ~~3322.— Prohibited acts.~~

5 ~~3323.— Limitation on promotional expenses.~~

6 ~~3324.— Form of application or contract.~~

7 ~~3325.— Depositories.~~

8 ~~3326.— Disclosure of interest.~~

9 ~~3327.— Prohibited terms.~~

10 ~~3328.— Advertisements and prospectuses.~~

11 ~~3329.— Remedies.~~

12 ~~3330.— Criminal penalties.~~

13 ~~§ 3321.— Definitions.~~

14 ~~The following words and phrases when used in this subchapter~~
15 ~~shall have the meanings given to them in this section unless the~~
16 ~~context clearly indicates otherwise:~~

17 ~~"Insurance corporation."— A corporation organized to transact~~
18 ~~the business of insurance or for the principal purpose of~~
19 ~~holding and dealing in the stocks and securities of such a~~
20 ~~corporation.~~

21 ~~"Stock."— Bonds and any other evidence of indebtedness or of~~
22 ~~interest in the profits of any insurance corporation.~~

23 ~~§ 3322.— Prohibited acts.~~

24 ~~A person shall not as principal or agent, directly or~~
25 ~~indirectly, for the purpose of promoting or organizing any~~
26 ~~insurance corporation to be organized in or outside this~~
27 ~~Commonwealth, or of promoting the sale of stock of such a~~
28 ~~corporation after organization, sell, or agree or attempt to~~
29 ~~sell, or secure subscriptions or applications for any stock in~~
30 ~~the insurance corporation without complying in all respects with~~

1 ~~this subchapter.~~

2 ~~§ 3323. Limitation on promotional expenses.~~

3 ~~The application, subscription or sale contract shall be in~~
4 ~~writing and shall contain a provision in the following language:~~
5 ~~"No sum shall be used for commission, promotion and organization~~
6 ~~expenses, on account of any share of stock in this corporation,~~
7 ~~in excess of 10% of the amount actually paid upon separate~~
8 ~~subscriptions for the stock. The remainder of these payments~~
9 ~~shall be deposited or invested as authorized by law governing~~
10 ~~such insurance corporation and shall be held by the organizers~~
11 ~~or trustees, as the case may be, and the directors and officers~~
12 ~~of the corporation after organization, as bailees for the~~
13 ~~subscriber, to be used only in the conduct of the business of~~
14 ~~insurance by the corporation after having been licensed therefor~~
15 ~~by proper authority."~~

16 ~~§ 3324. Form of application or contract.~~

17 ~~The application or the subscription contract shall contain a~~
18 ~~statement giving:~~

19 ~~(1) The names of the organizers or trustees, as the case~~
20 ~~may be, and their residence.~~

21 ~~(2) The par value of the shares, and the prices at which~~
22 ~~shares shall be sold.~~

23 ~~(3) The number of shares at each price.~~

24 ~~(4) The total number of shares.~~

25 ~~(5) The percentage which may be used for commission,~~
26 ~~promotion or organization expenses, which together shall not~~
27 ~~exceed 10% of the amount actually paid upon separate~~
28 ~~subscriptions for the stock.~~

29 ~~§ 3325. Depositories.~~

30 ~~Funds and securities held by organizers, trustees, directors~~

1 ~~or officers as bailees shall be deposited with a bank or trust~~
2 ~~company of this Commonwealth until the corporation has been~~
3 ~~licensed.~~

4 ~~§ 3326. Disclosure of interest.~~

5 ~~A person shall not participate in, receive or accept any part~~
6 ~~or the promise of any part of any of the commission or reward of~~
7 ~~any organizer, promoter or agent, for the sale of stock, unless~~
8 ~~the name of the person and the fact of his interest in the~~
9 ~~commission or reward appear upon the application or the~~
10 ~~subscription. The omission of this statement shall, in addition~~
11 ~~to the penalty provided in this subchapter, make the person~~
12 ~~liable to the purchaser or his assignees for all sums paid by~~
13 ~~the purchasers, with interest at the legal rate from date of~~
14 ~~payment, upon the assignment or tender of assignment of the~~
15 ~~stock so purchased.~~

16 ~~§ 3327. Prohibited terms.~~

17 ~~A person receiving any commission or other profit or~~
18 ~~advantage as organizer, promoter or agent, selling or agreeing~~
19 ~~or attempting to sell any such stock, or in consideration of or~~
20 ~~in connection with any such sale or any subscription contract~~
21 ~~shall not, directly or indirectly, make or offer to make any~~
22 ~~contract or agreement other than as plainly expressed therein;~~
23 ~~nor shall the contract or subscription contain any agreement for~~
24 ~~employment or for any deposit or for any special advantage to~~
25 ~~the person purchasing or contracting for the stock.~~

26 ~~§ 3328. Advertisements and prospectuses.~~

27 ~~A person shall not issue, deliver, circulate or publish in~~
28 ~~this Commonwealth any advertisement in any newspaper or~~
29 ~~periodical or any circular or prospectus for the sale of stock~~
30 ~~of any insurance corporation, whether organized or proposed to~~

~~1 be organized in or outside this Commonwealth, for the purpose of~~
~~2 soliciting or securing applications or subscriptions to, or~~
~~3 contracts for the purchase of stock in, any such corporation,~~
~~4 unless a copy of the circular, prospectus or other advertisement~~
~~5 is first filed with the department, containing the name and~~
~~6 address of the person issuing, delivering, circulating or~~
~~7 publishing it, with a consecutive serial number for each~~
~~8 separate form of the circular, prospectus or other~~
~~9 advertisement.~~

10 ~~§ 3329. Remedies.~~

11 ~~In the event of any violation of this subchapter, the~~
12 ~~subscriber or purchaser affected thereby may elect to rescind~~
13 ~~the contract and recover from the company or the agent all~~
14 ~~payments, with interest at the legal rate from time of payment,~~
15 ~~or he may elect to treat the contract as valid and enforceable~~
16 ~~in his favor, but the contract shall not in either case be valid~~
17 ~~or enforceable against the subscriber or purchaser.~~

18 ~~§ 3330. Criminal penalties.~~

19 ~~Any person violating this subchapter commits a summary~~
20 ~~offense.~~

21 SUBCHAPTER C

22 AUTHORIZATION

23 Sec.

24 3341. Certification to department.

25 3342. Approval of articles of agreement and letters patent.

26 3343. Recording of articles of agreement and letters patent.

27 3344. Information filed with the Auditor General.

28 3345. Certificate of authority.

29 § 3341. Certification to department.

30 (a) Corporations.--Whenever one-half of the capital stock

1 and paid-in surplus of any stock insurance company mentioned in
2 the articles of agreement has been subscribed and 20% of the
3 total subscription price on each share has been paid to the
4 treasurer of the company, the president, treasurer and a
5 majority of the directors shall, under their respective oaths,
6 make a certificate to the department stating:

7 (1) The number and par value of the shares of stock in
8 the company.

9 (2) The names and residences of the subscribers.

10 (3) The number of shares subscribed by each.

11 (4) The amount paid in on each share.

12 (5) The amount of money in the hands of the treasurer on
13 account of such payments.

14 (6) Where the amount is deposited.

15 (b) Mutual companies prior to subscription.--In the case of
16 a mutual insurance company, whenever applications for insurance
17 have been received in sufficient number and amount, the
18 president, treasurer and the majority of the directors of the
19 company shall, under their respective oaths, make a certificate
20 to the department stating:

21 (1) The names and residences of the persons applying for
22 insurance in the company.

23 (2) The amount agreed to be taken by each.

24 (3) The amount of money in the hands of the treasurer.

25 (c) Mutual companies after subscription.--In the case of
26 mutual life insurance companies, in addition to the certificate
27 required under subsection (b), as soon as the guarantee capital
28 has been subscribed and 50% thereof has been paid in lawful
29 money to the treasurer and the subscribers' obligations given
30 for the remaining 50% thereof, the president, treasurer and a

majority of the directors shall, under their respective oaths,
make a certificate to the department stating the following:

(1) The number and par value of the shares of guaranty
stock in the company.

(2) The names and residences of the subscribers.

(3) The number of shares subscribed by each.

(4) The amount paid in on each share.

(5) The form of obligations taken for the unpaid amount.

(6) The amount of money in the hands of the treasurer.

(7) Where the amount is deposited.

§ 3342. Approval of articles of agreement and letters patent.

The subscribers to the articles of agreement of any insurance
company shall acknowledge the articles in duplicate before a
person empowered to take acknowledgments of deeds and forward
the articles in duplicate to the department. If it approves the
articles, the department shall certify in duplicate that the
requirements of this chapter in relation to the incorporation of
insurance companies have been complied with. The department
shall submit the articles of agreement to the Attorney General
for examination, and, if the Attorney General finds the same
articles in accordance with the law, he shall endorse his
approval thereon and certify them in duplicate to the Governor.
Upon receipt of the articles of agreement the Governor shall, if
he approves them, endorse his approval thereon in duplicate and
cause letters patent to issue. The letters patent shall
designate the subscribers to the articles and their associates
as a body corporate, with succession under the name designated
in the articles. A company receiving letters patent may not
engage in the business of insurance until all provisions of this
chapter have been complied with.

1 § 3343. Recording of articles of agreement and letters patent.

2 In any incorporation of an insurance company, the Secretary <—
3 ~~of the Commonwealth~~ DEPARTMENT OF STATE shall cause the articles <—
4 of agreement, together with the proceedings thereon, and the
5 certificate of the Governor to be recorded ~~in a book kept for~~ <—
6 ~~that purpose. The Secretary of the Commonwealth.~~ THE DEPARTMENT <—
7 OF STATE shall return one of the articles and the letters patent
8 to the company, which shall have them recorded in the county of
9 the company's principal place of business. The ~~Secretary of the~~ <—
10 ~~Commonwealth~~ DEPARTMENT OF STATE shall furnish the department <—
11 with a certified copy of the letters patent and shall certify
12 the duplicate articles of agreement, with all endorsements
13 thereon, and file the articles with the department. ~~Copies of~~ <—
14 ~~the records certified by the Secretary of the Commonwealth may~~
15 ~~be used in evidence with the same effect as the original.~~

16 § 3344. Information filed with the Auditor General.

17 (a) General rule.--A stock or mutual insurance company
18 incorporated under the law of this Commonwealth shall not go
19 into operation without first having the following registered in
20 the office of the Auditor General:

21 (1) The name of the company.

22 (2) The date of incorporation.

23 (3) The statute or authority under which incorporated or
24 organized.

25 (4) The place of business.

26 (5) The post office address and names of the president,
27 secretary and treasurer.

28 (6) The amount of capital stock, if any, authorized by
29 its charter.

30 (7) The amount of capital stock and paid-in surplus paid

1 into the treasury of the company.

2 (b) Penalty.--A company which neglects or refuses to comply
3 with this section shall be subject to a penalty of \$500, which
4 shall be collected on an account settled by the Auditor General
5 and State Treasurer in the same manner as taxes on stock are
6 settled and collected.

7 § 3345. Certificate of authority.

8 (a) Corporations.--When the entire amount of the authorized
9 capital of a stock insurance company incorporated under this
10 chapter has been paid in, certificates shall be issued therefor
11 to the persons entitled to receive the certificates,
12 transferable upon the books of the company. The president or
13 secretary of the company shall at that time notify the
14 department that the entire capital stock and paid-in surplus of
15 the company has been paid in and that it is ready to commence
16 business. Upon receipt of this notice, the department shall
17 examine the company. If it finds that it has complied with the
18 provisions and meets the requirements of this chapter and is
19 possessed of funds, invested in accordance with this title,
20 equal to the amount of its capital stock and paid in surplus,
21 the department shall issue to the company a certificate showing
22 that it has been organized in accordance with this chapter and
23 that it has the requisite amount of capital stock and paid in
24 surplus for the transaction of business in this Commonwealth.
25 The certificate shall be required to authorize the company to
26 issue policies and otherwise transact the business of insurance
27 for which it was incorporated.

28 (b) Mutual companies.--In the case of a mutual life
29 insurance company incorporated under this title, upon the
30 receipt of a notice from the president or secretary of the

1 company, the department shall make an examination. If it finds
2 that the necessary amount of insurance has been applied for and
3 that 50% of the guarantee capital has been paid in and invested,
4 less the necessary expenses of organization, and that
5 obligations have been given for the remaining 50% of the
6 guarantee capital, it shall issue a certificate authorizing the
7 company to commence business. The department shall, upon the
8 receipt of a notice from the president or secretary of any
9 mutual company, other than a mutual life insurance company,
10 incorporated under this subchapter, make an examination of the
11 company, and if it finds that the company has complied with the
12 provisions of this subchapter, it shall issue a certificate
13 authorizing the company to commence business.

14 (c) Examination by department.--In addition to its other
15 powers under this section, the department may conduct such
16 examination of any proposed company as it deems necessary to
17 determine whether the responsibility, character and general
18 fitness for the business of the incorporators and directors are
19 such as to command the confidence of the public and to warrant
20 the belief that the business of the proposed company will be
21 conducted honestly, efficiently and in accordance with this
22 title.

23 SUBCHAPTER D

24 VALUATION OF SECURITIES

25 Sec.

26 3351. Valuation of securities.

27 § 3351. Valuation of securities.

28 All bonds or other evidences of debt held by any domestic or
29 foreign stock or mutual insurance entity authorized to do
30 business in this Commonwealth shall, if amply secured and if not

1 in default as to principal or interest, be valued:

2 (1) If purchased at par, at the par value.

3 (2) If purchased above or below par, either:

4 (i) on the basis of the purchase price adjusted so
5 as to bring the value to par at maturity and so as to
6 yield, meantime, the effective rate of interest at which
7 the purchase was made; or

8 (ii) on the basis of the method of calculation
9 commonly known as the pro rata method.

10 The purchase price shall NOT be taken at a higher figure than <—
11 the actual market value at the time of purchase. The department
12 may determine the eligibility of any such investments for
13 valuation on the basis of amortization and may by regulation
14 prescribe or limit the classes of securities eligible for
15 amortization. The insurer may return the bonds or other
16 evidences of debt at their market value or their book value but
17 not at an aggregate value exceeding the aggregate of the values
18 calculated according to the method employed by it in conformity
19 with this section. If a bond or evidence of debt amply secured
20 and not in default as to principal or interest has been acquired
21 by a domestic stock or mutual entity as a result of an exchange
22 of securities, and the department has determined the transaction
23 to be an exchange and to be for the betterment of the portfolio
24 of the insurer, the purchase price of the bond or evidence of
25 debt shall be deemed to be the value of the security or
26 securities exchanged therefor, as shown in the last preceding
27 annual statement of the domestic stock or mutual entity filed
28 with the department.

29 SUBCHAPTER E

30 CONVERSION OF MUTUAL COMPANIES TO CORPORATIONS

1 Sec.
2 3361. Definitions.
3 3362. Valuation of interest of owner.
4 3363. Documentation filed with department.
5 3364. Determination by department.
6 3365. Hearing on approval.
7 3366. Approval of plan of conversion by policyholders.
8 3367. Recording plan of conversion.
9 3368. Legal effect of conversion.
10 3369. Subscriptions to capital stock of company.
11 3370. Survival of mutual policies.

12 3370.1. REGULATIONS.

<—

13 3371. Laws applicable to converted companies.
14 3372. Commencement of business.

15 § 3361. Definitions.

16 The following words and phrases when used in this subchapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Company." A mutual insurance company organized by or under
20 any law of this Commonwealth, other than a mutual life insurance
21 company or a company which operates exclusively on the basis of
22 perpetual policies issued in consideration of an initial deposit
23 of moneys with the insurer to be held by it during the time the
24 policies are in force and to be returned to the insureds, in
25 whole or in part, upon cancellation of the policies.

26 "Owner." A policyholder of the company or the holder of a
27 certificate issued by the company pursuant to section 4710
28 (relating to loans to companies).

29 § 3362. Valuation of interest of owner.

30 In valuing the interest of each owner in the surplus of the

1 company, surplus shall be allocated:

2 (1) To holders of certificates issued under section 4710
3 (relating to loans to companies) to the full extent of the
4 face value thereof.

5 (2) The balance of the surplus, if any, remaining after
6 the allocation provided in paragraph (1), to policyholders on
7 the basis of the ratio which the net premium which each
8 policyholder has paid to the company during the three years
9 ending with the fiscal year of the company immediately
10 preceding that in which the allocation is made bears to the
11 total net premiums received by the company during that three-
12 year period. As used in this paragraph the term "net premium"
13 means gross premium less return premium and dividends
14 received.

15 § 3363. Documentation filed with department.

16 Any company intending a conversion pursuant to this
17 subchapter shall file with the department:

18 (1) A resolution passed by the board of directors of the
19 company to the effect that the conversion of the company to a
20 stock insurance company is advisable, and stating the reasons
21 therefor.

22 (2) A comprehensive plan of conversion of the company
23 into a stock insurance company, which shall contain the
24 following information:

25 (i) A statement of all the assets and liabilities of
26 the company, setting forth the current fair market value
27 of each of the assets.

28 (ii) A list of the owners of the company together
29 with the value of the interest of each owner in the
30 surplus of the company determined as set forth in section

1 3362 (relating to valuation of interest of owner).

2 (iii) The number of shares of capital stock to be
3 issued and the manner of converting the interest in the
4 surplus of each owner of the company into shares of the
5 company under the stock plan.

6 (iv) The manner of making payment in cash to owners
7 of the company who fail or refuse within a specified
8 period of time to convert their interest in the surplus
9 into stock and the amount of the payment.

10 (v) The amount of the new capital stock for which
11 each owner may subscribe and how and when the
12 subscriptions are payable, including the procedure for
13 buying or selling rights to subscribe to less than a full
14 share so that no fractional shares of capital stock will
15 be issued.

16 (vi) The manner of providing for paid-in surplus and
17 appropriate reserves in amounts at least sufficient to
18 comply with the requirements of section 3306 (relating to
19 minimum capital stock and financial requirements).

20 (vii) A list of all persons who are directors or
21 executive officers of the company or who perform similar
22 functions, and all persons who have been chosen to become
23 directors or executive officers or to perform similar
24 functions after the conversion, but who have not yet
25 assumed their positions.

26 (viii) Such plans and arrangements as the company
27 may have for its future business and management,
28 including those with respect to total or partial
29 liquidation, sale of assets, merger, material change in
30 business, corporate structure, management or composition

1 of the board of directors.

2 (ix) Information as to any contracts or arrangements
3 with respect to any securities of the company, including,
4 but not limited to, contracts or arrangements with
5 respect to transfer of any securities, joint ventures,
6 loan or option agreements, puts or calls, guaranties of
7 loans, guaranties against loss or guaranties of profits,
8 division of losses or profits, or the giving or
9 withholding of proxies, naming the parties to such
10 contracts or arrangements and giving the details thereof.

11 (x) Such proposed amendments to the charter of the
12 company as may be necessary for the purpose of changing
13 its name, changing the location of its principal office
14 or place of conducting its business, changing its purpose
15 or purposes or for any other purpose.

16 (xi) Such additional information as the department
17 may require to enable it to make a determination under
18 section 3364 (relating to determination by department).

19 § 3364. Determination by department.

20 (a) General rule.--The department after making an
21 examination of the company and holding a hearing shall determine
22 if:

23 (1) The plan of conversion is fair to the owners and
24 creditors of the company and complies with the requirements
25 of section 3363 (relating to documentation filed with
26 department).

27 (2) The department has any reason to believe that after
28 the conversion the company will not continue to comply in all
29 respects with the laws and regulations of this Commonwealth
30 governing insurance.

(b) Notice.--The department shall notify the company of its determination.

§ 3365. Hearing on approval.

(a) Notice.--Notice of the hearing required by section 3364 (relating to determination by department) shall be served as follows:

(1) By publication not less than three times in one newspaper of general circulation published in the county in which the principal office of the company is located, and in the legal periodical, if any, designated by the rules of court of the county for the publication of legal notices.

(2) By written or printed notice addressed and mailed by certified mail, with return receipt requested, to each owner at his address as shown on the books of the company at least ten days before the hearing date. The form of the notice shall be approved in advance of mailing by the department and shall be accompanied by a copy of the plan of conversion.

(b) Procedure.--Any hearing held pursuant to this subchapter shall be conducted, and the determination of the department shall be rendered, in accordance with Title 2 (relating to administrative law and procedure).

§ 3366. Approval of plan of conversion by policyholders.

(a) Submission of plan.--If an approving determination is made by the department, and not otherwise, the plan of conversion shall be submitted to the policyholders of the company for approval at the regular annual meeting of the company or at a meeting specially called for the purpose of approval. At least four weeks' previous notice of this meeting shall be given by publication not less than three times in a newspaper of general circulation, published in the county in

1 which the principal office of the company is located, and by
2 written or printed notice addressed and mailed by certified
3 mail, with return receipt requested, to each policyholder at his
4 address as shown on the books of the company.

5 (b) Approval of plan.--If a quorum is present at the special
6 meeting and the majority of the policyholders who attend the
7 meeting, either in person or by proxy, approve the plan of
8 conversion following due proof of the adequacy of the notice and
9 the results of the meeting being made to the department in a
10 form satisfactory to it, the directors of the company shall, at
11 such times and places as they deem convenient and proper, open
12 books and receive subscriptions to the stock of the company and
13 shall keep the books open until the full amount of capital stock
14 specified in the plan of conversion is subscribed.

15 § 3367. Recording plan of conversion.

16 Upon approval of the plan of conversion by the policyholders,
17 the fact of approval shall be set forth in duplicate
18 certificates to be executed by the secretary of the company
19 under the seal thereof. The certificates, with a copy of the
20 approved plan of conversion attached to each, shall be filed
21 with the department which shall then certify in duplicate that
22 all of the requirements of this subchapter have been complied
23 with. The department shall submit the certified plan of
24 conversion to the ~~Secretary of the Commonwealth~~ DEPARTMENT OF
25 STATE for recording. The certified plan shall be recorded by the
26 company in the office of the recorder of deeds in the county in
27 which the principal office of the company is located.

28 § 3368. Legal effect of conversion.

29 When the plan of conversion has been recorded as provided in
30 section 3367 (relating to recording plan of conversion):

1 (1) Any amendments to the charter of the company set
2 forth in the plan of conversion shall be deemed to form part
3 of the charter of the company.

4 (2) All rights of the policyholders of the company to
5 vote at any meeting of the company or to retain any interest
6 in the company or in the property or assets thereof shall
7 absolutely cease and determine.

8 The company shall at that time become a stock insurance company
9 under the corporate name adopted under the plan of conversion.

10 ~~The Secretary of the Commonwealth~~ DEPARTMENT OF STATE shall <—
11 issue to the company a certificate, ~~under his hand and the seal~~ <—
12 ~~of his office,~~ evidencing the right of the company to use the
13 corporate name.

14 § 3369. Subscriptions to capital stock of company.

15 Owners of the company may subscribe to its capital stock at
16 par value in proportion to their respective interests in the
17 surplus of the company, as set forth in the plan of conversion
18 approved by the department. No share of stock shall be disposed
19 of or a certificate issued therefor unless the actual par value
20 thereof has been paid to the company in cash, except stock
21 issued to owners of the company in conversion of their
22 respective interests in its surplus. Subscriptions shall be made
23 in writing and filed with the proper officer of the company in
24 accordance with the plan of conversion. Stock issued to the
25 owners of the company in conversion of their respective
26 interests in its surplus pursuant to this section shall not be
27 subject to the act of December 5, 1972 (P.L.1280, No.284), known
28 as the Pennsylvania Securities Act of 1972, or to regulation by
29 the Pennsylvania Securities Commission.

30 § 3370. Survival of mutual policies.

The issued and outstanding mutual policies of the company and all the rights and liabilities attached thereto, and all the powers and obligations of the company with reference to them, shall survive and be powers and obligations of the stock insurance company so long as the policies remain in force, except that the stock insurance company shall have no power to levy any assessment against any policyholder.

§ 3370.1. REGULATIONS.

THE DEPARTMENT MAY MAKE, AMEND AND RESCIND SUCH REGULATIONS
AS MAY BE NECESSARY TO CARRY OUT THIS SUBCHAPTER.

§ 3371. Laws applicable to converted companies.

Except as otherwise specified in this subchapter, a company converted into a stock insurance company under this subchapter shall have all the rights and privileges and shall be subject to all the requirements and regulations imposed upon stock insurance companies formed under this title, but it shall exercise no rights or privileges which other stock insurance companies may not exercise.

§ 3372. Commencement of business.

A company may not engage in the business of insurance as a stock insurance company until this subchapter has been complied with.

CHAPTER 35

CORPORATE OPERATIONS

Subchapter

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2 SUBCHAPTER A

3 CONDUCT OF BUSINESS

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22 § 3501. Use of company name.

23 The department may prohibit the use, by any domestic stock or
24 mutual insurance company or association and the use in this
25 Commonwealth by any foreign or alien stock or mutual insurance
26 company or association, of any name adopted on or after December
27 30, 1959, when, in its judgment, the name too closely resembles
28 that of an existing company or association authorized to do
29 business in this Commonwealth or is likely to confuse or mislead
30 the public.

1 § 3502. Stock and stockholders.

2 (a) Rights of stockholders.--Any stockholder shall be
3 entitled to receive a certificate of the number of shares
4 standing to his credit on the books of the company. This
5 certificate shall be signed by the president, vice president or
6 other officer designated by the board of directors,
7 countersigned by the treasurer and sealed with the seal of the
8 company which may be a facsimile, engraved or printed. This
9 certificate or evidence of stock ownership may be transferred
10 upon the books of the company in person or by attorney in such a
11 manner as the bylaws prescribe, subject to all payments to
12 become due thereon.

13 (b) Certificate.--If a certificate is signed by a transfer
14 agent or by a transfer clerk of the company and a registrar, the
15 signature of any company officer upon the certificate may be a
16 facsimile, engraved or printed. In case any officer who has
17 signed or whose facsimile signature has been placed upon any
18 share certificate has ceased to be an officer for any reason
19 before the certificate is issued, it may nevertheless be issued
20 by the company.

21 (c) Limitations on rights.--Stock shall not be transferred
22 until all previous calls on it have been fully paid in. Stock
23 which has been declared forfeited for nonpayment of calls shall
24 not be transferable. The assignee or party to whom the stock is
25 transferred shall be a member of the company and enjoy the
26 rights and be subject to the liabilities thereof. Upon a sale of
27 stock in satisfaction of any debt for which it is pledged, the
28 purchaser may compel a transfer of the stock upon the books of
29 the company and the delivery of the proper certificate.

30 § 3503. Ownership of stock.

1 (a) Filing of statement.--Every person who is directly or
2 indirectly the beneficial owner of more than 10% of any class of
3 any equity security of a domestic stock insurance company, or
4 who is a director or an officer of SUCH a company, shall file a <—
5 statement with the department in such form as the department
6 shall prescribe. The statement shall be filed within ten days
7 after the person becomes a beneficial owner, director or
8 officer, listing the amount of all equity securities of the
9 company of which he is the beneficial owner. A statement in such
10 form as the department shall prescribe shall also be filed
11 within ten days after the close of each calendar month, if there
12 has been a change in ownership during that month, indicating
13 each person's ownership at the close of the calendar month and
14 such changes in his ownership as have occurred during the
15 calendar month.

16 (b) Limitations on short-term transactions.--For the purpose
17 of preventing the unfair use of information which may have been
18 obtained by a beneficial owner, director or officer by reason of
19 his relationship to the company, any profit realized by him from
20 any purchase and sale, or any sale and purchase, of any equity
21 security of the company within any period of less than six
22 months, unless the security was acquired in good faith in
23 connection with a debt previously contracted, shall inure to and
24 be recoverable by the company. This is the case irrespective of
25 any intention on the part of the beneficial owner, director or
26 officer in entering into the transaction of holding the security
27 purchased or of not repurchasing the security sold for a period
28 exceeding six months. An action to recover this profit may be
29 instituted at law or in equity in any court of competent
30 jurisdiction by the company, or by the owner of any security of

1 the company in the name and on behalf of the company, if the
2 company fails or refuses to bring the action within 60 days
3 after request or fails to prosecute the suit diligently.
4 However, no action shall be brought more than two years after
5 the date the profit was realized. This subsection does not cover
6 any transaction where the beneficial owner was not such at the
7 time of the purchase and sale, or the sale and purchase, of the
8 security, or any transaction which the department by regulation
9 exempts as not within the purpose of this subsection.

10 (c) Sale of securities.--A beneficial owner, director or
11 officer shall not sell, directly or indirectly, any equity
12 security of the company if the person selling the security or
13 his principal does not own the security sold or, if owning the
14 security, he fails to deliver it against the sale within 20 days
15 after the sale or fails within five days after the sale to
16 deposit it in the mail or another usual channel of
17 transportation. However, a person shall not be deemed to have
18 violated this subsection if, notwithstanding the exercise of
19 good faith, he was unable to make the delivery or deposit within
20 the required time or if doing so would have caused undue
21 inconvenience or expense.

22 (d) Dealers.--Subsection (b) does not apply to any purchase
23 and sale, or sale and purchase, and subsection (c) does not
24 apply to any sale, of an equity security of a domestic stock
25 insurance company not then or theretofore held by him in an
26 investment account, by a dealer in the ordinary course of his
27 business and incident to the establishment or maintenance by him
28 of a primary or secondary market, other than on an exchange as
29 defined in section 3 of Securities Exchange Act of 1934 (48
30 Stat. 882, 15 U.S.C. § 78c(a)(1)) for the security. The

1 department may by regulation define and prescribe terms and
2 conditions with respect to securities which shall be held in an
3 investment account and transactions made in the ordinary course
4 of business and incident to the establishment or maintenance of
5 a primary or secondary market.

6 (e) Arbitrage transactions.--Subsections (a), (b) and (c) do
7 not apply to foreign or domestic arbitrage transactions unless
8 made in contravention of any regulations the department
9 promulgates in order to carry out the purposes of this section.

10 (f) Limitation on the applicability of section.--The
11 provisions of subsections (a), (b) and (c) do not apply to
12 equity securities of a domestic stock insurance company if:

13 (1) the securities are registered or are required to be
14 registered pursuant to the ~~Federal~~ Securities Exchange Act of <—
15 1934 (48 Stat. 881, 15 U.S.C. § 78 et seq.); or

16 (2) the domestic stock insurance company does not have
17 any class of its equity securities held of record by 100 or
18 more persons on the last business day of the year next
19 preceding the year in which equity securities of the company
20 would be subject to the provisions of subsections (a), (b)
21 and (c) except for the provisions of this paragraph.

22 (g) Regulations.--THE DEPARTMENT MAY MAKE SUCH REGULATIONS <—
23 AS MAY BE NECESSARY FOR THE EXECUTION OF THE FUNCTIONS VESTED IN
24 IT UNDER SUBSECTIONS (A) THROUGH (F) AND (I) AND MAY FOR THAT
25 PURPOSE CLASSIFY DOMESTIC STOCK INSURANCE COMPANIES, SECURITIES
26 AND OTHER PERSONS OR MATTERS. No provision of subsections (a),
27 (b), and (c) imposing any liability shall apply to any act done
28 or omitted in good faith in conformity with any ~~rule or~~ <—
29 regulation of the department, notwithstanding that the ~~rule or~~ <—
30 regulation may, after the act or omission, be amended or

1 rescinded or determined by judicial or other authority to be
2 invalid for any reason.

3 (h) Criminal penalty.--Any person violating this section
4 commits a summary offense.

5 (i) Definition.--As used in this section the term "equity
6 security" means any of the following:

7 (1) A stock or similar security.

8 (2) A security convertible, with or without
9 consideration, into such a security or carrying a warrant or
10 right to subscribe to or purchase such a security.

11 (3) Any such warrant or right.

12 (4) Any other security which the department by
13 regulation deems to be of similar nature and considers
14 necessary or appropriate.

15 § 3504. Bylaws and seal.

16 A company incorporated under Chapter 33 (relating to
17 incorporation of insurance companies) may make any bylaws
18 necessary for the government of its officers and the conduct of
19 its affairs, alter and amend the bylaws, have a common seal and
20 change the seal.

21 § 3505. Administrative affairs.

22 (a) Officers.--The directors or trustees shall annually
23 choose by ballot a president, who shall be a member of the
24 board, a secretary and a treasurer, who may also be either the
25 president or the secretary, and such other officers as the
26 bylaws provide. The directors or trustees shall fix the salaries
27 of the president, secretary and treasurer and the salaries or
28 compensation of such other officers and agents as the bylaws
29 prescribe. The treasurer shall give bond in a sum and with the
30 sureties prescribed by the bylaws.

1 (b) Vacancies.--Vacancies in any office may be filled by the
2 directors or trustees or by the stockholders or members as the
3 bylaws prescribe.

4 (c) Removal.--Any person chosen, either annually or to fill
5 a vacancy, as president, secretary, treasurer or as any other
6 officer shall continue to serve in the office unless the
7 department, after investigation, determines that the
8 responsibility, character and general fitness for the business
9 of the individual are not such as to command the confidence of
10 the public and to warrant the belief that the business of the
11 company will be honestly and efficiently conducted. Any
12 adjudication by the department pursuant to this subsection shall
13 be subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
14 procedure of Commonwealth agencies).

15 § 3506. Salaries of employees in military service.

16 Any stock or mutual insurance company may continue the
17 salaries of any employee ~~which he~~ WHO serves as a member of any <—
18 branch of the armed service of the United States or of any state
19 or in any other organization established for the protection of
20 the lives and property of citizens of the United States.

21 § 3507. Pensions.

22 Any stock or mutual insurance company may, out of the
23 earnings of the company, grant retirement allowances, pensions
24 or disability pay to officers and employees. This section does
25 not apply to any director who is not an officer or employee of
26 the company.

27 § 3508. Execution of insurance policies.

28 Policies of insurance, made or entered into by any stock or
29 mutual insurance company, may be made either with or without the
30 company seal. The policies shall be subscribed by the president

1 or any other officer designated by the directors or trustees.
2 The policies shall be attested by the secretary or other
3 designated officer and, when so subscribed and attested, shall
4 be obligatory on the company.

5 § 3509. Joint policies.

6 Two or more insurance entities authorized to transact the
7 same kinds of insurance business in this Commonwealth may issue
8 a combination policy, using a distinctive title. The title shall
9 follow the titles of the several entities so obligated. The
10 policy shall be executed by each entity in the same manner as it
11 would execute its individual policy. The policy shall state that
12 it is a joint contract and that each entity is only liable for a
13 specific percentage of any loss or damage occurring under it.
14 Before any entity issues a combination policy, it shall receive
15 the express permission of the department to issue the policy and
16 the title shall be approved by it.

17 § 3510. Incorporation of documents in policy.

18 Any insurance policy issued by a stock or mutual insurance
19 company or association doing business in this Commonwealth, in
20 which the application of the insured, the constitution, bylaws
21 or other rules of the company form part of the policy or
22 contract between the parties or have any bearing on the
23 contract, shall contain, or have attached CORRECT copies of the <—
24 application as signed by the applicant, or the constitution,
25 bylaws or other rules referred to. Unless so accompanying the
26 policy, no such application, constitution, bylaws or other rules
27 shall be received in evidence in any proceeding pertaining to
28 the policy or deemed a part of the policy or contract between
29 the parties.

30 § 3511. Lost insurance policies.

1 (a) General rule.--Whenever any policy of insurance upon any
2 property, granted by any body corporate or politic, has been
3 lost or destroyed, the issuer shall, on proof of the loss or
4 destruction of the policy, furnish a copy of the policy to the
5 person whose policy has been lost or destroyed. Any transfers
6 which have been approved and recorded on the books of the
7 issuer, which have been made by the original or subsequent
8 grantee of the policy to the person having the same at the time
9 of the loss or destruction thereof, shall be included with the
10 copy. The copy made under this section shall have the same
11 effect as the original and subject to the same extent to
12 transfer to any person purchasing the property insured.

13 (b) Proceedings in case of lost policy.--The holder of the
14 policy may file a complaint with the county in which the
15 property has been insured, setting forth the loss or destruction
16 of the policy of insurance, the petitioner's demand upon the
17 insurer for a copy of the policy, a description of the property,
18 the amount for which it was insured and the person or persons to
19 whom granted, if practicable, together with any transfers
20 thereof.

21 § 3512. Reinsurance.

22 (a) Approval of department.--A domestic stock or mutual
23 insurance entity shall not reinsure its entire schedule of
24 policies except by approval of the department.

25 (b) Authorization to reinsure.--Any domestic or foreign
26 stock or mutual insurance entity authorized to transact business
27 in this Commonwealth may reinsure all or any part of its
28 liability under one or more of its policy contracts with any
29 stock or mutual insurance entity doing the same or a similar
30 kind of business and licensed to transact business in this

1 Commonwealth or in any state, if the entity maintains the same
2 standard of solvency and meets and continues to meet all other
3 requirements under the law of this Commonwealth for entities
4 transacting the same classes of business in this Commonwealth.
5 Any domestic or foreign stock or mutual insurance entity
6 authorized to transact business in this Commonwealth shall pay
7 to this Commonwealth taxes required on all business taxable in
8 this Commonwealth and reinsured under this section and may take
9 credit for the reserves of each ceded risk to the extent
10 reinsured subject to the exceptions provided in sections 3513
11 (relating to reinsurance credits) and 3514 (relating to
12 reinsurance among affiliates).

13 § 3513. Reinsurance credits.

14 (a) Qualification of reinsurer.--Unless an unlicensed
15 reinsurer is qualified to accept reinsurance from insurers
16 licensed in this Commonwealth, a credit shall not be allowed as
17 an admitted asset or as a reduction of liability relative to
18 risks ceded by the licensed insurers. Reinsurers meeting the
19 conditions for reinsurers specified by the department and
20 included on a list of qualified reinsurers published and
21 periodically reviewed by the department shall be deemed
22 qualified reinsurers.

23 (b) Reserve credit for liability assumed.--A credit shall
24 not be allowed as an admitted asset or as a deduction from
25 liability to any ceding entity for reinsurance, unless the
26 reinsurance is payable to the entity or its statutory liquidator
27 by the assuming entity on the basis of the liability of the
28 ceding entity under contract or contracts reinsured without
29 diminution because of insolvency of the ceding entity.

30 (c) Payment by assuming entity.--A credit shall not be

1 allowed for reinsurance unless the reinsurance agreement
2 provides that payment by the assuming entity shall be made
3 directly to the ceding entity or to its liquidator, receiver or
4 statutory successor.

5 § 3514. Reinsurance among affiliates.

6 (a) Exemption.--Sections 3512 (relating to reinsurance) and
7 3513 (relating to reinsurance credits) do not apply to
8 reinsurance agreements between or among affiliates covering all
9 or substantially all of one or more lines of insurance of an
10 affiliated domestic or foreign stock or mutual insurance entity.
11 However, the amount of net written premium retained and the
12 amount of the reinsurance and retrocession assumed by any
13 affiliate participating agreement shall not be unreasonably
14 large in relationship to its policyholders' surplus.

15 (b) Definitions.--As used in this section the terms
16 "affiliated" and "affiliate" shall have the meanings set forth
17 in section 3569 (relating to holding company systems), except
18 that control shall be presumed to exist if any person directly
19 or indirectly owns, controls, holds with power to vote or holds
20 shares representing 80% or more of the voting power of any other
21 person.

22 § 3515. Approval of contracts by department.

23 (a) Forms approved by department.--An insurance entity,
24 including a domestic mutual fire insurance company, doing
25 business in this Commonwealth shall not issue, sell or dispose
26 of any policy, contract or certificate of insurance or CONTRACT <—
27 pertaining to a pure endowment or annuity, or use any <—
28 application, rider or endorsement in connection therewith,
29 unless the forms have previously been filed with and formally
30 approved by the department. This section does not apply to

riders and endorsements relating to the manner of distribution of benefits or to the reservation of rights and benefits under any policy used at the request of the individual policyholder or to any forms which are exempted therefrom by the department.

(b) Deemed approval.--Forms filed under this section or any other provision of this title except section 7524 (relating to rates and contracts) or 7729 (relating to rates and contracts), unless specifically provided otherwise, shall be deemed approved at the expiration of 30 days after filing, unless earlier approved or disapproved by the department. The department, by written notice to the insurer within this 30-day period, may extend the period for approval or disapproval for an additional 30 days. Approval under this subsection shall become void upon any subsequent notice of disapproval from the department or upon any subsequent withdrawal of license or refusal of the department to relicense the entity or upon the subsequent passage of a statute which would prohibit such contracts or related forms.

(c) Hearing.--Upon disapproval, the department shall notify the insurer in writing, specifying the reason for the disapproval. Within 30 days from the date of mailing of the notice to the insurer, the insurer may make a written application to the department for a hearing. The hearing shall be held within 30 days after receipt of the application. The procedure before the department shall be in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies), and the insurer shall be entitled to judicial review under 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

§ 3516. Mortgage insurance.

Insurance entities may make application for and obtain insurance of mortgages as provided by the National Housing Act of 1934 (48 Stat. 1246, 12 U.S.C. § 1701 et seq.).

§ 3517. Distribution of dividends on group insurance.

Any dividends declared or rate reductions made or continued under any group insurance policy or group annuity contract issued may be applied to reduce the employer's part of the cost. However, if, at any time, under a policy or contract providing for employee contributions, the aggregate of any dividends or rate reductions so applied is in excess of the employer's share of the aggregate cost, the excess shall be applied by the employer for the sole benefit of the employees.

SUBCHAPTER B

ELECTION OF DIRECTORS AND OFFICERS

Sec.

3531. Annual meetings.

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3533. Election of directors and trustees.

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3535. Voting by stockholders and members.

3536. Proxies issued by domestic stock companies.

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3538. Failure to elect directors or trustees.

3539. Directors and trustees.

§ 3531. Annual meetings.

(a) Time.--Every insurance company shall hold an annual meeting for the election of directors or trustees on or before May 1 as the bylaws of the company direct.

(b) Notice.--At least 30 days' notice of the time and place of the meeting shall be given to the stockholders or, in the

1 case of a mutual company, to the members by publication not less
2 than three times in at least two daily or weekly newspapers and
3 in the legal periodical designated by the rules of court of the
4 proper county for the publication of legal notices published in
5 the municipality where the company is domiciled.

6 (c) Quorum.--Every stock and mutual insurance company may
7 determine by its bylaws what number of members or stockholders
8 shall attend, either in person or by proxy, or what number of
9 shares or amount of interest shall be represented at any meeting
10 to constitute a quorum. If the quorum is not so determined, a
11 majority in interest of the members or stockholders shall
12 constitute a quorum.

13 § 3532. Voting rights.

14 (a) Right to vote stock.--The certificate of stock or the
15 transfer books of any stock insurance company shall be prima
16 facie evidence of the right of the person named therein to vote
17 as the owner, either personally or by proxy.

18 (b) Objections.--An objection may be taken by a stockholder
19 at the time a ballot is tendered which shall be accompanied by a
20 written statement under oath that the person who is offering to
21 vote the stock is not the owner, either in his own right or as
22 active trustee with the character of his trusteeship disclosed
23 on the face of the certificate or transfer books in connection
24 with his name. The judges of election shall immediately
25 determine whether the facts are as represented in the statement,
26 and, if so, the vote or votes shall be rejected. In any case
27 where the person named in the certificate or transfer books is
28 not permitted to vote, the beneficial owner of the stock may
29 vote, upon furnishing to the judge of election satisfactory
30 evidence of ownership.

1 (c) Powers of certain fiduciaries unaffected.--This section
2 does not prohibit executors, administrators, guardians or
3 trustees, created by a will or a decree of court, from voting
4 stock standing in the name of a decedent, minor or other
5 beneficiary.

6 (d) Pledged stock.--As between the pledgor and the pledgee
7 of capital stock pledged to secure a specific loan with a fixed
8 period or periods of maturity, the right to vote shall be
9 determined under the written agreement of the pledgor and
10 pledgee, but if no such agreement exists, the pledgor shall be
11 entitled to the right to vote.

12 § 3533. Election of directors and trustees.

13 (a) General rule.--At the annual meeting, the stockholders
14 or members shall elect by ballot from their own number not less
15 than seven directors or trustees. The directors or trustees
16 shall be natural persons of majority age and need not be
17 residents of this Commonwealth unless the articles or bylaws so
18 require, but at least two-thirds shall be citizens of the United
19 States or its territories or possessions. These persons shall
20 serve for one year and until their successors are chosen and
21 qualified.

22 (b) Classes of directors.--Any insurance company may provide
23 in its bylaws for the divisions of its board of directors or
24 trustees into as many as four classes and may provide for the
25 election thereof at its annual meetings in a manner such that
26 the members of one class only shall retire and their successors
27 shall be chosen each year.

28 (c) Vacancies.--Vacancies, including those resulting from an
29 increase in the number of directors or from failure of the
30 stockholders to fill any class of directors, may be filled by an

1 election by the board of directors or trustees for the unexpired
2 term.

3 (d) Removal.--Any stockholder or member elected to the post
4 of director or trustee shall continue in office unless the
5 department, after investigation, determines that the
6 responsibility, character and general fitness for the business
7 of the individual are not such as to command the confidence of
8 the public and to warrant the belief that the business of the
9 company will be honestly and efficiently conducted. Any
10 adjudication by the department under this subsection shall be
11 subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
12 procedure of Commonwealth agencies).

13 § 3534. Mutual fire insurance companies.

14 A majority of the board of directors or trustees of a mutual
15 fire insurance company shall be residents of this Commonwealth.
16 The number of directors or trustees may be increased or
17 diminished by the members of the company at any regular annual
18 meeting or at any special meeting called for that purpose, of
19 which notice shall be given as required by the bylaws. The
20 company, by its bylaws, may authorize the board to increase or
21 decrease the number of directors or trustees without a vote of
22 the members. The company, by the bylaws, may provide for written
23 nominations by any of its members for election as directors or
24 trustees and for the time and manner of filing the nominations
25 with the company prior to the meeting at which the election is
26 to be held. Only persons so nominated shall be eligible for
27 election at the meeting.

28 § 3535. Voting by stockholders and members.

29 At all meetings of the company, each share of stock in a
30 stock company and each member in a mutual company shall be

1 entitled to one vote. However, in the case of mutual companies,
2 other than mutual life companies, each member shall be entitled
3 to one vote or to a number of votes based upon the insurance in
4 force, the number of policies held or the amount of premiums
5 paid. Proxies may be authorized by written power of attorney.
6 The record of the votes made by the secretary, which shall show
7 whether the votes were cast in person or by proxy, shall be
8 evidence of all elections.

9 § 3536. Proxies issued by domestic stock companies.

10 (a) Regulation.--The department may, by regulation,
11 prescribe the form, content and manner of solicitation of any
12 proxy, consent or authorization with respect to any voting
13 security issued by a domestic stock insurance company as
14 necessary or appropriate in the public interest or for the
15 proper protection of investors in the voting securities issued
16 by the insurance company or to insure the fair dealing in the
17 voting securities.

18 (b) Prohibition of solicitation.--No person or voting
19 security holder and no domestic stock insurance company or any
20 director, officer or employee of that company shall solicit or
21 permit the use of his name to solicit any person to give any
22 proxy, consent or authorization with respect to any voting
23 security issued by the insurance company in contravention of any
24 rule or regulation the department prescribes pursuant to this
25 section.

26 (c) Limitation of action.--Any action to enforce compliance
27 with any rule or regulation of the department shall be taken
28 within 30 days after exercise of the proxy, consent or
29 authorization.

30 (d) Applicability.--This section does not apply to:

1 (1) Voting securities of a domestic stock insurance
2 company if the securities are registered under section 12 of
3 the Securities Exchange Act of 1934 (48 Stat. 892, 15 U.S.C.
4 § 781).

5 (2) Voting securities of a domestic stock insurance
6 company which, because of the number of its stockholders or
7 the distribution of its stock ownership, the department, by
8 regulation, deems not necessary or appropriate to regulate in
9 the public interest or for the proper protection of investors
10 therein.

11 (e) Definition.--As used in this section the term "voting
12 security" means any instrument which, in law or by contract,
13 gives the holder the right to vote, or consent to or authorize
14 any corporate action of a domestic stock insurance company.

15 § 3537. Cumulative voting.

16 In all elections for directors or trustees of any stock or
17 mutual insurance company, each member or stockholder having a
18 right to vote may cast the whole number of his votes for one
19 candidate or distribute them upon two or more candidates.

20 § 3538. Failure to elect directors or trustees.

21 If the stockholders or members of any insurance company fail
22 to elect directors or trustees at any annual meeting, the
23 directors or trustees may call a special meeting for that
24 purpose on a subsequent day. Notice of the meeting shall be
25 given as provided in section 3531(b) (relating to annual
26 meetings).

27 § 3539. Directors and trustees.

28 (a) Acceptance.--The directors or trustees, before they are
29 qualified to act, shall file with the secretary a written
30 acceptance of the trust.

(b) Quorum.--A majority of the directors or trustees shall constitute a quorum.

(c) Compensation.--Any insurance company may allow and pay to directors compensation for acting as directors.

SUBCHAPTER C

FUNDAMENTAL CHANGES

Sec.

3551. Stock votes on particular subjects.

3552. Amendment of charter.

3553. Proceedings to file amended charter and certification.

3554. Power to increase capital stock.

3555. Proceedings to increase capital stock.

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§ 3551. Stock votes on particular subjects.

Whenever a stock vote is lawfully demanded or required on any subject submitted to the stockholders of any stock insurance company of this Commonwealth for their action at any annual or special meeting, the vote may be taken at and certified to the meeting or any adjournment. If, under the corporate charter or applicable law, the annual election for directors is held within 30 days after the annual or special meeting at which the subject is submitted to the stockholders, then the vote on the subject may be taken at the same time and place, by the same persons and in the same manner as the vote for directors of the company is taken. If, under provisions of the charter or laws governing the company, the annual election for directors is not held within 30 days after the meeting at which the subject is submitted to the stockholders, then the stock vote upon the

1 subject may be taken at any time within 30 days after that
2 meeting under the supervision of three judges to be appointed
3 and at a time and place to be designated by the stockholders at
4 that meeting. The result of the vote shall be certified by the
5 judges under oath and their certificates shall be filed with the
6 secretary of the company.

7 § 3552. Amendment of charter.

8 (a) Authorization.--Any domestic stock or mutual insurance
9 company may amend its charter for the purpose of changing its
10 name, changing the location of its principal office or place of
11 business, increasing or diminishing the par value of the shares
12 of its capital stock, changing its purpose or for any other
13 reason, by calling a special meeting of the stockholders or
14 members.

15 (b) Notice.--Notice of the object of the meeting shall be
16 given by advertisement for the preceding four weeks in at least
17 two daily or weekly newspapers and in the legal periodical, if
18 any, designated by the rules of court of the proper county for
19 the publication of legal notices, published in the municipality
20 where the principal office of the company is located, or by
21 circular mailed to the address of each stockholder or member.

22 (c) Procedure.--If the resolution for the amendment is
23 approved by two-thirds of the votes cast, the resolution and the
24 number of votes cast for and against it shall be recorded by the
25 company and a certified copy of the record shall be forwarded to
26 the department. If the department approves of the resolution, it
27 shall certify its approval ~~and record it in the office of the~~ <—
28 ~~Secretary of the Commonwealth.~~ WHEN THE AMENDMENT IS RECORDED <—
29 WITH THE DEPARTMENT OF STATE and with the recorder of deeds of
30 the proper county. ~~The amendment shall then,~~ IT SHALL form part <—

1 of the charter of the company.

2 (d) Mutual insurance company.--A mutual insurance company,
3 other than life or title, may amend its charter to include any
4 of the kinds of insurance included in section 3302(b) and (c)
5 (relating to authorized classes of insurance) if its total
6 assets, less net liability for losses for expenses and for
7 unearned premium reserve for those premiums received on
8 nonassessable policies, are not less than the minimum premiums
9 specified in section 3306(e) (relating to minimum capital stock
10 and financial requirements) for the incorporation of new
11 companies, without the necessity of obtaining or of holding any
12 application or of issuing any policy as specified in section
13 3306(e) for the incorporation of new companies.

14 (e) Amendment of charter by certain stock companies.--Before
15 any domestic stock fire, stock marine, stock fire and marine, or
16 stock casualty insurance company transacting business under
17 section 3302(b) or (c) may amend its charter for the transaction
18 of additional kinds or classes of business under section 3302(b)
19 or (c) or both, it shall have a paid-up capital and a paid-in or
20 accumulated surplus in amounts required under section 3306(b) or
21 (c) for incorporation for its present and proposed additional
22 purposes.

23 § 3553. Proceedings to file amended charter and certification.

24 Whenever any domestic stock or mutual insurance company
25 amends its charter under section 3552 (relating to amendment of
26 charter) or to carry out a merger or consolidation or to
27 increase or decrease the amount of its capital, the stockholders
28 or members of the company may, at the time of adopting the
29 amendment or resolutions, include therein the entire charter of
30 the company, as amended or as affected by the proposed change.

1 The amended charter or consolidation proceedings shall
2 completely set forth all the terms and conditions of the charter
3 under which the company shall thereafter transact business.
4 However, the amended charter or consolidation proceedings shall
5 contain only those provisions an original charter may lawfully
6 contain and shall be filed in the office of the Secretary of the
7 Commonwealth, in the same manner as provided under section
8 3556(a) (relating to records of increases of capital stock),
9 3558(e) (relating to reduction of capital stock) or 3562(d)
10 (relating to proceedings to merge or consolidate).

11 § 3554. Power to increase capital stock.

12 The capital stock of any stock insurance company may, with
13 the consent of the persons holding more than one-half the value
14 of its stock, be increased to an amount, regardless of any
15 limitation upon the amount prescribed in any general or special
16 law regulating any such company, as it deems necessary to
17 accomplish and enlarge the business and purposes of the company.

18 § 3555. Proceedings to increase capital stock.

19 (a) General rule.--Any stock insurance company that desires
20 to increase its capital stock shall, by resolution adopted by a
21 majority of its board of directors, declare this purpose and, by
22 resolution similarly adopted, direct that the question of the
23 proposed increase be submitted to the stockholders of the
24 corporation for their consent under subsection (b) or (c).

25 (b) Regular annual meeting.--The question may be submitted
26 to the stockholders at any regular meeting. Notice of the
27 meeting shall state that the question of a capital stock
28 increase will be considered at the meeting. The president and
29 secretary of the meeting shall ascertain, by any method, whether
30 the persons holding more than one-half the value of the stock of

1 the company have consented to the increase. Upon being so
2 satisfied, these officers shall certify in duplicate the fact,
3 under oath. If a stock vote is demanded at the meeting, these
4 officers shall cause a vote to be taken at the same time and
5 place, by the same persons and in the same manner as the vote
6 for directors of the company are taken.

7 (c) Special meeting.--The question may be submitted to the
8 stockholders at a special meeting. Notice of the time, place and
9 object of the meeting shall be published in the manner
10 prescribed for the giving of notice of the regular annual
11 meeting. At the meeting a vote of the stockholders shall be
12 taken for or against the increase. The vote shall be conducted
13 by three judges, who shall be stockholders of the company,
14 appointed by the board of directors to hold the vote. If any
15 judge is absent, the judges present shall appoint a replacement.
16 The judges shall swear that they will conduct the vote according
17 to law and to the best of their ability. The company shall
18 furnish the judges at the meeting with a statement of the amount
19 of its capital stock, the names of the persons holding the stock
20 and the number of shares held by each, which statement shall be
21 signed and sworn to by one of the chief officers of the company.
22 The judges shall decide upon the qualifications of voters, count
23 the number of shares voted for and against the increase and
24 declare whether the persons holding a majority in amount of the
25 stock of the corporation have consented to the increase. They
26 shall complete duplicate returns of the vote stating the number
27 of shares of stock that voted for and against the increase and
28 subscribe and deliver the returns to one of the chief officers
29 of the company.

30 (d) Ballot.--Each ballot shall have endorsed on it the

1 number of shares represented, but no shares transferred within
2 30 days prior to the meeting shall entitle the holder to vote on
3 the capital stock increase. A proxy shall not be received nor
4 shall the holder be entitled to vote unless the proxy has been
5 executed within four months preceding the meeting.

6 § 3556. Records of increases of capital stock.

7 (a) Filing with Secretary of Commonwealth.--If consent is
8 given to a capital stock increase, the company shall file in the
9 ~~office of the Secretary of the Commonwealth~~ DEPARTMENT OF STATE, <—
10 within 30 days after the vote, one copy each of the certificates
11 of the president and secretary of the annual meeting or one copy
12 of the return completed at the special meeting, with a copy of
13 the resolution and the meeting notice. Thereafter, the increase
14 may be made at such time or times as the directors determine.
15 The ~~Secretary of the Commonwealth~~ DEPARTMENT OF STATE shall <—
16 furnish a certified copy of the proceedings to the department.

17 (b) (Reserved).

18 (c) Penalty.--In case of neglect or omission to make the
19 return, a company shall be subject to a penalty of \$5,000. The
20 penalty shall be collected on an account settled by the Auditor
21 General and State Treasurer, in the same manner as accounts for
22 taxes due the Commonwealth are settled and collected. The
23 ~~Secretary of the Commonwealth~~ DEPARTMENT OF STATE shall record <—
24 the return and furnish a copy of the return to the Auditor
25 General.

26 § 3557. Sale of increases of capital stock.

27 (a) Subscription.--Any increase of capital stock made by any
28 stock insurance company may be issued at such price not less
29 than par as the stockholders may direct or as the board of
30 directors may direct under authority conferred by the

1 stockholders. Unless otherwise provided in the charter or
2 articles of agreement, each stockholder shall have the right to
3 first subscribe for the new shares in proportion to his interest
4 in the company.

5 (b) Exchange.--A stockholder shall not have the right to
6 first subscribe for new shares if the stockholders holding more
7 than one-half the value of the stock of the company direct,
8 subject to such equitable regulations as the directors
9 prescribe, that the new shares are to be issued in exchange for
10 one or more outstanding shares of another insurance company in
11 which the issuing company is authorized to invest, or partly in
12 exchange and partly for cash.

13 (c) Approval of exchange by department.--The department
14 shall examine the terms and conditions of any exchange described
15 in subsection (b) and, after holding a hearing at which all
16 persons to whom it is proposed to issue shares in exchange shall
17 have the right to appear, shall approve or disapprove the
18 fairness of the terms and conditions.

19 (d) Notice of right to subscribe.--Except when an exchange
20 described in subsection (b) is to be effected, notice to the
21 stockholders to exercise their rights to subscribe for and to
22 take the stock at the price so fixed shall be mailed to each
23 stockholder, at the last address of the stockholder appearing on
24 the books or records of the company, 30 days prior to the date
25 fixed by the board of directors for the expiration of the right
26 to subscribe. This notice shall also be given by publication
27 once a week for three weeks in a newspaper of general
28 circulation published in the municipality in which the company
29 has its principal office.

30 (e) Sale of unsubscribed stock.--Any stock not subscribed

1 for and taken by the stockholders may be sold and disposed of by
2 the board of directors, in such manner as the stockholders
3 direct. However, the stock shall not be sold or disposed of at a
4 price less than that originally fixed by the stockholders.

5 (f) Issuance to officers or employees.--Notwithstanding
6 anything in this section to the contrary, any stock insurance
7 company may issue to its officers or employees, to the officers
8 or employees of any subsidiary corporation or to a trustee on
9 their behalf, the number of its authorized but unissued shares
10 prescribed by the stockholders having the majority interest.
11 These shares shall be issued at such times and in such manner as
12 the board of directors determines. Any stock authorized to be
13 issued to officers or employees and not taken by those entitled
14 to it may be sold and disposed of in such manner as the board of
15 directors determines.

16 § 3558. Reduction of capital stock.

17 (a) General rule.--The capital stock of any stock insurance
18 company may be reduced at any time by the consent of the persons
19 holding more than one-half the value of the stock of the
20 company. However, this reduction shall not be below the minimum
21 amount of capital stock required by law for the formation of
22 such companies.

23 (b) Meeting.--Any stock insurance company that desires to
24 reduce its capital stock shall, by a resolution of its board of
25 directors, call a meeting of its stockholders. The meeting shall
26 be held at its chief office or place of business in this
27 Commonwealth. Notice of the time, place and object of the
28 meeting shall be given in the manner prescribed for the giving
29 of notice of the regular annual meeting.

30 (c) Voting procedure.--At the meeting a vote of the

1 stockholders of the company shall be taken on the question of
2 the reduction. The vote shall be conducted by three judges, who
3 shall be stockholders of the company, appointed by the board of
4 directors to hold the vote. If any judge is absent, the judges
5 present shall appoint a replacement. The judges shall swear that
6 they will conduct the vote according to law and to the best of
7 their ability. The company shall furnish the judges at the
8 meeting with a statement of the amount of its capital stock,
9 with the names of the persons holding the stock and the number
10 of shares held by each, which statement shall be signed and
11 sworn to by one of the chief officers of the company. The judges
12 shall decide upon the qualification of voters, count the number
13 of shares voted for and against the reduction and declare
14 whether the persons holding more than one-half the value of the
15 stock of the company have consented to the reduction. They shall
16 complete duplicate returns of the vote, stating the number of
17 shares of stock that voted for and against the reduction, and
18 subscribe and deliver the returns to one of the chief officers
19 of the company.

20 (d) Stock entitled to vote.--Each ballot shall have endorsed
21 on it the number of shares represented, but no shares
22 transferred within 60 days prior to the meeting shall entitle
23 the holder to vote on the capital stock reduction. A proxy shall
24 not be received nor shall the holder be entitled to vote unless
25 it has been executed within three months preceding the meeting.

26 (e) Filing, approval and recording of proceedings.--If
27 consent is given to the reduction, the company shall file in the
28 office of the department within 30 days after the vote one copy
29 each of the resolution, the meeting notice and the return. The
30 department shall, if it finds the transaction regular in form

1 and consistent with the interest of the policyholders and
2 creditors, endorse its approval and file it in the ~~office of the~~ <—
3 ~~Secretary of the Commonwealth~~ DEPARTMENT OF STATE. Upon the <—
4 reduction of the capital stock of the company, the president or
5 treasurer of the company shall file, within 30 days, a return
6 with the department and the ~~Secretary of the Commonwealth~~ <—
7 DEPARTMENT OF STATE, under oath, stating the amount of the <—
8 reduction.

9 (f) Penalty.--In case of neglect or omission to timely file
10 the documents listed in subsection (e), the company shall be
11 subject to a penalty of \$5,000. This penalty shall be collected
12 on an account settled by the Auditor General and State
13 Treasurer, in the same manner as accounts for taxes due the
14 Commonwealth are settled and collected. The ~~Secretary of the~~ <—
15 ~~Commonwealth~~ DEPARTMENT OF STATE shall record the return and <—
16 furnish a certified copy of the return to the Auditor General.
17 The company shall, after the receipt of the return from the
18 ~~Secretary of the Commonwealth~~ DEPARTMENT OF STATE, have it <—
19 recorded in the office of the recorder of deeds of the county in
20 which the company has its principal office.

21 SUBCHAPTER D

22 MERGER, CONSOLIDATION AND VOLUNTARY DISSOLUTION

23 Sec.

24 3561. Power to merge or consolidate.

25 3562. Proceedings to merge or consolidate.

26 3563. Dissenters' rights upon merger or consolidation.

27 3564. Merger of domestic and foreign insurance companies.

28 3565. Protection of competition.

29 3566. Merger by acquisition of stock.

30 3567. Dissenters' rights upon merger by acquisition of stock.

1 3568. Approval of acquisitions by department.

2 3569. Holding company systems.

3 3570. Voluntary dissolution.

4 3571. Dissolution for failure to do business.

5 § 3561. Power to merge or consolidate.

6 Any two or more domestic stock insurance companies and any
7 two or more domestic mutual insurance companies transacting the
8 same or similar classes of insurance may be merged into one of
9 such domestic companies or consolidated into a new company to be
10 formed as provided in the consolidation agreement. The
11 consolidation agreement shall include all of the statements
12 required by section 3303 (relating to articles of agreement) to
13 be set forth in original articles of incorporation in the case
14 of the formation of a new insurance company, so that all the
15 property, rights, franchises and privileges vested in any of the
16 companies so merged or consolidated shall be transferred to and
17 vested in the surviving or new company. This section does not
18 permit the merging or consolidating of a stock insurance company
19 with a mutual insurance company.

20 § 3562. Proceedings to merge or consolidate.

21 (a) Joint agreement.--The directors or trustees of each
22 company shall enter into a joint agreement, under the corporate
23 seal of each company, for the merger or consolidation of the
24 companies. The agreement shall prescribe:

25 (1) The terms and conditions of the merger or
26 consolidation.

27 (2) The mode of carrying it into effect.

28 (3) The name of the surviving or new company.

29 (4) The number and names of the directors or trustees

30 and other officers thereof, and who shall be the directors or

1 trustees and officers, and their places of residence.

2 (5) The number of shares of the capital stock, if any.

3 (6) The amount of par value of each share.

4 (7) The manner of converting the capital stock of each
5 of the companies into the stock of the surviving or new
6 company.

7 (8) How and when directors or trustees and officers
8 shall be chosen.

9 (9) Any other details necessary to perfect the merger or
10 consolidation.

11 The agreement shall not be effective unless it is approved by
12 the stockholders or members of the companies under subsection
13 (b) or (c).

14 (b) Stock companies.--The agreement shall be submitted to
15 the stockholders of each of the stock companies at separate
16 special meetings or at any annual meetings. Notice of the time,
17 place and object of each meeting shall be given by publication
18 once a week for three consecutive weeks in at least two
19 newspapers in the county in which the principal office of the
20 company is located. At each meeting the agreement of the
21 directors or trustees shall be considered, and a vote by ballot
22 of the stockholders, in person or by proxy, shall be taken. If a
23 majority in interest of the entire capital stock of each of the
24 companies votes in favor of the agreement, then the result shall
25 be certified by the secretary of each company under the
26 corporate seal thereof. The certificates and a copy of the
27 agreement shall be filed in the office of the department. The
28 department shall examine the proceedings, and, if it finds that
29 the proceedings were in accordance with law and not injurious to
30 the interests of the policyholders and creditors, it shall

1 endorse its approval and immediately forward the certificates
2 and agreement to the Governor for his approval. Upon approval by
3 the Governor, the agreement shall be deemed to be the act of
4 merger or consolidation of the surviving or new company.

5 (c) Mutual companies.--The agreement shall be submitted to
6 the members of each of the mutual companies at separate special
7 meetings or at any annual meetings. Notice of the time, place
8 and object of each meeting shall be given by publication once a
9 week for three consecutive weeks in at least two newspapers in
10 the county in which the principal office of the company is
11 located; additional 30 days' notice of the time, place and
12 object of the meeting shall be given by first class mail to all
13 members of each company, requesting them to vote in person or by
14 proxy on the agreement. The notice shall be mailed by the
15 company to the last known address of the members on the records
16 of the company. At each meeting the agreement of the directors
17 or trustees shall be considered, and a vote by ballot of the
18 members, in person or by proxy, shall be taken. If two-thirds of
19 the amount of the members of each company who are present at the
20 meeting in person or by proxy vote in favor of the agreement of
21 merger or consolidation, then the result shall be certified by
22 the secretary of each company under the corporate seal. The
23 certificate and a copy of the agreement shall be filed with the
24 department. The department shall examine the proceedings. If the
25 department finds that the proceedings were in accordance with
26 law and not injurious to the interests of the policyholders and
27 creditors, it shall endorse its approval and immediately forward
28 the certificates and agreement to the Governor for his approval.
29 Upon approval by the Governor, the agreement shall be deemed to
30 be the act of merger or consolidation of the surviving or new

1 company.

2 (d) Filing, approval and recording of documents.--The
3 Governor, upon the approval of the certificates and agreement,
4 shall issue letters patent. The letters patent, the certificates
5 and a copy of the agreement shall be filed and recorded in the
6 ~~office of the Secretary of the Commonwealth~~ DEPARTMENT OF STATE. <—

7 A certified copy of the certificates and agreement so filed in
8 the ~~office of the Secretary of the Commonwealth~~ DEPARTMENT OF <—
9 STATE shall be evidence of the lawful holding and action of the
10 meetings and of the merger or consolidation of the companies.
11 Upon the issuance of the letters patent by the Governor, the
12 entire proceeding shall also be recorded in the office of the
13 recorder of deeds of the proper county. When so recorded, the
14 merger or consolidation shall be deemed to have taken place with
15 the companies to be one company under the name adopted under the
16 agreement, possessing all the rights, privileges and franchises
17 vested in each of them. All the real and personal property and
18 rights of action of each company shall be deemed transferred to
19 the surviving or new company without any further act or deed.

20 (e) Rights of creditors and lienholders.--All rights of
21 creditors and all liens upon the property of each company shall
22 continue unimpaired, limited in lien to the property affected by
23 the liens at the time of their creation. The respective
24 constituent companies may be deemed to be in existence to
25 preserve those liens. All debts not of record, duties and
26 liabilities of each of the constituent companies shall attach to
27 the surviving or new company and may be enforced against it to
28 the same extent, and by the same process, as if the debts,
29 duties and liabilities had been contracted by it.

30 § 3563. Dissenters' rights upon merger or consolidation.

1 (a) Petition to appraise damages.--Any stockholder or member
2 of any insurance company who objects to the merger or
3 consolidation and who voted against it at the appropriate
4 meeting may, within 30 days after the adoption of the agreement
5 and upon reasonable notice to the company, petition the court of
6 the county in which the chief office of the company is located
7 to appoint three disinterested persons to appraise the damages
8 caused him by the merger or consolidation. Upon the petition,
9 the court shall make the appointment, and the award of the
10 persons so appointed, or of a majority of them, when confirmed
11 by the court, shall be final and conclusive.

12 (b) Appraisal of shares or interest.--The persons so
13 appointed shall also appraise the shares of the stockholder or
14 the interest of the member in the company at full market value
15 without regard to any appreciation or depreciation in
16 consequence of the merger or consolidation. This appraisal, when
17 confirmed by the court, shall be final and conclusive.

18 (c) Election of company.--The company may pay to the
19 stockholder or member either the amount of damages awarded or
20 the value of the stock or interest ascertained. Upon the payment
21 of the value of the stock, the stockholder shall transfer the
22 stock held by him to the company, to be disposed of by the
23 directors or to be retained for the benefit of the other
24 stockholders. Upon the payment of the value of any interest of
25 any member, the interest of the member in the company shall
26 cease. In case the value of the stock or interest is not paid
27 within 30 days after the award is confirmed by the court, the
28 damages found and confirmed shall be a judgment against the
29 company.

30 § 3564. Merger of domestic and foreign insurance companies.

1 (a) Authority to merge.--Any domestic life, fire or marine
2 insurance company or casualty or surety company authorized to do
3 business under this title may merge or consolidate, as provided
4 in this section, with a company organized under the laws of
5 another state if the merger or consolidation is authorized by
6 the laws or approved by the insurance supervising officials of
7 the state in which the foreign company is incorporated.

8 (b) Domestic company.--A domestic company shall comply with
9 all the requirements of this chapter with respect to the merger
10 or consolidation of two or more domestic companies.

11 (c) Foreign company.--The foreign company shall comply with
12 all of the requirements of the law or of the supervising
13 insurance officials of the state under which it is incorporated
14 with respect to such a merger or consolidation. The agreement
15 shall first be submitted for approval by the department.

16 (d) Domicile of surviving company.--The domicile of the
17 surviving or new company shall be located in this Commonwealth,
18 unless the department consents, in writing endorsed on the
19 merger or consolidation agreement, that the merged or
20 consolidated company may be domiciled in some other state.

21 (e) Foreign surviving company.--A merged or consolidated
22 company, domiciling in another state, shall not have any
23 authority to transact business in this Commonwealth unless the
24 company complies with the law of this Commonwealth with respect
25 to its admission to transact business here.

26 (f) (Reserved).

27 (g) Substituted certificates.--If the merger or
28 consolidation involves a stock company, the surviving or new
29 company may require the return of the original certificates of
30 stock held by each stockholder in each of the companies to be

1 merged or consolidated and issue new certificates for the number
2 of shares of its own stock that the stockholders may be entitled
3 to receive.

4 (h) Effect of a merger or consolidation.--Upon a merger or
5 consolidation, all the rights, franchises and interests of the
6 companies so merging or consolidating in any property belonging
7 to them shall be deemed to be transferred to and vested in the
8 surviving or new company without any other deed or transfer. The
9 surviving or new company shall succeed to all the obligations
10 and liabilities of the old companies and shall be held liable to
11 pay and discharge all debts and liabilities in the same manner
12 as if they had been incurred or contracted by it. The
13 stockholders or members of the old companies shall continue,
14 subject to all the liabilities, claims and demands existing
15 against them at or before the merger or consolidation. An action
16 or proceeding pending at the time of merger or consolidation, in
17 which any or all of the old companies may be a party, shall not
18 abate or discontinue by reason of the merger or consolidation;
19 any such action or proceeding may be prosecuted to final
20 judgment in the same manner as if the merger or consolidation
21 had not taken place, or the surviving or new company may be
22 substituted in place of any company so merged or consolidated by
23 order of the court in which the action or proceeding is pending.
24 § 3565. Protection of competition.

25 (a) Holding capital stock of other companies.--Any domestic
26 insurance company may retain or acquire the whole or any part of
27 the capital stock of any other insurance company; however, no
28 insurance company shall, by reason of this retention or
29 acquisition of capital stock, conduct its business in a manner
30 which substantially lessens competition or tends to create a

1 monopoly. Any retention or acquisition shall comply with the
2 provisions of this title relating to the investment of the funds
3 of domestic insurance companies.

4 (b) Interlocking directorates.--Any person otherwise
5 qualified may be a director of two or more insurance companies
6 when this interlocking directorate is not used as a means of
7 substantially lessening competition or tending to create a
8 monopoly.

9 (c) Enforcement proceedings.--Whenever the department has
10 reason to believe that there is a violation of subsection (a) or
11 (b), it shall serve upon the insurance company, or the director
12 concerned, a complaint setting forth the facts alleged to
13 constitute the violation. With the complaint, there shall be
14 notice in writing of a time and place of a hearing before the
15 department. The hearing shall not be held less than 30 days
16 after the service of the complaint. The complaint shall require
17 the insurance company or director to show cause why an order
18 should not be made by the department directing the insurance
19 company or director to cease and desist from the violation. The
20 hearing shall be conducted, and the decision of the department
21 on the issue involved shall be rendered, in accordance with the
22 provisions of 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
23 procedure of Commonwealth agencies).

24 (d) Order.--If, after the hearing, the department finds that
25 there has been such a violation, it shall issue and serve upon
26 the insurance company or director an order reciting the facts
27 found by it, setting forth the violation, directing the
28 insurance company or director to cease and desist from the
29 violation.

30 (e) Divestiture.--This section does not authorize any order,

1 judgment or decree directing any domestic insurance company to
2 divest itself of the capital stock of another insurance company.
3 § 3566. Merger by acquisition of stock.

4 (a) General rule.--Any business or insurance corporation
5 seeking to acquire, in exchange for shares of its capital stock,
6 other securities, cash or other consideration, all of the shares
7 of the capital stock of any insurance company organized under
8 the law of this Commonwealth, may elect to acquire those shares
9 as provided in this section.

10 (b) Acquiring corporation not 90% owner.--If the acquiring
11 corporation does not own, directly or indirectly, at least 90%
12 of the aggregate issued and outstanding shares of all classes of
13 voting stock of the company to be acquired, the boards of
14 directors, trustees or other governing bodies of the acquiring
15 corporation and the corporation to be acquired shall by
16 resolution approve a proposed exchange offer. The proposed offer
17 shall specify the stock or classes of stock to be acquired, the
18 terms and conditions of the offer, the method of acceptance and
19 the procedure to be followed to effect the exchange. It may fix
20 or provide for the fixing of record dates for the determination
21 of stockholders to whom offers, notices and other communications
22 shall be mailed, and it may provide for the determination of
23 stockholders who shall be entitled to exercise rights under this
24 subchapter.

25 (c) Acquiring corporation 90% owner.--Where the acquiring
26 corporation owns, directly or indirectly, 90% of the aggregate
27 issued and outstanding shares of all classes of voting stock of
28 the acquired corporation, the board of directors, trustees or
29 other governing body of the acquiring corporation may, by
30 resolution, adopt a plan for the acquisition of minority

interests in the corporation to be acquired. The plan shall set forth:

(1) The name of the corporation to be acquired.

(2) The total number of issued and outstanding shares of each class of voting stock of the corporation to be acquired, the number of its shares owned by the acquiring corporation and, if either of the foregoing is subject to change prior to the effective date of acquisition, the manner in which any change may occur.

(3) The terms and conditions of the plan, including the manner and basis of exchanging the shares to be acquired, the proposed effective date of acquisition and a statement clearly describing the rights of dissenting stockholders to demand appraisal.

(4) If the acquiring corporation is neither a domestic corporation nor an insurer authorized to do business in this Commonwealth, its agreement to be bound by subsection (j) and section 3567 (relating to dissenters' rights upon merger by acquisition of stock) with respect to the plan and its consent to the enforcement against it in this Commonwealth of the rights of stockholders pursuant to the plan.

(5) Such other provisions with respect to the plan as the board of directors, trustees or other governing body believes necessary or desirable or as the department prescribes.

(d) Submission of proposal.--The acquiring corporation shall submit the terms and conditions of the proposed offer or plan to the department for its approval. The department shall hold a hearing upon at least ten days' notice to all stockholders of the corporation to be acquired any of whom may appear. After the

1 hearing, the department shall either approve or disapprove the
2 terms and conditions. If the terms and conditions are approved
3 by the department, the acquiring corporation shall submit by
4 mail a written offer or plan of acquisition to the stockholders
5 of the corporation to be acquired, addressed to each stockholder
6 at his address of record.

7 (e) Corporate acceptance.--If prior to the termination date
8 of an exchange offer under subsection (b) or any extension
9 thereof, which shall be no later than 120 days after the date of
10 the initial mailing of the offer, the offer is accepted by the
11 holders of not less than the percentage of the outstanding
12 shares of capital stock specified in the terms and conditions of
13 the proposed offer, which shall be at least 80% of the total
14 combined voting power of all classes of stock entitled to vote
15 and 80% of the total number of shares of all other classes of
16 stock, the acquiring corporation shall, within 150 days after
17 the date of the initial mailing, notify the corporation to be
18 acquired of the acceptance and furnish to the acquired
19 corporation a list of all stockholders who accepted the offer
20 and of the numbers and classes of shares covered by their
21 respective acceptances. Thereupon, the acquiring corporation
22 shall automatically become the holder of all shares of all
23 classes of capital stock of the corporation to be acquired
24 included in the list, except to the extent that it has notified
25 the corporation to be acquired that shares are to be issued to
26 specified persons in order to qualify them or to maintain their
27 qualification as directors of the corporation to be acquired.
28 Certificates representing all outstanding shares of capital
29 stock of the corporation to be acquired included in this list
30 shall immediately be issued to the acquiring corporation and

1 those persons it has specified. The formerly outstanding
2 certificates shall represent only the right to receive shares of
3 capital stock or other securities of the acquiring corporation,
4 cash, other consideration or a combination thereof as specified
5 in the offer.

6 (f) Notice of dissenters' rights.--Within 30 days after the
7 notification from the acquiring corporation, the corporation to
8 be acquired shall notify by mail each of its stockholders who
9 has not accepted the offer that, subject to subsections (g) and
10 (j) and section 3567, a copy of which shall be included with the
11 notice, the stockholder may receive payment in cash of the full
12 market value of his shares and may not vote, receive dividends
13 or other distributions or exercise any rights with respect to
14 these shares other than those set forth in subsections (g) and
15 (j) and section 3567.

16 (g) Deemed stockholder acceptances.--A stockholder who does
17 not otherwise accept an exchange offer described under
18 subsection (b) shall be deemed to have accepted it if, following
19 the mailing of the notice under subsection (f), any of the
20 following conditions occur:

21 (1) He fails to make written demand as provided in
22 section 3567(a).

23 (2) He fails to surrender his certificate for notation
24 as provided in section 3567(b) unless the corporation to be
25 acquired waives this failure or relief from the failure is
26 granted by the court of the county in which the chief office
27 of the corporation to be acquired is located.

28 (3) The full market value of his shares not having been
29 agreed upon as provided in section 3567(c), he fails to
30 comply with the provisions thereof with respect to the filing

1 of a petition for the appointment of appraisers and the
2 corporation to be acquired does not waive this failure.

3 The acquiring corporation shall automatically become the holder
4 of all shares of all classes of capital stock of the corporation
5 to be acquired held by any stockholder who is deemed to have
6 accepted the exchange offer under this subsection.

7 (h) Certification to department.--On or before the date of
8 acquisition proposed in a plan adopted pursuant to subsection
9 (c), the acquiring corporation shall file with the department a
10 certificate stating that it has submitted the written offer or
11 plan of acquisition to the stockholders of the corporation to be
12 acquired, as required by subsection (d). This certificate shall
13 be executed by the president of the acquiring corporation and
14 attested by its secretary or other corresponding executive
15 officers.

16 (i) Ownership of acquired shares.--Upon compliance with this
17 subsection and with subsections (a), (c), (d) and (j) and
18 section 3567, ownership of the shares to be acquired pursuant to
19 the plan shall vest in the acquiring corporation on the date of
20 acquisition proposed in the plan whether or not the certificates
21 for the shares have been surrendered for exchange. The acquiring
22 corporation may have new certificates registered in its name,
23 except to the extent it has notified the acquired corporation
24 that shares are to be issued to specified persons in order to
25 qualify them or to maintain their qualification as directors of
26 the acquired corporation. Stockholders whose shares have been so
27 acquired shall retain only the right to receive the
28 consideration to be paid in exchange for their shares pursuant
29 to the plan or to demand appraisal pursuant to section 3567.

30 (j) Distribution of stock shares and consideration.--If the

1 acquiring corporation has notified the acquired corporation of
2 the acceptance of an exchange offer made under subsection (b) or
3 if a plan has been adopted pursuant to subsection (c), on or
4 after the date of acquisition proposed in the plan, the
5 acquiring corporation shall issue, in the name of each
6 stockholder who has accepted the offer or who has not made
7 timely demand for appraisal, certificates for the shares of its
8 capital stock or other securities as provided in the exchange
9 offer or plan, or shall set aside the cash or other
10 consideration to which he is entitled. The certificates, cash or
11 other consideration shall be delivered to the stockholder if he
12 has surrendered the certificates for his shares of the acquired
13 corporation for exchange and shall otherwise be held in trust
14 for delivery to the stockholder upon surrender of the
15 certificates.

16 § 3567. Dissenters' rights upon merger by acquisition of stock.

17 (a) Written demand for redemption.--A stockholder of the
18 acquired corporation who wishes to be paid the full market value
19 of his shares shall make written demand for this payment upon
20 the corporation to be acquired in the case of an exchange offer
21 made pursuant to section 3566(b) (relating to merger by
22 acquisition of stock) within 30 days after the mailing of the
23 notice by the corporation to be acquired, or in the case of a
24 plan adopted pursuant to section 3566(c) within 30 days after
25 the mailing of the plan of acquisition by the acquiring
26 corporation pursuant to section 3566(d). A stockholder may
27 demand payment as to all or less than all of those shares
28 registered in his name of which he is not the beneficial owner,
29 but demand may not be made with respect to some but less than
30 all shares of the same class owned by any given beneficial owner

1 of shares, whether or not the shares so owned by him are
2 registered in his name.

3 (b) Notation on share certificates.--Within 20 days after
4 demanding payment for his shares, each stockholder demanding
5 payment shall submit the certificate representing his share to
6 the corporation to be acquired for notation that a demand has
7 been made. If a share represented by a certificate on which
8 notation has been so made is transferred, each new certificate
9 issued for the share shall bear a similar notation, together
10 with the name of the original holder of the share who demanded
11 payment. The transferee of the share shall acquire by the
12 transfer no rights other than those which the stockholder who
13 demanded payment had after making demand for payment of the full
14 market value.

15 (c) Appraisal procedure.--Any stockholder of the acquired
16 corporation who has not accepted the exchange offer and is not
17 deemed to have accepted it or who has made timely demand for
18 appraisal under subsection (a) may receive payment for his
19 shares of capital stock of the acquired corporation as provided
20 in this subsection. If, within 40 days after making demand under
21 subsection (a), the stockholder and the acquired corporation
22 have not agreed as to the full market value of the shares, the
23 stockholder may, within 60 days after making the demand,
24 petition the court of the county in which the chief office of
25 the acquired corporation is located to appoint three
26 disinterested persons to appraise the shares of the stockholder
27 at the full market value. The appraisal shall be made as of the
28 day prior to the day on which the exchange offer or plan of
29 acquisition was mailed, without regard to any appreciation or
30 depreciation in consequence of the exchange offer or plan of

1 acquisition. The appraisal, when confirmed by the court, shall
2 be final and conclusive. The full market value of the shares as
3 agreed upon or as so determined shall be paid by the acquired
4 corporation to the stockholder upon surrender to the acquired
5 corporation of his certificates for the shares. The acquired
6 corporation may retain, cancel, dispose of or take other action
7 with respect to the shares. However, there shall be no reduction
8 in the capital stock of the acquired corporation without
9 compliance with other applicable provisions of law, and the
10 acquired corporation may not vote these shares.

11 (d) Reimbursement of shareholder.--Any stockholder who has
12 had his shares of stock appraised and the appraisal confirmed
13 shall be reimbursed by the acquiring corporation, in an amount
14 not in excess of \$10,000, for his reasonable expenses, including
15 attorney fees, in obtaining the appraisal, if the amount of the
16 appraisal exceeds by 10% the value of the securities, cash or
17 other consideration the stockholder would have received under
18 the terms of the offer or plan. For the purpose of determining
19 if a shareholder is entitled to reimbursement for his expenses,
20 the value of the securities which the shareholder would have
21 received under the term of the offer or plan shall be deemed to
22 be their average market value on the initial mailing date of an
23 offer or on the effective date of acquisition as set forth in a
24 plan.

25 (e) Exclusive rights and remedies.--Any stockholder who
26 desires to object to or dissent from any proposed exchange
27 authorized under section 3566 shall be limited to the rights and
28 remedies provided in this section.

29 § 3568. Approval of acquisitions by department.

30 (a) Applicability of requirements.--Without first complying

1 with all applicable provisions of this section:

2 (1) A person shall not, directly or indirectly through
3 an intermediary or otherwise, acquire or offer to acquire
4 beneficial ownership of insurance stock or insurance holding
5 company stock if the acquisition, together with any past or
6 proposed acquisitions from others, would cause the person to
7 have beneficial ownership of more than 10% of the outstanding
8 insurance stock or insurance holding company stock of any
9 class of any issuer.

10 (2) A person who beneficially owns 10% or more of the
11 outstanding insurance stock or insurance holding company
12 stock of any class of any issuer shall not, directly or
13 indirectly through an intermediary or otherwise, increase or
14 attempt to increase his beneficial ownership of stock of the
15 class by acquisition of additional stock of the class.

16 (3) A person shall not, directly or indirectly through
17 an intermediary or otherwise, acquire or offer to acquire
18 beneficial ownership of insurance stock or insurance holding
19 company stock pursuant to a plan whereby he would become the
20 beneficial owner of more than 10% of the outstanding
21 insurance stock or insurance holding company stock of any
22 class of any issuer. However, in a case where it is proposed
23 to acquire or offer to acquire beneficial ownership of
24 insurance holding company stock and neither the insurance
25 holding company nor any affiliate which it controls are
26 incorporated under the law of this Commonwealth, the
27 restrictions set forth in this paragraph shall apply only if
28 those to whom an offer to acquire the insurance holding
29 company stock is to be made include one or more residents of
30 this Commonwealth.

1 (b) Filing of statement with department.--There shall be
2 filed with the department a statement, signed and verified by
3 the person proposing to make the acquisition, which shall
4 contain the information specified in this subsection and copies
5 of all material proposed to be used in connection with the offer
6 or acquisition, which shall set forth the information contained
7 in the statement filed with the department. Copies of the
8 statement and material and all amendments thereto shall
9 simultaneously also be sent by registered mail to the issuer of
10 the insurance stock or insurance holding company stock proposed
11 to be acquired. The statement filed with the department shall be
12 filed on a form prescribed by the department and shall contain
13 the following information and such additional information as the
14 department requires by regulation:

15 (1) The name and address of each person who proposes to
16 acquire or offer to acquire insurance stock or insurance
17 holding company stock.

18 (2) If the person is an individual, his principal
19 occupation during the past five years.

20 (3) If the person is not an individual, a description of
21 the business done and intended to be done by the person and
22 the person's subsidiaries and the general development of the
23 business during the past five years.

24 (4) If the person is not an individual, a list of all
25 its directors or executive officers or those who perform
26 similar functions and all persons who have been chosen to
27 hold such positions. The list shall include all positions and
28 offices held by the persons named in the particular
29 organization and their principal occupations during the past
30 five years.

1 (5) The terms and conditions of any proposed offer and
2 acquisition and the manner in which the offer and acquisition
3 are to be made.

4 (6) The source of the funds to be used in the proposed
5 acquisition and, if the funds are to be borrowed, the name of
6 the lender and a summary of the terms and conditions of the
7 loan transactions.

8 (7) The plans which the person has for the future
9 business and management of the issuer whose capital stock is
10 to be acquired and, if the issuer is an insurance holding
11 company, of any prospective subsidiary including the plans
12 with respect to total or partial liquidation, sale of assets,
13 merger or material change in business, corporate structure,
14 management or composition of the board of directors.

15 (8) The number of shares of each class of insurance
16 stock or insurance holding company stock proposed to be
17 acquired which are beneficially owned by the person proposing
18 to acquire the insurance stock or insurance holding company
19 stock or which are subject to rights of acquisition by that
20 person, the dates of any sales and purchases of the stock by
21 the person and each associate of the person within the past
22 two years and the prices received or paid in connection with
23 such sales and purchases.

24 (9) Information as to any contracts or arrangements with
25 any person with respect to any securities of the insurance
26 company of insurance holding company whose capital stock is
27 to be acquired, including, but not limited to, those with
28 respect to:

29 (i) Transfer of such securities.

30 (ii) Joint ventures.

(iii) Loan or option arrangements.

(iv) Puts or calls.

(v) Guaranties of loans.

(vi) Guaranties against loss or guaranties of profits.

(vii) Division of losses or profits.

(viii) The giving or withholding of proxies.

(ix) Names of the persons with whom these contracts or arrangements have been entered into.

(10) Complete audited statements as to the earnings and financial condition of the person for the preceding five fiscal years of the person and similar unaudited information as of a date not more than 90 days prior to the filing of the statement with the department.

(c) Criteria for approval.--The department shall approve the acquisition if it determines that all of the following requirements are met:

(1) The statement and other material filed under subsection (b) comply with the requirements thereof.

(2) The department has no reason to believe that after the acquisition the insurance company whose capital stock is to be acquired or the prospective subsidiary will not continue to comply with the law of this Commonwealth.

(3) Upon completion of the acquisition, the insurance company whose capital stock is to be acquired or the prospective subsidiary would satisfy the requirements for the issuance of a license to write any line of insurance which it is presently licensed to write in this Commonwealth.

(4) The effect of the acquisition will not be substantially to lessen competition in insurance in this

1 Commonwealth or to tend to create a monopoly.

2 (5) The financial condition of the person proposing to
3 make the acquisition is not such as might jeopardize the
4 financial stability of the insurance company whose capital
5 stock is to be acquired or the prospective subsidiary or
6 prejudice the interests of the policyholders of the insurance
7 company or, in the case of an acquisition of control other
8 than by merger or consolidation, prejudice the interests of
9 any remaining shareholders of the insurance company who are
10 unaffiliated with the person proposing to make the
11 acquisition.

12 (6) The plans or proposals which the person proposing to
13 make the acquisition has to liquidate the insurance company
14 whose capital stock is to be acquired or the prospective
15 subsidiary, to sell the assets of the insurance company, to
16 merge or consolidate it with any person or to make any other
17 material change in its business or corporate structure or
18 management, are fair and reasonable to its policyholders and
19 shareholders.

20 (7) The competence, experience and integrity of those
21 persons who control or manage the person proposing to make
22 the acquisition and of those persons who would control or
23 manage the operation of the insurance company indicate that
24 it would be in the interest of the policyholders and
25 shareholders of the insurance company and of the general
26 public to permit such acquisition to be made.

27 (8) The interests of the policyholders, shareholders and
28 general public would not otherwise be prejudiced or impaired.

29 (d) Procedure.--The department shall notify the person
30 filing the statement, the issuer whose stock is proposed to be

1 acquired and, if the issuer is an insurance holding company, the
2 prospective subsidiary of the department's approval or
3 disapproval of the proposed acquisition. If the department gives
4 notice of approval, the proposed offer and acquisition may be
5 made and consummated on the terms and conditions and in the
6 manner described in the statement, subject to any conditions
7 prescribed by the department under this subsection. An approval
8 by the department shall extend to offers or acquisitions made
9 pursuant to it within one year following the date of
10 determination. The department may, as a condition of approval,
11 require the inclusion in any offer of provisions requiring the
12 offer to remain open a specified minimum length of time,
13 permitting withdrawal of shares deposited prior to the time the
14 offeror becomes bound to consummate the acquisition and
15 requiring pro rata acceptance of any shares deposited pursuant
16 to the offer. The department shall hold a hearing before
17 approving or disapproving the proposed acquisition if, within
18 ten days following the filing with the department of the
19 statement called for by subsection (b), written request for a
20 hearing is made either by the person proposing to make the
21 acquisition, by the issuer whose stock is proposed to be
22 acquired or, if the issuer is an insurance holding company, by
23 the prospective subsidiary; otherwise, the department may hold
24 such a hearing. Sixty days' notice of the hearing shall be given
25 to the person proposing to make the acquisition to the issuer
26 whose stock is proposed to be acquired and, if the issuer is an
27 insurance holding company, to the prospective subsidiary. The
28 department may give notice of the hearing to other persons. Any
29 hearing held pursuant to this section shall be governed by 2
30 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of

1 Commonwealth agencies).

2 (e) Regulations.--The department may promulgate regulations
3 with respect to solicitations and recommendations for the
4 acceptance of offers made pursuant to this section.

5 (f) Prohibitions.--A person who acquires or offers to
6 acquire insurance stock or insurance holding company stock
7 pursuant to this section shall not make in connection therewith
8 any false, deceptive or misleading statement, or omit to state
9 any material fact necessary in order to make the statements made
10 not misleading, or engage in any act or practice which is
11 fraudulent, deceptive or manipulative or violate the regulations
12 made under subsection (e).

13 (g) Remedy for violations.--If any person acquires or offers
14 to acquire insurance stock or insurance holding company stock in
15 violation of this section, the issuer of the stock so acquired
16 or proposed to be acquired, any stockholder of the issuer and,
17 if the issuer is an insurance holding company, the prospective
18 subsidiary or any of its stockholders or the department may
19 petition the court for a decree enjoining the acquisition or
20 offer and for further relief.

21 (h) Criminal penalties.--Any person who knowingly makes or
22 causes to be made any false statement in any statement or other
23 document filed with the department under this section or who
24 violates subsection (a), (b), (c) or (f) commits a misdemeanor
25 of the first degree. However, a broker or dealer whose
26 participation in an offer or acquisition is limited to the
27 performance of the customary broker's function in transactions
28 effected on a stock exchange or in the over-the-counter market,
29 who receives no more than the customary broker's commission, who
30 does not solicit or arrange for the solicitation of orders to

1 sell shares of capital stock of the corporation whose shares are
2 being purchased and who is without knowledge that his principal
3 has solicited or arranged to solicit any such orders shall not
4 be deemed guilty of any violation of this section. This
5 exemption of the broker or dealer does not exempt his principal.

6 (i) Exemptions.--This section does not apply to any of the
7 following acquisitions of or offers to acquire insurance stock
8 or insurance holding company stock:

9 (1) Any acquisition or offer by the issuer of such stock
10 or by a person who at the time owns beneficially at least
11 two-thirds of the shares of each class proposed to be
12 acquired.

13 (2) Any acquisition or offer to acquire insurance stock
14 pursuant to section 3566 (relating to merger by acquisition
15 of stock).

16 (3) Any offer or acquisition which the department by
17 order exempts from this section as:

18 (i) not entered into for the purpose of, and not
19 having the effect of, changing or influencing the control
20 of an insurance company organized under the laws of this
21 Commonwealth or an insurance holding company; and

22 (ii) not requiring the procedures described in this
23 section for the protection of stockholders whose shares
24 are to be acquired.

25 However, prior to the issuance of such an order, notice that
26 it is considering the exemption shall be given by the
27 department to the person proposing to make the offer or
28 acquisition, to the issuer whose stock is proposed to be
29 acquired and, if the issuer is an insurance holding company,
30 to the prospective subsidiary. The department shall hold a

1 hearing for the purpose of determining whether an exemption
2 order should be granted if, within ten days of the mailing of
3 the notice that it is considering the exemption, written
4 request for a hearing is made to the department by the issuer
5 whose stock is proposed to be acquired or, if the issuer is
6 an insurance holding company, by the prospective subsidiary.

7 (j) Definitions.--As used in this section, the following
8 words and phrases shall have the meanings given to them in this
9 subsection:

10 "Associate of a person."

11 (1) Any corporation or other organization of which the
12 person is an officer, director or partner, or of which the
13 person is, directly or indirectly, the beneficial owner of
14 10% or more of any class of its capital stock.

15 (2) Any person who is, directly or indirectly, the
16 beneficial owner of 10% or more of any class of capital stock
17 of such person.

18 (3) Any trust or other estate in which the person serves
19 as trustee or in a similar fiduciary capacity.

20 (4) Any relative or spouse of the person or any relative
21 of the spouse who has the same home as the person.

22 "Beneficial ownership." Includes the beneficial ownership of
23 capital stock by a person and of each associate of that person
24 and shares of capital stock as to which that person or any
25 associate of that person has the right of acquisition. A person
26 who has beneficial ownership of convertible securities shall
27 also be deemed to be the beneficial owner of any shares of
28 capital stock into which the securities are convertible.

29 "Insurance holding company." Any corporation which owns
30 beneficially 66 2/3% or more of any class of the outstanding

1 capital stock of any insurance company organized under the law
2 of this Commonwealth.

3 "Insurance holding company stock." Any capital stock of an
4 insurance holding company.

5 "Insurance stock." Any capital stock of any insurance
6 company organized under the law of this Commonwealth.

7 "Offer to acquire." Any attempt or offer to acquire, or
8 solicitation of an offer to dispose of, insurance stock or
9 insurance company stock, or any interest therein for value.

10 "Outstanding." With respect to capital stock of an issuer,
11 means that the capital stock is not beneficially owned by the
12 issuer or by any wholly owned subsidiary of the issuer.

13 "Person." Includes any trust or any group or combination of
14 persons which, directly or indirectly, through any intermediary
15 or otherwise:

16 (1) acts together or in concert for the purpose of
17 acquiring insurance stock or insurance holding company stock;
18 or

19 (2) has the purpose of exercising together or in concert
20 voting rights attaching to such stock.

21 "Prospective subsidiary." An insurance company 66 2/3% or
22 more of whose outstanding capital stock of any class is
23 beneficially owned by an insurance holding company whose capital
24 stock is to be acquired pursuant to an offer or acquisition
25 described in subsection (a).

26 § 3569. Holding company systems.

27 (a) Registration.--Every authorized insurer which is a
28 member of an insurance holding company system shall register
29 with the department, except a foreign insurer domiciled in a
30 jurisdiction which has in force by law disclosure requirements

1 and standards substantially similar to those contained in this
2 section or an alien insurer whose state of original entry has
3 such requirements and standards. Any insurer subject to
4 registration under this section shall register within 15 days
5 after it becomes subject to registration, unless the department
6 extends the time for registration. The department may require
7 any authorized insurer which is a member of an insurance holding
8 company system and is not subject to registration under this
9 section to submit to the department a copy of the registration
10 statement or other information filed by the insurer with the
11 insurance regulatory authority of its state of domicile.

12 (b) Information and form required.--Every insurer subject to
13 registration shall file a registration statement on a form
14 prescribed by the department. The form shall contain current
15 information about:

16 (1) The capital structure, general financial condition,
17 ownership and management of the insurer and any person
18 controlling the insurer.

19 (2) The identity of every member of the insurance
20 holding company system.

21 (3) The following current agreements, relationships and
22 transactions between the insurer and its affiliates:

23 (i) Loans, other investments, or purchases, sales or
24 exchanges of securities of the affiliates by the insurer
25 of the insurer by its affiliates.

26 (ii) Purchases, sales or exchanges of assets.

27 (iii) Transactions not in the ordinary course of
28 business.

29 (iv) Guarantees or undertakings for the benefit of
30 an affiliate which result in an actual contingent

1 exposure of the insurer's assets to liability, other than
2 insurance contracts entered into in the ordinary course
3 of the insurer's business.

4 (v) Management and service contracts and cost-
5 sharing arrangements, other than cost allocation
6 arrangements based upon generally accepted accounting
7 principles.

8 (vi) Reinsurance agreements covering all or
9 substantially all of one or more lines of insurance of
10 the ceding company.

11 (4) Other material matters concerning transactions
12 between registered insurers and any affiliates as required by
13 the department.

14 Information need not be disclosed on the registration statement
15 filed pursuant to this subsection if the information is not
16 material for the purposes of this section. Unless the department
17 by regulation provides otherwise, sales, purchases, exchanges,
18 loans or extensions of credit, or investments involving 0.5% or
19 less of an insurer's admitted assets as of the preceding
20 December 31 shall not be deemed material for purposes of this
21 section.

22 (c) Amendments to registration statement.--Each registered
23 insurer shall report all material changes in the information
24 required to be disclosed in its registration statement within 15
25 days after the end of the month in which it learns of the change
26 on amendment forms prescribed by the department. However, each
27 registered insurer shall report all extraordinary dividends and
28 other extraordinary distributions to shareholders promptly to
29 the department upon the declaration thereof under subsection
30 (i).

2 terminate the registration of any insurer which demonstrates
3 that it no longer is a member of an insurance holding company
4 system.

5 (e) Consolidated filing.--The department may allow two or
6 more affiliated insurers to file a consolidated registration
7 statement or consolidated reports amending their consolidated
8 registration statement or their individual registration
9 statements.

10 (f) Alternative registration.--The department may allow any
11 insurer which is part of an insurance holding company system to
12 register on behalf of any affiliated insurer which is required
13 to register under subsection (a) and to file all information and
14 material required to be filed under this section.

15 (g) Transactions with affiliates.--Material transactions by
16 registered insurers with their affiliates are subject to the
17 following requirements:

18 (1) The terms shall be fair and reasonable.

19 (2) The books, accounts and records of each party shall
20 be so maintained as to disclose clearly and accurately the
21 precise nature and details of the transactions.

22 (3) The insurer's surplus as regards policyholders
23 following any such transaction, including the payment of
24 dividends or distributions to shareholder affiliates, shall
25 be reasonable in relation to the insurer's outstanding
26 liabilities and adequate to its financial needs.

27 (h) Adequacy of surplus.--In determining whether subsection
28 (g)(3) is complied with, the department shall consider all
29 relevant factors, including, but not limited, to the following:

30 (1) The size of the insurer as measured by its assets,

1 capital and surplus, reserves, premium writings, insurance in
2 force and other appropriate criteria.

3 (2) The extent to which the insurer's business is
4 diversified among the several lines of insurance.

5 (3) The number and size of risks insured in each line of
6 business.

7 (4) The extent of the geographical dispersion of the
8 insurer's risks.

9 (5) The nature and extent of the insurer's reinsurance
10 program.

11 (6) The quality, diversification and liquidity of the
12 insurer's investment portfolio.

13 (7) The recent past and projected future trend in the
14 size of the insurer's surplus as regards policyholders.

15 (8) The surplus as regards policyholders maintained by
16 other comparable insurers.

17 (9) The adequacy of the insurer's reserves.

18 (10) The quality and liquidity of investments in
19 affiliated persons. The department may treat any such
20 investment as a disallowed asset for purposes of determining
21 the adequacy of surplus as regards policyholders whenever in
22 its judgment the investment so warrants.

23 (i) Dividends and other distributions.--An insurer required
24 to register under subsection (a) shall not pay any extraordinary
25 dividend to its stockholders until:

26 (1) the department has received 30 days' written notice
27 from the insurer of the declaration thereof and has not
28 within the period disapproved the payment; or

29 (2) the department has approved the payment within the
30 30-day period.

1 (j) Examinations.--The department may order any insurer
2 registered under subsection (a) to produce any records, books or
3 papers in the possession of the insurer or its affiliates
4 necessary to ascertain the financial condition or legality of
5 conduct of the insurer. These books, records, papers and
6 information shall be examined in the manner prescribed in
7 sections 511 (relating to examination of companies) and 512
8 (relating to powers with regard to examinations). The department
9 may retain at the registered insurer's expense any attorneys,
10 actuaries, accountants and other experts not otherwise a part of
11 the department's staff reasonably necessary to assist in the
12 conduct of this examination. Any persons so retained shall be
13 under the direction and control of the department and shall only
14 act in an advisory capacity. Each registered insurer producing
15 for examination records, books and papers shall be liable for
16 and shall pay the expense of the examination in accordance with
17 section 512.

18 (k) Confidential treatment.--All information reported
19 pursuant to subsections (a) through (f) and all information and
20 documents obtained by or disclosed to the department or any
21 other person in the course of an examination made pursuant to
22 subsection (j) shall be given confidential treatment. They shall
23 not be subject to subpoena or be made public by the department
24 or any other person without the prior written consent of the
25 insurer. However, if the department, after giving the insurer
26 and its affiliates notice and an opportunity to be heard,
27 determines that the interests of policyholders, shareholders or
28 the public will be served by the publication thereof, it may
29 publish all or any part in any manner it deems appropriate.

30 (K.1) REGULATIONS AND ORDERS.--THE DEPARTMENT MAY ISSUE SUCH <—

1 REGULATIONS AND ORDERS AS SHALL BE NECESSARY TO CARRY OUT THIS
2 SECTION.

3 (l) Injunctions.--Whenever it appears to the department that
4 any person has committed or is about to commit a violation of
5 this section or any regulation or order issued by the department
6 pursuant thereto, the department may petition the Commonwealth
7 Court to enjoin the person from continuing the violation and to
8 obtain other equitable relief.

9 (m) Penalties.--Upon satisfactory evidence of a violation by
10 any person of this section or of any regulation or order of the
11 department pursuant thereto, the department may, following a
12 hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to
13 practice and procedure of Commonwealth agencies), impose a
14 penalty of not more than \$25,000 for each violation. In
15 addition, if the offending person is an insurer, the department
16 may, following the hearing, suspend or revoke its license or
17 refuse, for a period not to exceed one year, to issue it a new
18 license. In determining the nature and amount of any penalty,
19 consideration shall be given to whether or not the violation was
20 willful.

21 (n) Definitions.--As used in this section the following
22 words and phrases shall have the meanings given to them in this
23 subsection:

24 "Affiliate." A person who directly, or indirectly through
25 one or more intermediaries, controls, or is controlled by, or is
26 under common control with, a specified person.

27 "Control." The possession, direct or indirect, of the power
28 to direct the management and policies of a person, whether
29 through the ownership of voting securities, by contract or
30 otherwise, unless the power is the result of an official

1 position with or corporate office held by the person. Control is
2 presumed to exist if any person, directly or indirectly, owns,
3 controls, holds with the power to vote or holds proxies
4 representing 10% or more of the voting securities of any other
5 person. This presumption may be rebutted by a showing that
6 control does not exist in fact. The department may, after
7 furnishing all persons in interest notice and an opportunity to
8 be heard, determine that control exists in fact, notwithstanding
9 the absence of a presumption to that effect.

10 "Extraordinary dividend." Any dividend or other distribution
11 which, together with other dividends and distributions made
12 within the preceding 12 months, exceeds the greater of:

13 (i) ten percent of the insurer's surplus as regards
14 policyholders as shown on its last annual statement on file
15 with the department; or

16 (ii) the net gain from operations of the insurer, if the
17 insurer is a life insurer, or the net investment income, if
18 the insurer is not a life insurer, for the period covered by
19 the statement, not including pro rata distributions of any
20 class of the insurer's own securities.

21 "Insurance company" or "insurer." Any entity authorized by
22 the department to transact the business of insurance in this
23 Commonwealth, not including any instrumentality of the Federal
24 Government OR A STATE OR POLITICAL SUBDIVISION OF A STATE. <—

25 "Insurance holding company system." Two or more affiliated
26 persons, one or more of which is an insurance company.

27 "Subsidiary." An affiliate controlled by a specified person
28 directly, or indirectly through one or more intermediaries.

29 § 3570. Voluntary dissolution.

30 A stock or mutual insurance company may file with the court

1 of common pleas in the county in which the principal business of
2 the company is conducted or of the county in which its principal
3 office or place of business is located a petition in equity
4 praying for the dissolution of the company. The petition may be
5 granted only if it is filed with the consent of a majority of
6 the members or stockholders obtained at a meeting duly convened.
7 A copy of the petition shall be filed with the department. If
8 the court is satisfied that the petition may be granted without
9 prejudice to the public welfare or to the interests of the
10 members or stockholders, the court shall grant the petition,
11 whereupon the company shall be dissolved. The accounts of the
12 officers, directors or trustees of any dissolved company shall
13 be settled and approved by the court. Dividends of the assets
14 shall, in the case of stock insurance companies, be made among
15 the stockholders or, in the case of mutual life insurance
16 companies, among the members, as in the case of the accounts of
17 assignees and trustees; however, assets of mutual life insurance
18 companies derived from a health and accident business, other
19 than those properly credited to the members or policyholders on
20 policies covering the business, and the assets of other mutual
21 companies, not creditable to policyholders and members, shall be
22 escheated to the Commonwealth. The decree of the court shall not
23 go into effect until the Auditor General, State Treasurer and
24 Attorney General have filed in court their certificate showing
25 that all taxes due the Commonwealth have been paid and a
26 certified copy of the decree has been filed and recorded in the
27 office of the Secretary of the Commonwealth.

28 § 3571. Dissolution for failure to do business.

29 If any stock or mutual insurance company does not commence to
30 issue policies within one year from the date of its letters

1 patent, or if any insurance company ceases for one year to write
2 new insurance policies, its corporate powers and existence shall
3 cease. The court, upon petition of the Attorney General, may fix
4 by decree the time within which it shall settle and close its
5 affairs.

6 SUBCHAPTER E

7 FOREIGN OR ALIEN COMPANIES

8 Sec.

9 3576. Government-owned companies.

10 3577. Conditions for authorization of foreign or alien
11 companies.

12 3578. Power of foreign or alien insurance companies as to
13 real property.

14 § 3576. Government-owned companies.

15 (a) Prohibition.--A domestic, foreign or alien insurance
16 entity, in which the major financial interest is held, directly
17 or indirectly, by another state or by a foreign government or by
18 any political subdivision, instrumentality or agency of either,
19 shall not be admitted and authorized to do business. A
20 certificate of authority to transact any kind of insurance
21 business in this Commonwealth shall not be issued, renewed or
22 continued in effect for any such insurance entity.

23 (b) Applicability.--This section does not apply to any
24 insurance entity which was so owned, controlled or constituted
25 prior to January 1, 1958, and was authorized to do business in
26 this Commonwealth and was issued a certificate of authority to
27 do so prior to January 1, 1958.

28 § 3577. Conditions for authorization of foreign or alien
29 companies.

30 A foreign or alien stock or mutual insurance company or

1 association shall not be admitted and authorized to do business
2 until it has complied with the following requirements:

3 (1) It has filed with the department:

4 (i) A certified copy of its charter or deed of
5 settlement.

6 (ii) A statement of its financial condition and
7 business, signed and sworn to by its proper officers.

8 (iii) Copies of forms of all policies it proposes to
9 issue in this Commonwealth.

10 (iv) Any other information the department requires.

11 (2) It has satisfied the department that it is fully and
12 legally organized under the laws of its state or government
13 to do the business it proposes to transact and if a stock
14 company has the requisite amount of capital fully paid up and
15 unimpaired.

16 (3) It has filed in the office of the Auditor General a
17 statement showing:

18 (i) The name of the company or association.

19 (ii) The date of incorporation or organization.

20 (iii) The statute or authority under which
21 incorporated or organized.

22 (iv) The place of business.

23 (v) The post office address and names of the
24 president, secretary and treasurer.

25 (vi) The amount of capital authorized by its
26 charter.

27 (vii) The amount of capital paid into the treasury
28 of the company.

29 Any company or association which neglects or refuses to file
30 this statement shall be subject to a penalty of \$500, which

1 shall be collected, on an account settled by the Auditor
2 General and State Treasurer, in the same manner as taxes on
3 stock are settled and collected.

4 (4) It has actually engaged in doing an insurance
5 business and has complied with applicable law in its state of
6 domicile for a period of at least one year immediately
7 preceding its seeking admission to this Commonwealth. The
8 requirements of this paragraph may be partly or entirely
9 waived by the department with respect to any company or
10 association which is affiliated with one or more insurers
11 already authorized in this Commonwealth.

12 § 3578. Power of foreign or alien insurance companies as to
13 real property.

14 (a) General rule.--Any foreign or alien insurance
15 corporation or company, joint stock company or association
16 authorized to transact business within this Commonwealth may,
17 subject to the same limitations for domestic insurance
18 companies:

19 (1) Acquire, hold, mortgage, lease and transfer real
20 property in this Commonwealth.

21 (2) Enter into agreements with one more other authorized
22 insurance companies, whereby the parties to the agreements
23 participate in ownership, management and control of real
24 estate held by the company, or by a corporation whose stock
25 is held by the company.

26 (3) Invest in the capital stock and obligations of
27 corporations organized for the purpose of acquiring real
28 estate in this Commonwealth.

29 (4) Exercise all rights, privileges and duties accorded
30 to and imposed upon lien creditors purchasing at judicial

1 sales.

2 (b) Taxation.--This title does not exempt real estate
3 acquired, held, mortgaged, leased or conveyed by any insurance
4 company under this section from being taxed in the same manner
5 as other real estate within this Commonwealth.

6 SUBCHAPTER F

7 VIOLATIONS AND PENALTIES

8 Sec.

9 3581. Embezzlement by officers or agents.

10 3582. Rebates and inducements.

11 3583. Misrepresentations.

12 3583.1. Immunity from liability.

13 3584. Penalties for deceptive practices.

14 3585. Unfair discrimination.

15 3586. Unauthorized business practices.

16 3587. Buying proxies.

17 3588. Unauthorized motor vehicle services.

18 3589. Fraud in obtaining licenses or certificates.

19 3590. Securities transactions.

20 § 3581. Embezzlement by officers or agents.

21 Any director, officer, agent or other person connected with
22 or doing business for or with any foreign or domestic insurance
23 entity which has complied with this title, who fraudulently
24 embezzles or appropriates to his use or the use of any other
25 person any money or other property belonging to the entity or
26 left with or held by the entity in trust, commits a ~~misdemeanor~~ <—

27 ~~of the first degree~~ THEFT OFFENSE, WHICH SHALL BE GRADED AS <—

28 PROVIDED IN 18 PA.C.S. § 3903 (RELATING TO GRADING OF THEFT
29 OFFENSES). It is not necessary, in order to establish a prima
30 facie case for the Commonwealth, to set forth or prove the

1 incorporation of the company, except by the verbal testimony of
2 any competent witness.

3 § 3582. Rebates and inducements.

4 An insurance entity shall not offer or pay, directly or
5 indirectly, any rebate of the premium payable on the policy or
6 any other valuable consideration as an inducement for insurance
7 on any risk in this Commonwealth which is not specified in the
8 insurance policy or contract. This section does not prohibit the
9 taking of a bona fide obligation, with legal interest, in
10 payment of any premium or prohibit a company transacting
11 industrial life insurance on a weekly payment plan from
12 returning to policyholders who have made a premium payment for a
13 period of at least one year the percentage of premium which the
14 company would otherwise have paid for the weekly collection of
15 the premium.

16 § 3583. Misrepresentations.

17 (a) Policy terms.--An insurance entity or individual in its
18 behalf shall not issue any written or oral statement or circular
19 misrepresenting the terms of any policy issued or to be issued
20 by the entity or make an estimate, with intent to deceive, of
21 the future dividends payable under any policy.

22 (b) Inducing policyholders to change insurers.--An insurance
23 entity or individual in its behalf shall not make any
24 misrepresentation or incomplete comparison of policies to any
25 person insured by any other entity for the purpose of inducing
26 the person to terminate his present insurance and to take out a
27 policy of insurance in another entity insuring against similar
28 risks.

29 § 3583.1. Immunity from liability.

30 (a) Private persons.--In the absence of fraud or bad faith,

1 no person or his employees or agents shall be subject to civil
2 liability, and no civil cause of action shall arise against any
3 of them for any of the following:

4 (1) Information relating to any suspected fraudulent
5 insurance act furnished by them to or received from law
6 enforcement officials, their agents and employees.

7 (2) Information relating to any suspected fraudulent
8 insurance act furnished by them to or received from other
9 persons subject to the provisions of this title.

10 (3) Information furnished by them in reports to the
11 department, the National Association of Insurance
12 Commissioners or any other organization established to detect
13 and prevent fraudulent insurance acts, their agents,
14 employees or designees.

15 (b) Commissioner and department.--The commissioner and the
16 employees of the department, in the absence of fraud or bad
17 faith, shall not be subject to civil liability. No civil cause
18 of action shall arise against any of them by virtue of the
19 publication of a report or bulletin related to the official
20 activities of the department.

21 (c) Effect on present law.--Nothing in this section is
22 intended to abrogate or modify a common law or statutory
23 immunity enjoyed by any person.

24 (d) Definitions.--As used in this section, the following
25 words and phrases shall have the meanings given to them in this
26 subsection:

27 "Bad faith." Serious doubt as to the truth of the
28 information furnished or received, or the report or bulletin
29 published.

30 "Fraud." Knowledge that the information furnished or

1 received, or the report or bulletin published, is not true.

2 "Fraudulent insurance act." An act committed by a person
3 who, knowingly and with intent to defraud, presents, causes to
4 be presented, or prepares with knowledge or belief that it will
5 be presented to or by an insurer, purported insurer or broker,
6 or an agent of an insurer, purported insurer or broker, a
7 written statement as part or in support of, an application for
8 the issuance or rating of an insurance policy for commercial
9 insurance, or a claim for payment or other benefit pursuant to
10 an insurance policy for commercial or personal insurance which
11 he knows to contain materially false information concerning a
12 fact material to the statement or claim, or to conceal, for the
13 purpose of misleading, information concerning a fact material to
14 the statement or claim.

15 § 3584. Penalties for deceptive practices.

16 (a) General rule.--Upon satisfactory evidence of the
17 violation of section 3582 (relating to rebates and inducements)
18 or 3583 (relating to misrepresentations) or 18 Pa.C.S. § 3922
19 (relating to theft by deception) or 4114 (relating to securing
20 execution of documents by deception) by any insurance entity or
21 any officer, director or attorney-in-fact thereof, the
22 department may take any one or more of the following actions
23 against an offending person:

24 (1) Revoke an entity's certificate of authority.

25 (2) Refuse, for a period of not to exceed one year, to
26 issue an entity a new license.

27 (3) Impose a penalty of not more than \$1,000 for each
28 violation.

29 (b) Hearing.--The department shall give written notice to
30 the person accused of the violation, stating specifically the

1 nature of the alleged violation and fixing a time and place, at
2 least ten days thereafter, when a hearing shall be held. After
3 the hearing or upon failure of the accused to appear at the
4 hearing, the department may impose a penalty described in
5 subsection (a).

6 (c) Criminal penalties.--Any person who violates section
7 3582 or 3583 commits a summary offense.

8 (d) Testimony and production of documents.--A person shall
9 not be excused from testifying or from producing any books or
10 documents at any hearing held by the department or at the trial
11 or hearing before any court or district justice or any person or
12 company charged with violating section 3582 or 3583 or 18
13 Pa.C.S. § 3922 or 4114 on the ground that the testimony or
14 evidence may tend to incriminate himself. However, no person
15 shall be prosecuted for any act concerning which he shall be
16 compelled so to testify or produce evidence, documentary or
17 otherwise, except for perjury committed in so testifying.
18 § 3585. Unfair discrimination.

19 (a) General rule.--Unfair discrimination between individuals
20 of the same class in the amount of premiums or rates charged for
21 any policy of life, health and accident insurance and any other
22 lines and kinds of insurance not within the scope of Chapter 19
23 (relating to insurance rates), or in the benefits payable
24 thereon, or in the terms or conditions of the policy or in any
25 other manner is prohibited.

26 (b) Criminal penalty.--Any person who issues or causes to be
27 issued, either as principal or agent, any policy or contract of
28 insurance in this Commonwealth in violation of this section
29 commits a summary offense.

30 (c) Civil penalties.--Upon satisfactory evidence of the

1 violation of this section by any person, the department may take
2 any one or more of the following actions:

3 (1) Suspend or revoke the license of the offending
4 person.

5 (2) Refuse, for a period of not to exceed one year, to
6 issue a new license to the person.

7 (3) Impose a penalty of not more than \$500 for each
8 violation.

9 § 3586. Unauthorized business practices.

10 (a) Criminal penalty.--Any person who issues or causes to be
11 issued, either as principal or agent, any policy or contract of
12 insurance in this Commonwealth in violation of section 3515
13 (relating to approval of contracts by department) commits a
14 summary offense.

15 (b) Civil penalties.--Upon satisfactory evidence of the
16 violation of section 3515 by any person, the department may take
17 any one or more of the following actions:

18 (1) Suspend or revoke the license of the offending
19 person.

20 (2) Refuse, for a period of not to exceed one year, to
21 issue a new license to the person.

22 (3) Impose a fine of not more than \$1,000 for each
23 violation.

24 § 3587. Buying proxies.

25 A person shall not give or promise money or anything of value
26 to the owners or holders of capital stock of any insurance
27 company, or to the members of any mutual insurance company,
28 incorporated under the law of this Commonwealth, with intent to
29 secure the voting proxy of any share of the capital stock or of
30 any member. A proxy so obtained shall not be voted at any

1 stockholders' or members' meeting of any domestic insurance
2 company. Any person violating this section commits a misdemeanor
3 of the third degree.

4 § 3588. Unauthorized motor vehicle services.

5 (a) General rule.--A person, other than an authorized
6 insurance entity or an automobile club organized as a
7 corporation not-for-profit, shall not:

8 (1) guarantee to owners of motor vehicles the services
9 of an attorney in the event of damage to persons or property
10 arising out of the operation of the motor vehicle; or

11 (2) provide for the towing of any damaged motor vehicle.

12 (b) Violations.--Any person who violates this section
13 commits a misdemeanor of the third degree.

14 § 3589. Fraud in obtaining licenses or certificates.

15 (a) Unlawful acts.--Any person commits a summary offense if
16 he commits any of the following acts:

17 (1) Misrepresenting his, their or its qualifications to
18 the department or making false statements in applications for
19 any license or certificate.

20 (2) Impersonating or attempting or offering to
21 impersonate another person in taking or attempting or
22 offering to take any examination held in accordance with the
23 regulations of the department.

24 (3) Taking, attempting or offering or inducing another
25 person to take such an examination in the name of any other
26 person.

27 (4) Having in his possession examination papers to be
28 used in any such examination when not contained in their
29 sealed wrappers, or copies of these papers, prior to the
30 examination, unless duly authorized by the department.

1 (5) Selling or offering to sell, prior to the
2 examination, examination papers or any question prepared for
3 use in any such examination.

4 (6) Using in any such examination any question papers or
5 questions or securing or preparing the answers to the
6 questions prior to the examination.

7 (7) Transmitting to the department answers to questions
8 used in any such examination which are prepared or written
9 outside of the period of examination or altering any answer
10 after the period is closed.

11 (8) Securing or attempting to secure fraudulently any
12 credential regularly issued by the department which is based
13 upon such an examination.

14 (9) Altering licenses or certificates in a manner as to
15 misrepresent the authority granted under the license or
16 certificate.

17 (b) Civil penalties.--Upon satisfactory evidence of the
18 violation of this section by any person, the department may take
19 any of the following actions:

20 (1) Suspend or revoke the license of the offending
21 person.

22 (2) Refuse, for a period not to exceed one year, to
23 issue a new license to the person.

24 (3) Impose a fine of not more than \$1,000 for each
25 violation.

26 (c) Hearing.--Before the department takes any action under
27 subsection (b), it shall give written notice to the person
28 accused of the violation, stating specifically the nature of the
29 alleged violation, and fixing a time and place, at least ten
30 days thereafter, when a hearing of the of the matter shall be

1 held. After the hearing or upon failure of the accused to appear
2 at the hearing, the department shall impose the penalty listed
3 in subsection (b).

4 § 3590. Securities transactions.

5 (a) Fraudulent use of securities.--Any member, officer,
6 director or attorney-in-fact of any authorized entity who, on
7 behalf of the entity, borrows, rents, hires, leases or otherwise
8 engages the use of securities, notes or other obligations or
9 evidences of indebtedness owned or issued by any other entity or
10 individual, or of the Federal Government, a government agency or
11 agency of any state with intent to injure or defraud any person
12 or to deceive the department or other person legally authorized
13 to examine the affairs of the entity, commits a felony of the
14 third degree.

15 (b) Aiding and abetting.--Any domestic or foreign
16 corporation which engages in or purports to be engaged in
17 organizing or receiving subscriptions for or disposing of stocks
18 of, or in any manner aiding or taking part in the formation or
19 in the business of an insurance entity either as agent or
20 otherwise, or which holds capital stock of one or more insurance
21 companies for the purpose of controlling the management thereof
22 as voting trustees or otherwise, or any employee, agent or
23 attorney thereof, that aids and abets an insurance entity in
24 borrowing, renting, hiring, leasing or engaging the use of such
25 stocks, bonds, debentures, notes, investment certificates,
26 securities, notes or other obligations or evidence of
27 indebtedness, commits a felony of the third degree.

28 (c) Civil penalties.--If any insurance entity is found in
29 possession of securities, notes or other obligations or
30 evidences of indebtedness acquired in violation of subsection

1 (a) or if any of its officers, directors, members or attorneys-
2 in-fact have been convicted under subsection (a), the department
3 may suspend its certificate of authority. This section does not
4 prohibit the department from bringing an action to dissolve the
5 insurance entity under Chapter 39 (relating to suspension of
6 business and dissolution).

7 CHAPTER 37

8 INTERNATIONAL OPERATIONS

9 Sec.

10 3701. Authority to transact business outside United States.

11 3702. Domestication of alien insurers.

12 § 3701. Authority to transact business outside United States.

13 (a) General rule.--Domestic stock and mutual insurance
14 companies, other than life insurance companies, may transact
15 outside of the United States any form of insurance or
16 reinsurance, other than life insurance or annuities, on risks
17 outside of the United States. However, the company shall
18 maintain a minimum policyholders' surplus of \$2,000,000. Such
19 companies may accept any kind of reinsurance, other than life
20 insurance and annuities, if the company maintains a minimum
21 policyholders' surplus as required by law.

22 (b) Reserves.--All companies doing the business permitted by
23 this section shall maintain reserves as required under Chapter 7
24 (relating to reserve liability).

25 § 3702. Domestication of alien insurers.

26 (a) General rule.--Upon compliance with the provisions of
27 this section, an authorized alien insurer which owns
28 beneficially, directly or indirectly, all of the outstanding
29 capital stock, other than directors' qualifying shares, of any
30 domestic insurer incorporated for the purpose of transacting the

1 same or similar classes of insurance which the United States
2 branch of the alien insurer is qualified and licensed to
3 transact, may, with the prior written approval and subject to
4 the final approval of the department and of the insurance
5 supervisory official of the regulatory state of the United
6 States branch of the alien insurer, domesticate its United
7 States branch. The alien insurer shall enter into an agreement
8 in writing with the domestic insurer providing for the
9 acquisition by the domestic insurer of the business and assets
10 of the United States branch of the alien insurer and the
11 assumption by the domestic insurer of all of the liabilities of
12 the United States branch for no consideration other than the
13 assumption of the liabilities or for additional consideration
14 payable by the issuance by the domestic insurer of shares of its
15 capital stock. For the purposes of this section, those shares of
16 capital stock of the domestic insurer or voting trust
17 certificates representing the shares, which are held in trust by
18 the United States branch of the alien insurer or are held in a
19 trust created by the alien insurer and of which the alien
20 insurer is a beneficiary, shall be deemed to be shares held
21 beneficially, but indirectly, by an alien insurer. The
22 acquisition of assets and assumption of liabilities of the
23 United States branch by the domestic insurer shall be effected
24 by the filing of an instrument of transfer and assumption with
25 the insurance supervisory official of the regulatory state. The
26 instrument shall be in form satisfactory to the department and
27 the supervisory official of the regulatory state and shall be
28 executed by the alien insurer and the domestic insurer.

29 (b) Authorization and execution of domestication
30 agreement.--The domestication agreement shall be authorized,

1 adopted, approved, signed and acknowledged by the alien insurer
2 in accordance with the law of the country under which it is
3 organized. In the case of the domestic insurer, the
4 domestication agreement shall be adopted by resolution of its
5 board of directors and executed by its president or any vice
6 president and attested by its secretary or assistant secretary
7 under its corporate seal.

8 (c) Approval by department.--An executed counterpart of the
9 domestication agreement, together with certified copies of the
10 corporate proceedings of the domestic insurer and the alien
11 insurer approving, adopting and authorizing the execution of the
12 domestication agreement shall be submitted to the department for
13 its approval. If the department finds that the agreement is in
14 accordance with the provisions of this section and that the
15 interest of policyholders and creditors in this Commonwealth, of
16 the United States branch of the alien insurer and of the
17 domestic insurer are not materially adversely affected, it shall
18 approve the domestication agreement and certify the approval in
19 writing to the insurance supervisory official of the regulatory
20 state.

21 (d) Consummation of domestication agreement and transfer of
22 deposits.--Upon the filing with the department of a certified
23 copy of the instrument of transfer and assumption, pursuant to
24 which the domestic insurer succeeds to the business and assets
25 of the United States branch of an alien insurer and assumes all
26 its liabilities and upon compliance with all the requirements of
27 the laws and of the insurance supervisory official of the
28 regulatory state regulating the terms, conditions and procedure
29 of the domestication, the domestication of the United States
30 branch shall become effective. Thereupon all the rights,

1 franchises and interests and all property of the United States
2 branch shall be deemed as transferred and vested in the domestic
3 insurer, without any other deed or transfer. Simultaneously
4 therewith the domestic insurer shall be deemed to have assumed
5 all of the obligations and liabilities of the United States
6 branch and shall be held liable to pay and discharge its debts
7 and liabilities in the same manner as if they had been incurred
8 and contracted by the domestic insurer. An action or proceeding
9 pending at the time of domestication, in which either the United
10 States branch or the domestic insurer are a party, shall not
11 abate or discontinue by reason of the domestication, but may be
12 carried on as if the domestication had not taken place or the
13 domestic company may be substituted in place of the United
14 States branch by order of the court. All deposits of the United
15 States branch held by the department or other regulatory agency
16 in this Commonwealth shall be deemed held as security that the
17 domestic insurer will fully perform its obligations to all
18 policyholders and creditors within the United States of the
19 United States branch and of the domestic insurer; such deposits,
20 including all deposits of the United States branch and its
21 assets held in trust pursuant to the law of any other state,
22 shall be deemed to be assets of the domestic insurer and shall
23 be reported as such in the annual statements and other reports
24 which the domestic insurer may be required to file in this
25 Commonwealth. Upon the release by the department or other
26 governmental agency or any other state of the deposits, the
27 securities and cash constituting the released deposit shall be
28 paid over to the domestic insurer as the lawful successor in
29 interest to the United States branch.

30 (e) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this
2 subsection:

3 "Domestication." The reorganization of the United States
4 branch of an alien insurer as the result of which a domestic
5 stock insurance company succeeds to all the business and assets
6 and assumes all the liabilities of the United States branch of
7 the alien insurer.

8 "Regulatory state." The state pursuant to the law of which
9 the assets of the United States branch of the alien insurer are
10 held in trust.

11 "United States branch." The business unit through which
12 business is transacted within the United States by an alien
13 insurer and the assets and liabilities of the insurer within the
14 United States pertaining to the business.

15 CHAPTER 39

16 SUSPENSION OF BUSINESS AND DISSOLUTION

17 Subchapter

18 A. General Provisions

19 B. Judicial and Administrative Procedure

20 C. Summary Proceedings

21 D. Rehabilitation

22 E. Liquidation Proceedings

23 F. Estate of Liquidated Insurer

24 G. Distribution of Estate of Liquidated Insurer

25 H. Interstate Relations

26 SUBCHAPTER A

27 GENERAL PROVISIONS

28 Sec.

29 3901. Construction and purpose.

30 3902. Applicability of chapter.

1 3903. Definitions.

2 § 3901. Construction and purpose.

3 (a) Construction.--This chapter does not limit the power
4 granted the department by other provisions of law and shall be
5 liberally construed to effect the purpose stated in subsection
6 (b).

7 (b) Purpose.--The purpose of this chapter is the protection
8 of the interests of insureds, creditors and the public
9 generally, with minimum interference with the normal
10 prerogatives of the owners and managers of insurers, through the
11 following:

12 (1) Early detection of any potentially dangerous
13 condition in an insurer and prompt application of appropriate
14 corrective measures.

15 (2) Improved methods for rehabilitating insurers,
16 involving the cooperation and management expertise of the
17 insurance industry.

18 (3) Enhanced efficiency and economy of liquidation,
19 through clarification and specification of the law, to
20 minimize legal uncertainty and litigation.

21 (4) Equitable apportionment of any unavoidable loss.

22 (5) Lessening the problems of interstate rehabilitation
23 and liquidation by facilitating cooperation between states in
24 the liquidation process and by extending the scope of
25 personal jurisdiction over debtors of the insurer outside
26 this Commonwealth.

27 (6) Regulation of the insurance business by the impact
28 of the law relating to delinquency procedures and substantive
29 rules on the entire insurance business.

30 § 3902. Applicability of chapter.

1 The proceedings authorized by this chapter may be applied to
2 the following:

3 (1) All insurers who are doing, or have done, an
4 insurance business in this Commonwealth and against whom
5 claims arising from that business may exist.

6 (2) All insurers who purport to do an insurance business
7 in this Commonwealth.

8 (3) All insurers who have insured resident in this
9 Commonwealth.

10 (4) All other persons organized or in the process of
11 organizing with the intent to do an insurance business in
12 this Commonwealth.

13 (5) All nonprofit service plans subject to Chapters 75
14 (relating to hospital plan corporations) and 77 (relating to
15 professional health services plan corporations) and all
16 fraternal benefit societies and beneficial societies subject
17 to Chapter 45 (relating to ~~Fraternal Benefit Society Code~~ <—
18 FRATERNAL BENEFIT SOCIETIES). <—

19 (6) All title insurance companies subject to Chapter 67
20 (relating to title insurance).

21 § 3903. Definitions.

22 The following words and phrases when used in this chapter
23 shall have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Admitted assets."

26 (1) Includes all of the following assets of an insurer:

27 (i) Cash in the possession of the insurer, or in
28 transit under its control, including the balance of any
29 deposit in a solvent bank or trust company.

30 (ii) Investments, securities, properties and loans

1 acquired or held in accordance with this title ~~including~~, <—
2 AND IN CONNECTION THEREWITH, THE FOLLOWING:

3 (A) Interest due or accrued on any bond or
4 evidence of indebtedness which is not in default and
5 which is not valued on a basis including accrued
6 interest.

7 (B) Declared and unpaid dividends on stocks and
8 shares, unless this amount has otherwise been allowed
9 as an asset.

10 (C) Interest due or accrued upon a collateral
11 loan in an amount not to exceed one year's interest.

12 (D) Interest due or accrued on deposits in any
13 solvent financial institution and interest due or
14 accrued on other assets, if the interest is in the
15 judgment of the department a collectible asset.

16 (E) Interest due or accrued on a mortgage loan,
17 in an amount not exceeding the amount of the excess
18 of the value of the property less delinquent taxes
19 thereon over the unpaid principal, not to exceed
20 interest accrued for a period of 12 months.

21 (F) Rent due or accrued on real property if the
22 rent is not in arrears for more than three months,
23 and rent more than three months in arrears if the
24 payment of the rent is adequately secured by property
25 held in the name of the tenant and conveyed to the
26 insurer as collateral.

27 (G) The unaccrued portion of taxes paid prior to
28 the due date on real property.

29 (iii) Premium notes, policy loans and other policy
30 assets and liens on policies and certificates of life

1 insurance and annuity contracts and accrued interest
2 thereon, in an amount not exceeding the legal reserve and
3 other policy liabilities carried on each individual
4 policy.

5 (iv) The net amount of uncollected and deferred
6 premiums and annuity consideration in the case of a life
7 insurer.

8 (v) Premiums in the course of collection, other than
9 for life insurance, not more than three months past due,
10 less commissions payable thereon. This limitation does
11 not apply to premiums payable directly or indirectly by
12 the Federal Government.

13 (vi) Installment premiums other than life insurance
14 premiums to the extent of the unearned premium reserve
15 carried on the policy to which the premiums apply.

16 (vii) Notes and similar written obligations, not
17 past due, taken for premiums other than life insurance
18 premiums, on policies permitted to be issued on that
19 basis, to the extent of the unearned premium reserves
20 carried thereon.

21 (viii) The full amount of reinsurance recoverable by
22 a ceding insurer from a solvent reinsurer if the
23 reinsurance is authorized under section 3512 (relating to
24 reinsurance).

25 (ix) Amounts receivable by an assuming insurer
26 representing funds withheld by a solvent ceding insurer
27 under a reinsurance treaty.

28 (x) Deposits or equities recoverable from
29 underwriting associations, syndicates and reinsurance
30 funds, or from a suspended banking institution, to the

1 extent deemed by the department available for the payment
2 of losses and claims and at values to be determined by
3 it.

4 (xi) Electronic and mechanical machines constituting
5 a data processing and accounting system if the cost of
6 the system is at least \$10,000 which shall be amortized
7 in full over a period not to exceed ten years.

8 (xii) All assets allowed pursuant to the annual
9 statement form approved by the department for use in this
10 Commonwealth for the kinds of insurance to be reported
11 upon.

12 (xiii) Other assets, not inconsistent with this
13 definition, deemed by the department to be available for
14 the payment of losses and claims, at values to be
15 determined by it.

16 (2) The term does not include:

17 (i) Good will, trade names and other similar
18 intangible assets.

19 (ii) Advances, other than policy loans, to officers,
20 directors and controlling stockholders, whether secured
21 or not, and advances to employees, agents and other
22 persons on personal security only.

23 (iii) Stock of the insurer, owned by it, or any
24 material equity in the stock or loans secured thereby, or
25 any material proportionate interest in such stock
26 acquired or held through the ownership by the insurer of
27 an interest in another firm, corporation or business
28 unit.

29 (iv) Furniture, fixtures, furnishings, safes,
30 vehicles, libraries, literature and supplies, other than

1 data processing and accounting systems authorized under
2 31 Pa. Code § 11.4, except in the case of title insurers
3 such materials and plants as the insurer is expressly
4 authorized to invest in section 6738(21) (relating to
5 investment of capital) and, except in the case of any
6 insurer, any property which is acquired through
7 foreclosure of A chattel mortgage or security interest <—
8 acquired pursuant to sections 5305 (relating to
9 authorized holdings of real estate), 5506 (relating to
10 authorized holdings of real estate), 5926 (relating to
11 authorized holdings of real estate) and 6738 or which is
12 reasonably necessary for the maintenance and operation of
13 real estate lawfully acquired and held by the insurer
14 other than real estate used by it for home office, branch
15 office or similar purposes.

16 (v) The amount, if any, by which the aggregate book
17 value of investments as carried in the ledger assets of
18 the insurer exceeds their aggregate value as determined
19 under this chapter.

20 "Ancillary state." Any state other than a domiciliary state.

21 "Creditor." A person having any claim, whether matured or
22 unmatured, liquidated or unliquidated, secured or unsecured,
23 absolute, fixed or contingent.

24 "Delinquency proceeding." Any proceeding instituted against
25 an insurer for the purpose of liquidating, rehabilitating,
26 reorganizing or conserving such insurer and any summary
27 proceeding under Subchapter C (relating to summary proceedings).

28 "Doing business." Includes any of the following acts,
29 whether effected by mail or otherwise:

30 (1) The issuance or delivery of contracts or

1 certificates of insurance to persons resident in this
2 Commonwealth.

3 (2) The solicitation of applications for such contracts
4 or other negotiations preliminary to the execution thereof.

5 (3) The collection of premiums, membership fees,
6 assessments or other consideration for such contracts.

7 (4) The transaction of matters subsequent to execution
8 of such contracts and arising therefrom.

9 "Domiciliary state." The state in which an insurer is
10 incorporated or organized or, in the case of an alien insurer,
11 its state of entry.

12 "Fair consideration." Consideration given for property of
13 obligation:

14 (1) when, in exchange for the property or obligation as
15 a fair equivalent therefor and in good faith, property is
16 conveyed or services are rendered or an obligation is
17 incurred or an antecedent debt is satisfied; or

18 (2) when the property or obligation is received in good
19 faith to secure a present advance or antecedent debt in
20 amount not disproportionately small as compared to the value
21 of the property or obligation obtained therefor.

22 "FOREIGN COUNTRY." ANY OTHER JURISDICTION NOT IN ANY STATE. <—

23 "General assets." All property, real, personal or otherwise,
24 not specifically mortgaged, pledged, deposited or otherwise
25 encumbered for the security or benefit of specified persons or
26 classes of persons. As to specifically encumbered property, the
27 term includes all such property or its proceeds in excess of the
28 amount necessary to discharge the sum secured. Assets held in
29 trust and on deposit for the security or benefit of all
30 policyholders and creditors shall be treated as general assets.

1 "Guaranty association." The Property and Casualty Insurance
2 Guaranty Association provided for under Chapter 81 (relating to
3 Property and Casualty Insurance Guaranty Association), the Life
4 and Health Insurance Guaranty Association provided for under
5 Chapter 83 (relating to Life and Health Insurance Guaranty
6 Association) and the Workmen's Compensation Security Fund
7 provided for under the act of July 1, 1937 (P.L.2532, No.470),
8 known as the Workmen's Compensation Security Fund Act, and any
9 other similar entity created under the statutes of this
10 Commonwealth or any other state for the payment of claims of
11 insolvent insurers.

12 "Insolvency."

13 (1) In the case of an insurer issuing only assessable
14 fire insurance policies:

15 (i) the inability to pay any obligation within 30
16 days after it becomes payable; or

17 (ii) if an assessment is made within 30 days after
18 such date, the inability to pay the obligation 30 days
19 following the date specified in the first assessment
20 notice issued after the date of loss pursuant to section
21 4709 (relating to assessments).

22 (2) In the case of any other insurer, the inability to
23 pay its obligations when they are due, or having admitted
24 assets which do not exceed its liabilities plus the greater
25 of any capital and surplus required by law for its
26 organization or its authorized and issued capital stock.

27 "Insurer." Any person who is doing, has done, purports to
28 do, or is licensed to do an insurance business, and is or has
29 been subject to the authority of, or to liquidation,
30 rehabilitation, reorganization or conservation by any insurance

1 department and any person included under section 3902 (relating
2 to applicability of chapter).

3 "Liabilities." Includes, but is not limited to, reserves
4 required by statute or by regulations or specific requirements
5 of the department upon a subject company at the time of
6 admission or subsequent thereto, and any other capital and
7 surplus requirements.

8 "Preferred claim." Any claim with respect to which this
9 chapter accords priority of payment from the general assets of
10 the insurer.

11 "Receiver." Receiver, liquidator, rehabilitator or
12 conservator.

13 "Reciprocal state." Any state other than this Commonwealth
14 in which in substance and effect sections 3942(a) (relating to
15 liquidation orders), 3983 (RELATING TO FOREIGN DOMICILIARY
16 RECEIVERS IN OTHER STATES), 3984 (relating to ancillary formal
17 proceedings) and 3986 (relating to claims of nonresidents
18 against domiciliary insurers) through 3988 (relating to
19 execution proceedings) are in force, in which provisions are in
20 force requiring that the department or equivalent office or
21 official be the receiver of a delinquent insurer and in which
22 some provision exists for the avoidance of fraudulent
23 conveyances and preferential transfers.

24 "Secured claim." Any claim secured by mortgage, trust deed,
25 pledge, deposit as security, escrow or otherwise, but not
26 including special deposit claims or claims against general
27 assets. The term also includes claims which have become liens
28 upon specific assets by reason of judicial process.

29 "Special deposit claim." Any claim secured by a deposit made
30 pursuant to statute for the security or benefit of a limited

1 class of persons, but not including any claim secured by general
2 assets.

3 "Transfer." Includes, but is not limited to, the creation of
4 any lien upon a property interest. The retention of a security
5 title to property delivered to a debtor shall be deemed a
6 transfer suffered by the debtor.

7 SUBCHAPTER B
8 JUDICIAL AND ADMINISTRATIVE PROCEDURE

9 Sec.

10 3911. Jurisdiction and venue.

11 3912. Injunctions and orders.

12 3913. Cooperation of officers and employees.

13 3914. Bonds.

14 3915. Reports of department.

15 § 3911. Jurisdiction and venue.

16 (a) General rule.--A court shall not have jurisdiction to
17 entertain, hear or determine any delinquency proceeding other
18 than as provided in this chapter.

19 (b) Jurisdiction.--In addition to other grounds for
20 jurisdiction provided by the law of this Commonwealth, a court
21 of this Commonwealth having jurisdiction of the subject matter
22 has jurisdiction over a person served pursuant to the
23 Pennsylvania Rules of Civil Procedure or other applicable
24 provisions of law in an action brought by the receiver of a
25 domestic insurer or an alien insurer domiciled in this
26 Commonwealth if:

27 (1) the person served is obligated to the insurer as an
28 incident to any agency or brokerage arrangement between the
29 insurer and the agent or broker, in any action on or incident
30 to the obligation;

1 (2) the person served is a reinsurer who has written a
2 policy of reinsurance for an insurer against which a
3 rehabilitation or liquidation order is in effect when the
4 action is commenced, or is an agent or broker for the
5 reinsurer, in any action on or incident to the reinsurance
6 contract; or

7 (3) the person served is or has been an officer,
8 manager, trustee, organizer or person in a position of
9 comparable authority or influence in an insurer against which
10 a rehabilitation or liquidation order is in effect when the
11 action is commenced, in any action resulting from the
12 relationship with the insurer.

13 (c) Change of venue.--If the court on motion of any party
14 finds that any action should as a matter of substantial justice
15 be tried in a forum outside this Commonwealth, the court may
16 enter an appropriate order to stay further proceedings on the
17 action in this Commonwealth.

18 (d) Commonwealth Court.--Actions authorized in this section
19 shall be brought in the Commonwealth Court.

20 § 3912. Injunctions and orders.

21 (a) Applications to Commonwealth Court.--Any receiver
22 appointed in a proceeding under this chapter may at any time
23 apply for, and the Commonwealth Court may grant, such
24 restraining orders, preliminary and permanent injunctions, and
25 other orders as are necessary and proper to prevent any of the
26 following:

27 (1) The transaction of further business.

28 (2) The transfer of property.

29 (3) Interference with the receiver or with the
30 proceeding.

1 (4) Waste of the insurer's assets.

2 (5) Dissipation and transfer of bank accounts.

3 (6) The institution or further prosecution of any
4 actions or proceedings.

5 (7) The obtaining of preferences, judgments,
6 attachments, garnishments or liens against the insurer, its
7 assets or its policyholders.

8 (8) The levying of execution against the insurer, its
9 assets or its policyholders.

10 (9) The making of any sale or deed for nonpayment of
11 taxes or assessments that would lessen the value of the
12 assets of the insurer.

13 (10) The withholding from the receiver of books,
14 accounts, documents or other records relating to the business
15 of the insurer.

16 (11) Any other threatened or contemplated action that
17 might lessen the value of the insurer's assets or prejudice
18 the rights of policyholders, creditors or shareholders or the
19 administration of the proceeding.

20 (b) Applications to foreign courts.--The receiver may apply
21 to any court outside this Commonwealth for the relief described
22 in subsection (a) or suspension of any insurance licenses issued
23 by the department.

24 § 3913. Cooperation of officers and employees.

25 (a) General rule.--Any employee, officer, manager, trustee
26 or general agent of any insurer, and any other person with
27 executive authority over any segment of the insurer's affairs,
28 including any person exercising direct or indirect control over
29 activities of an insurer through any holding company or other
30 affiliate, shall cooperate with the department in any proceeding

1 under this chapter or any investigation preliminary or
2 incidental to the proceeding. Any person described in this
3 subsection shall reply promptly in writing to any inquiry from
4 the department requesting a reply and make available to the
5 department any books, accounts, documents, records, information
6 or property of or pertaining to the insurer and in his
7 possession, custody or control.

8 (b) Obstruction of department.--A person shall not obstruct
9 or interfere with the department in the conduct of any
10 delinquency proceeding or any investigation preliminary or
11 incidental thereto. THIS SECTION DOES NOT ABRIDGE OTHERWISE
12 LEGAL RIGHTS TO RESIST A PETITION FOR LIQUIDATION OR OTHER
13 DELINQUENCY PROCEEDINGS. <—

14 (c) Attorney fees and incidental orders.--In any case where
15 an insurer engages counsel for defense of and appeal with
16 respect to a delinquency proceeding, reasonable costs and fees
17 for such representation may be paid from the general assets of
18 the insurer, subject to the approval of the Commonwealth agency
19 or court to which the appeal was made. If proceedings result in
20 a declaration of insolvency or are subsequent thereto, the
21 approved costs thereof shall be treated as administrative costs
22 or expenses under section 3968(2) (relating to order of
23 distribution). The insurer may petition the court or
24 Commonwealth agency for a stay of proceedings or other order.

25 (d) Penalties.--Any person described in subsection (a) who
26 violates its provisions or any person who obstructs or
27 interferes with the department in the conduct of any delinquency
28 proceeding or any investigation preliminary or incidental
29 thereto or who violates any valid order the department issued
30 under this chapter commits a misdemeanor of the third degree, or

1 shall, after a hearing, be subject to the imposition by the
2 department of a civil penalty not to exceed \$10,000 and shall be
3 subject further to the revocation or suspension of any insurance
4 license issued by the department.

5 § 3914. Bonds.

6 In any proceeding under this chapter, the department shall be
7 responsible on its official bonds for the faithful performance
8 of its duties. If desirable for the protection of the assets,
9 the court may at any time require an additional bond from the
10 department. The additional bond shall be paid for out of the
11 assets of the insurer as a cost of administration.

12 § 3915. Reports of department.

13 The department shall as receiver make reports to the court at
14 the times and in the manner the court requires.

15 SUBCHAPTER C

16 SUMMARY PROCEEDINGS

17 Sec.

18 3921. Summary orders of department.

19 3922. Supervision by department.

20 3923. Seizure orders.

21 3924. Conduct of hearings.

22 § 3921. Summary orders of department.

23 (a) Issuance of order.--Whenever the department has
24 reasonable cause to believe, and determines after a hearing,
25 that any insurer has committed or engaged in any act,

26 TRANSACTION or practice that would subject it to formal
27 delinquency proceedings under this chapter, it may issue an
28 order against the insurer and any other persons involved,
29 including an order suspending the business of an insurer, if
30 doing so is reasonably necessary to correct, eliminate or remedy

<—

1 the conduct, condition or ground. If the department also has
2 reasonable grounds to believe that irreparable harm to the
3 property or business of the insurer or to the interests of its
4 policy or certificate holders, creditors or the public may occur
5 unless it issues with immediate effect such an order, it may
6 issue and serve the order without notice and before hearing,
7 simultaneously serving upon the insurer notice of hearing under
8 subsection (b).

9 (b) Notice.--The notice of hearing and the summary order
10 issued shall be served under applicable law. The notice of
11 hearing shall state the time and place of hearing, and the
12 conduct, condition or ground upon which the department would
13 base its order, except where irreparable harm is alleged, in
14 which case the notice shall state the time and place of hearing.
15 Unless otherwise agreed between the department and the insurer,
16 the hearing shall occur not more than 15 days after notice is
17 served AND SHALL BE EITHER IN DAUPHIN COUNTY OF IN SOME OTHER <—
18 PLACE CONVENIENT TO THE PARTIES DESIGNATED BY THE DEPARTMENT.
19 The department shall not publicize these hearings and shall hold
20 all hearings in summary proceedings privately unless the insurer
21 requests a public hearing, in which case the hearing shall be
22 public.

23 (c) Notice of suspension order.--Any suspension order made
24 by the department under subsection (a) shall prohibit issuance
25 of policies, transfers of property and payments of moneys
26 without prior written approval of the department. Notice of this
27 suspension shall be given, by first class mail within 15 days
28 thereof, by the suspended organization to those who were
29 creditors, policyholders, members and certificate holders at the
30 date of suspension. Notice of the suspension shall be given,

1 within 15 days thereof, by the department to creditors,
2 policyholders, members and certificate holders by one
3 publication in a newspaper of general circulation in the county
4 where the suspended organization has its principal office.

5 (d) Insolvent insurers.--From the date of such suspension on
6 the ground that the insurer is insolvent or is in such a
7 condition that its further transaction of business will be
8 hazardous financially to its policyholders, creditors or the
9 public, an action at law or equity shall not be commenced or
10 prosecuted nor shall any judgment be entered against nor shall
11 any execution or attachment be issued or prosecuted against the
12 suspended insurer, or against its property, in any court.

13 However, if such a suspension order is vacated by the
14 Commonwealth Court for the reason that the suspended insurer is
15 no longer insolvent or in a hazardous condition, restraints upon
16 legal process provided in the order shall cease to be operative.

17 (e) Waiver of hearing.--If the department issues a summary
18 order before hearing under this section, the insurer may waive
19 the department's hearing and apply for immediate judicial relief
20 by means of any remedy afforded by law without first exhausting
21 administrative remedies.

22 (f) Civil penalty.--Any person who has violated any order
23 issued under this section shall be liable to pay a civil penalty
24 imposed by the Commonwealth Court not to exceed \$10,000.

25 (g) Enforcement of summary orders.--The department may apply
26 for, and any court of general jurisdiction may grant, any
27 restraining orders, preliminary and permanent injunctions and
28 other orders necessary and proper to enforce a summary order.

29 § 3922. Supervision by department.

30 (a) Examination by department.--If upon examination or at

1 any other time the department determines that an insurer has
2 committed, engaged or is about to engage in any act, transaction
3 or practice that would subject it to formal delinquency
4 proceedings under this chapter, OR IF THE INSURER CONSENTS, the <—
5 department shall notify the insurer of its determination and
6 furnish to the insurer an order containing a written list of the
7 department's requirements to abate its determination. If the
8 department after a hearing under section 3921(b) (relating to
9 summary orders of department) makes a further determination to
10 supervise, the department shall issue an order to the insurer
11 notifying it that it is under the supervision of the department
12 and that the department is acting under this section. The
13 department may issue an order under this section without a
14 hearing under the conditions of irreparable harm as described in
15 section 3921(a), and shall simultaneously serve upon the insurer
16 notice of a hearing to be held in accordance with the provisions
17 of section 3921(b); in this event, the insurer may file an
18 appeal under section 3921(e). The insurer shall comply with the
19 lawful requirements of the department and, if placed under an
20 order of supervision, shall have 90 days from the date of
21 service of the order within which to comply with the
22 requirements of the department. If the insurer fails to comply
23 within this time, the department may institute proceedings in
24 the Commonwealth Court to have a rehabilitator or liquidator
25 appointed under the provisions of this chapter or issue an order
26 extending an existing order of supervision. The order extending
27 any existing order shall be issued prior to the end of each 90-
28 day period, unless otherwise agreed to by the insurer.

29 (b) Supervisor.--The department may appoint a supervisor to
30 supervise the insurer and may provide that the insurer may not

1 do any of the following acts, during the period of supervision,
2 without the prior written approval of the department or the
3 supervisor:

4 (1) Dispose of, convey or encumber any of its assets or
5 its business in force.

6 (2) Withdraw any of its bank accounts.

7 (3) Lend any of its funds.

8 (4) Invest any of its funds.

9 (5) Transfer any of its property.

10 (6) Incur any debt, obligation or liability.

11 (7) Merge or consolidate with another company.

12 (8) Enter into any new reinsurance contract or treaty.

13 (c) Liability.--If any person, subject to the provisions of
14 this chapter, including any person described in section 3913(a)
15 (relating to cooperation of officers and employees), violates
16 any valid order of the department issued under this section and,
17 as a result, the net worth of the insurer is reduced or the
18 insurer otherwise suffers a loss, the person shall become
19 personally liable to the insurer for the amount of any such
20 reduction or loss. The department or supervisor may bring an
21 action on behalf of the insurer in the Commonwealth Court to
22 recover the amount of the reduction or loss together with any
23 costs.

24 § 3923. Seizure orders.

25 (a) Issuance of orders.--If the department files in the
26 Commonwealth Court a petition alleging any ground that would
27 justify a court order for a formal delinquency proceeding
28 against an insurer under this chapter, and that the interests of
29 policyholders, creditors or the public will be endangered by
30 delay, which petition shall include the order deemed necessary

1 by the department, the court may immediately issue the order EX <—
2 PARTE AND without a hearing. The order shall direct the
3 department to take possession and control of all or a part of
4 the property, books, accounts, documents, other records of an
5 insurer and of the premises occupied by it for the transaction
6 of its business and, until further order of the court, enjoin
7 the insurer and its officers, managers, agents and employees
8 from disposition of its property and from transaction of its
9 business except with the written consent of the department.

10 (b) Duration of order.--The court shall specify in the order
11 what its duration shall be, which shall be such time as the
12 court believes necessary for the department to ascertain the
13 condition of the insurer. The initial duration or any extension
14 shall not exceed 90 days. On motion of either party or on its
15 own motion, the court may hold such hearings as are desirable,
16 after appropriate notice, and may extend, shorten or modify the
17 terms of the seizure order. The court shall vacate the seizure
18 order if the department fails to commence a formal proceeding
19 under this chapter prior to the expiration of a seizure order or
20 any extension. An order of the court pursuant to a formal
21 proceeding under this chapter shall vacate the seizure order.

22 (c) Anticipatory breach.--Entry of a seizure order under
23 this section shall not constitute an anticipatory breach of any
24 contract of the insurer.

25 (d) Petition for review.--An insurer subject to an ex parte
26 order of the Commonwealth Court issued under this section may
27 petition the court at any time after the issuance of the order
28 for a hearing and review. The court shall grant the hearing and
29 review within ten days of the filing of the petition.

30 § 3924. Conduct of hearings.

1 (a) Private hearing.--The Commonwealth Court may hold all
2 hearings in summary proceedings and judicial review privately in
3 chambers, and shall do so on request of the insurer proceeded
4 against.

5 (b) Confidentiality of records.--In all summary proceedings
6 and judicial reviews, all records of the insurer, other
7 documents and department files and court records and papers, so
8 far as they pertain to or are a part of the record of the
9 summary proceedings, shall be confidential except as is
10 necessary to obtain compliance therewith, unless and until the
11 Commonwealth Court, after hearing arguments from the parties in
12 chambers, shall order otherwise or unless the insurer requests
13 that the matter be made public.

14 (c) Penalty.--Any person having possession or custody of and
15 refusing to deliver any of the property, books, accounts,
16 documents or other records of or relating to an insurer against
17 which a seizure order or a summary order has been issued by the
18 department or by the Commonwealth Court commits a misdemeanor of
19 the third degree.

20 SUBCHAPTER D

21 REHABILITATION

22 Sec.

23 3931. Grounds for rehabilitation.

24 3932. Rehabilitation orders.

25 3933. Powers and duties of rehabilitator.

26 3934. Actions by and against rehabilitator.

27 3935. Termination of rehabilitation.

28 § 3931. Grounds for rehabilitation.

29 An order of rehabilitation may be based on any of the
30 following grounds:

1 (1) The insurer is insolvent or is in such a condition
2 that the further transaction of business would be financially
3 hazardous to its policyholders, its creditors or the public.

4 (2) There is reasonable cause to believe that there has
5 been embezzlement from the insurer, wrongful sequestration or
6 diversion of the insurer's assets, forgery or fraud affecting
7 the insurer or other illegal conduct by or with respect to
8 the insurer that would endanger assets in an amount
9 threatening the solvency of the insurer.

10 (3) The insurer fails to remove any person who has
11 executive authority in the insurer if the person has been
12 found after notice and hearing to be dishonest or
13 untrustworthy in a way affecting the business of the insurer.

14 (4) Control of the insurer, whether by stock ownership
15 or otherwise and whether direct or indirect, is in a person
16 found after notice and hearing to be dishonest or
17 untrustworthy.

18 (5) Any person who has executive authority in the
19 insurer has refused to be examined under oath by the
20 department concerning its affairs, whether in this
21 Commonwealth or elsewhere, and after reasonable notice of the
22 fact the insurer fails to promptly and effectively terminate
23 the employment and status of the person and his influence on
24 management.

25 (6) After demand, the insurer fails to submit promptly
26 for examination any of its own property, books, accounts,
27 documents or other records or those of any subsidiary or
28 related company within the control of the insurer or those of
29 any person having executive authority in the insurer so far
30 as they pertain to the insurer. If the insurer is unable to

1 submit the property, books, accounts, documents or other
2 records of a person having executive authority in the
3 insurer, it shall be excused from doing so if it promptly and
4 effectively terminates the relationship of the person to the
5 insurer.

6 (7) Without first obtaining the written consent of the
7 department, the insurer transfers, or attempts to transfer,
8 substantially its entire property or business, or enters into
9 any transaction the effect of which is to merge, consolidate
10 or reinsure substantially its entire property or business in
11 or with the property or business of any other person.

12 (8) The insurer or its property is the subject of an
13 application for the appointment of a receiver, trustee,
14 custodian, conservator, sequestrator or similar fiduciary of
15 the insurer or its property otherwise than as authorized
16 under this title, and the appointment has been made or is
17 imminent, and the appointment might oust the court of
18 jurisdiction or prejudice orderly delinquency proceedings
19 under this chapter.

20 (9) Within the previous four years the insurer has
21 willfully violated its charter, articles of incorporation,
22 bylaws or this title in a manner which may result or has
23 resulted in substantial harm to the property or business of
24 an insurer or to the interests of its policy or certificate
25 holders, creditors or the public, or any valid order of the
26 department under sections 3921 (relating to summary orders of
27 department) and 3922 (relating to supervision by department).

28 (10) The insurer fails to pay within 60 days after due
29 date any obligation to any government agency or any judgment
30 entered in this Commonwealth. However, the nonpayment shall

1 not be deemed a ground for rehabilitation until 60 days after
2 any good faith effort by the insurer to contest the
3 obligation has been terminated, whether it is before the
4 department or in the courts.

5 (11) The insurer has systematically attempted to
6 compromise or renegotiate previously agreed settlements with
7 its creditors on the ground that it is financially unable to
8 pay its obligations in full.

9 (12) The insurer has failed to file its annual report or
10 other report within the time allowed by law and, after
11 written demand by the department, fails to give a
12 satisfactory explanation immediately.

13 (13) The board of directors, the holders of a majority
14 of the shares entitled to vote or a majority of those
15 individuals entitled to the control of any entity subject to
16 this chapter request or consent to rehabilitation.

17 § 3932. Rehabilitation orders.

18 (a) Petition.--The department may petition the Commonwealth
19 Court for an order authorizing it to rehabilitate a domestic
20 insurer or an alien insurer domiciled in this Commonwealth,
21 alleging that the insurer has committed one or more acts which
22 may constitute grounds for rehabilitation.

23 (b) Hearing.--An order of the Commonwealth Court to
24 rehabilitate the business of an insurer shall be issued only
25 after a hearing before the court or pursuant to a written
26 consent of the insurer.

27 (c) Filing of order.--The order to rehabilitate the business
28 of such an insurer shall appoint the department as the
29 rehabilitator. The order shall direct the rehabilitator to take
30 possession of the assets of the insurer immediately, including

1 any deposits held by the department, and to administer them
2 under the orders of the court. The filing or recording of the
3 order with the clerk of the Commonwealth Court or recorder of
4 deeds of the county in which the principal business of the
5 company is conducted or the county in which its principal office
6 or place of business is located shall impart the same notice as
7 a deed, bill of sale or other evidence of title filed or
8 recorded with that recorder of deeds would have imparted. Entry
9 of an order of rehabilitation does not constitute an
10 anticipatory breach of any contracts of the insurer.

11 § 3933. Powers and duties of rehabilitator.

12 (a) Special deputy.--The department as rehabilitator may
13 appoint a special deputy who shall have all the powers of the
14 rehabilitator granted under this section. The department shall
15 make such arrangements for compensation as are necessary to
16 obtain a special deputy of proven ability. The special deputy
17 shall serve at the pleasure of the department.

18 (b) General powers and duties.--The rehabilitator may take
19 any action he deems necessary to correct the conditions which
20 constituted the grounds for the order of the court to
21 rehabilitate the insurer. He shall have all the powers of the
22 directors, officers and managers, whose authority shall be
23 suspended, except as they are redelegated by the rehabilitator.
24 He shall have full power to direct and manage, to hire and
25 discharge employees subject to any contract rights they may have
26 and to deal with the property and business of the insurer.

27 (c) Remedial powers.--If it appears to the rehabilitator
28 that there has been criminal or tortious conduct, or breach of
29 any contractual or fiduciary obligation detrimental to the
30 insurer by any officer, manager, agent, broker, employee or

1 other person, he may pursue all appropriate legal remedies on
2 behalf of the insurer.

3 (d) Plan of rehabilitator.--The rehabilitator may prepare a
4 plan for the reorganization, consolidation, conversion,
5 reinsurance, merger or other transformation of the insurer. Upon
6 application of the rehabilitator for approval of the plan, and
7 after such notice and hearing as the court may prescribe, the
8 court may either approve or disapprove the plan proposed, or may
9 modify it and approve it as modified. If it is approved, the
10 rehabilitator shall carry out the plan. In the case of a life
11 insurer, the plan proposed may include the imposition of liens
12 upon the equities of policyholders of the company, provided that
13 all rights of shareholders are first relinquished. A plan for a
14 life insurer may also propose imposition of a moratorium upon
15 loan and cash surrender rights under policies for any period and
16 to any extent necessary.

17 (e) Avoidance of fraudulent transfers.--The rehabilitator
18 shall have the power to avoid fraudulent transfers under
19 sections 3952 (relating to fraudulent transfers prior to
20 petition) and 3953 (relating to fraudulent transfers after
21 petition).

22 § 3934. Actions by and against rehabilitator.

23 On request of the rehabilitator, any court before which any
24 action or proceeding by or against an insurer is pending when a
25 rehabilitation order against the insurer is entered shall stay
26 the action or proceeding for such time as necessary for the
27 rehabilitator to obtain proper representation and prepare for
28 further proceedings. The Commonwealth Court shall order the
29 rehabilitator to take such action respecting the pending
30 litigation as is necessary in the interests of justice and for

1 the protection of creditors, policyholders and the public. The
2 rehabilitator shall immediately consider all litigation pending
3 outside this Commonwealth and shall petition the courts having
4 jurisdiction over that litigation for stays whenever necessary
5 to protect the estate of the insurer. The time between the
6 filing of a petition for rehabilitation against an insurer and
7 denial of the petition or an order of rehabilitation shall not
8 be considered to be a part of the time within which any action
9 may be commenced by or against the insurer. Any action by or
10 against the insurer that might have been commenced when the
11 petition was filed may be commenced for at least 60 days after
12 the order of rehabilitation is entered.

13 § 3935. Termination of rehabilitation.

14 (a) Petition for order of liquidation.--Whenever he has
15 reasonable cause to believe that further attempts to
16 rehabilitate an insurer would substantially increase the risk of
17 loss to creditors, policy and certificate holders or the public,
18 or would be futile, the rehabilitator may petition the
19 Commonwealth Court for an order of liquidation. A petition under
20 this subsection shall have the same effect as a petition under
21 section 3942 (relating to liquidation orders). The Commonwealth
22 Court shall permit the directors to take any action reasonably
23 necessary to defend against the petition and may order payment
24 from the estate of the insurer of costs and other expenses of
25 defense.

26 (b) Petition for order terminating rehabilitation.--The
27 rehabilitator may at any time petition the Commonwealth Court
28 for an order terminating rehabilitation of an insurer. If the
29 Commonwealth Court finds that rehabilitation has been
30 accomplished and that grounds for rehabilitation under section

1 3931 (relating to grounds for rehabilitation) no longer exist,
2 it shall order that the insurer be restored to possession of its
3 property and the control of its business. The Commonwealth Court
4 may also make that finding and issue that order at any time upon
5 its own motion.

6 SUBCHAPTER E

7 LIQUIDATION PROCEEDINGS

8 Sec.

9 3941. Grounds for liquidation.

10 3942. Liquidation orders.

11 3943. Continuation of coverage.

12 3944. Dissolution of insurer.

13 3945. Powers of liquidator.

14 3946. Notice to creditors and others.

15 3947. Duties of agents.

16 3948. Actions by and against liquidator.

17 § 3941. Grounds for liquidation.

18 Any ground on which an order of rehabilitation may be based,
19 as specified in section 3931 (relating to grounds for
20 rehabilitation), whether or not there has been a prior order of
21 rehabilitation of the insurer, shall be grounds for liquidation.

22 § 3942. Liquidation orders.

23 (a) Petition.--The department may petition the Commonwealth
24 Court for an order directing the department to liquidate a
25 domestic insurer domiciled in this Commonwealth, alleging that
26 the insurer has committed any act which may constitute grounds
27 for liquidation under this chapter.

28 (b) Hearing.--An order of the Commonwealth Court to
29 liquidate the business of an insurer shall be issued only after
30 a hearing before the court or pursuant to a written consent of

1 the insurer.

2 (c) Nature of order.--An order to liquidate the business of
3 a domestic insurer shall appoint the department as liquidator
4 and shall direct the liquidator to take possession of the assets
5 of the insurer immediately and to administer them under the
6 orders of the court. The liquidator is vested with the title to
7 all of the property, contracts and rights of action and all of
8 the books and records of the insurer ordered liquidated,
9 wherever located, as of the date of the filing of the petition
10 for liquidation. The liquidator may recover and reduce the same
11 to possession except that ancillary receivers in reciprocal
12 states shall have, as to assets located in their respective
13 states, the rights and powers which are prescribed in section
14 3984(c) (relating to ancillary formal proceedings) for ancillary
15 receivers appointed in this Commonwealth as to assets located in
16 this Commonwealth. The filing or recording of the order with the
17 Clerk of the Commonwealth Court or with the recorder of deeds of
18 the county in which the principal business of the company is
19 conducted or the county in which its principal office or place
20 of business is located shall impart the same notice as a deed,
21 bill of sale or other evidence of title filed or recorded that
22 the recorder of deeds would have imparted.

23 (d) Effect of order.--Upon issuance of the order, the rights
24 and liabilities of the insurer and of its creditors,
25 policyholders, shareholders, members and all other persons
26 interested in its estate shall become fixed as of the date of
27 filing of the petition for liquidation, except as provided in
28 sections 3943 (relating to continuation of coverage) and 3963
29 (relating to special claims).

30 (e) Alien insurer.--An order to liquidate the business of an

1 alien insurer domiciled in this Commonwealth shall be in the
2 same terms and have the same legal effect as an order to
3 liquidate a domestic insurer, except that the assets and the
4 business in the United States shall be the only assets and
5 business included.

6 (f) Petition for judicial declaration of insolvency.--At the
7 time of petitioning for an order of liquidation or at any time
8 thereafter, the department, after making appropriate findings of
9 an insurer's insolvency, following an administrative hearing,
10 may petition the court for a judicial declaration of insolvency.
11 After providing such notice and hearing as are permitted for
12 appeals from Commonwealth agencies, the court may make the
13 declaration.

14 § 3943. Continuation of coverage.

15 All insurance in effect at the time of issuance of an order
16 of liquidation shall continue in force only with respect to the
17 risks in effect, at that time until any of the following occurs:

18 (1) A period of 30 days expires from the date of entry
19 of the liquidation order.

20 (2) The normal expiration of the policy coverage.

21 (3) The insured replaces the insurance coverage with
22 equivalent insurance in another insurer or otherwise
23 terminates the policy.

24 (4) The liquidator effects a transfer of the policy
25 obligation under section 3945(8) (relating to powers of
26 liquidator).

27 § 3944. Dissolution of insurer.

28 The department may petition for an order dissolving the
29 corporate existence of a domestic insurer or the United States
30 branch of an alien insurer domiciled in this Commonwealth at the

1 time the department applies for a liquidation order. The court
2 shall order dissolution of the corporation upon petition by the
3 department upon or after the granting of a liquidation order. If
4 the dissolution has not previously been ordered, it shall be
5 effected by operation of law upon the discharge of the
6 liquidator.

7 § 3945. Powers of liquidator.

8 The liquidator shall have, but is not limited to, the
9 following powers and duties:

10 (1) To appoint a special deputy to act for ~~him~~ IT under <—
11 this chapter, and to determine his compensation. The special
12 deputy shall have all powers of the liquidator granted by
13 this section. The special deputy shall serve at the pleasure
14 of the department.

15 (2) To employ employees, agents, legal counsel,
16 actuaries, accountants, appraisers, consultants and any other
17 personnel necessary to assist in the liquidation.

18 (3) To fix the compensation of employees, agents, legal
19 counsel, actuaries, accountants, appraisers and consultants
20 without complying with civil service regulations.

21 (4) To pay compensation to persons appointed and to
22 defray all expenses of taking possession of, conserving,
23 conducting, liquidating, disposing of or otherwise dealing
24 with the business and property of the insurer. If the
25 property of the insurer does not contain sufficient cash or
26 liquid assets to defray the costs incurred, the department
27 shall advance the costs so incurred out of the appropriation
28 for the maintenance of the department. Any amounts so paid
29 shall be deemed expenses of administration and shall be
30 repaid to the department out of the first available moneys of

1 the insurer.

2 (5) To hold hearings, subpoena witnesses, compel their
3 attendance, administer oaths, examine any person under oath
4 and compel any person to subscribe to his testimony after it
5 has been correctly reduced to writing and, in connection
6 therewith, to require the production of any books, papers,
7 records or other documents which ~~he~~ IT deems relevant to the <—
8 inquiry.

9 (6) To collect all debts and moneys due and claims
10 belonging to the insurer which it is economical to collect,
11 wherever located, and for this purpose to institute timely
12 action in other jurisdictions, in order to forestall
13 garnishment and attachment proceedings against these debts;
14 to do any other acts necessary to collect, conserve or
15 protect its assets or property; to sell, compound, compromise
16 or assign for purposes of collection, upon those terms and
17 conditions which ~~he~~ IT deems best, any bad or doubtful debts; <—
18 and to pursue any creditor's remedies available to enforce
19 ~~his~~ ITS claims. <—

20 (7) To conduct public and private sales of the property
21 of the insurer.

22 (8) To use assets of the estate to transfer policy
23 obligations to a solvent assuming insurer, if the transfer
24 can be arranged without prejudice to applicable priorities
25 under section 3968 (relating to order of distribution).

26 (9) To acquire, hypothecate, encumber, lease, improve,
27 sell, transfer, abandon or otherwise dispose of or deal with
28 any property of the insurer at its market value or upon fair
29 and reasonable terms and conditions and to execute,
30 acknowledge and deliver deeds, assignments, releases and

1 other instruments necessary or proper to effectuate any sale
2 of property or other transaction in connection with the
3 liquidation. The liquidator shall file with the recorder of
4 deeds for the county in which the property is located a
5 certified copy of the order appointing ~~him~~ IT liquidator. <—

6 (10) To borrow money on the security of the insurer's
7 assets or without security and to execute and deliver all
8 documents necessary to that transaction for the purpose of
9 facilitating the liquidation.

10 (11) To enter into any contracts necessary to carry out
11 the order to liquidate, and to affirm or disavow any
12 contracts to which the insurer is a party.

13 (12) To institute or continue to prosecute in the name
14 of the insurer or in ~~his own name~~ THE NAME OF THE LIQUIDATOR <—
15 any suits and other legal proceedings, in this Commonwealth
16 or elsewhere, and to abandon the prosecution of claims if
17 unprofitable to pursue further. If the insurer is dissolved
18 under section 3944 (relating to dissolution of insurer), ~~he~~ <—
19 THE LIQUIDATOR shall have the power to apply to any court in <—
20 this Commonwealth or elsewhere for leave to substitute
21 ~~himself~~ ITSELF for the insurer as plaintiff. <—

22 (13) To prosecute any action on behalf of the creditors,
23 members, policyholders or shareholders of the insurer against
24 any officer of the insurer or any other person.

25 (14) To remove any or all records and property of the
26 insurer to the offices of the department or to any other
27 convenient place for the purposes of efficient and orderly
28 execution of the liquidation.

29 (15) To deposit in one or more banks in this
30 Commonwealth the sums required for meeting current

1 administration and operating costs.

2 (16) To invest all sums not currently needed unless the
3 court orders otherwise.

4 (17) To file any necessary documents for record in the
5 office of any recorder of deeds or record office in this
6 Commonwealth or elsewhere where property of the insurer is
7 located.

8 (18) To assert all defenses available to the insurer as
9 against third persons, including statutes of limitation,
10 statutes of frauds and usury. A waiver of any defense by the
11 insurer after a petition in liquidation has been filed shall
12 not bind the ~~department~~ LIQUIDATOR. When a guaranty <—
13 association has an obligation to defend a suit, the
14 liquidator shall give precedence to the obligations and shall
15 defend only in the absence of a defense by the guaranty
16 association.

17 (19) To exercise and enforce all the rights, remedies,
18 and powers of any creditor, shareholder, policyholder or
19 member, including any power to avoid any transfer or lien
20 that may be given by law and that is not included with
21 sections 3952 (relating to fraudulent transfers prior to
22 petition) through 3954 (relating to voidable preferences and
23 liens).

24 (20) To intervene in any proceeding wherever instituted
25 that might lead to the appointment of a receiver or trustee,
26 and to act as the receiver or trustee whenever the
27 appointment is offered.

28 (21) To enter into agreements with any receiver or
29 department of any other state relating to the rehabilitation,
30 liquidation, conservation or dissolution of an insurer doing

1 business in both states.

2 (22) To exercise all powers conferred upon receivers by
3 the laws of this Commonwealth not inconsistent with the
4 provisions of this chapter.

5 § 3946. Notice to creditors and others.

6 (a) General rule.--The liquidator shall give notice of the
7 liquidation order as soon as possible by first class mail and
8 either by telegram or telephone to the insurance department of
9 each jurisdiction in which the insurer is licensed to do
10 business, by first class mail and by telephone to any
11 responsible guaranty association of this Commonwealth, by first
12 class mail to all insurance agents having a duty under section
13 3947 (relating to duties of agents) and to all known
14 policyholders, creditors and claimants.

15 (b) Duty of claimants.--Notice to potential claimants under
16 subsection (a) shall require claimants to file with the
17 liquidator their claims together with proper proofs of claims by
18 the date the liquidator specifies in the notice. All claimants
19 shall keep the liquidator informed of any change of address.

20 § 3947. Duties of agents.

21 (a) Notice to policyholders.--Every person who receives
22 notice in the form prescribed in section 3946 (relating to
23 notice to creditors and others), that an insurer which he
24 represents as an independent agent is the subject of a
25 liquidation order, shall, within 15 days of the notice, give
26 notice of the liquidation order to each policyholder or other
27 person named in any policy issued through the agent by the
28 insurer. The notice shall be sent by first class mail to the
29 last address, IF ANY, contained in the agent's records. A policy <—
30 shall be deemed issued through an agent if the agent has a

1 property interest in the expiration of the policy, or if the
2 agent has had in his possession a copy of the declarations of
3 the policy at any time during the life of the policy, except
4 where the ownership of the expiration of the policy has been
5 transferred to another. The notice shall include the name and
6 address of the insurer, the name and address of the agent,
7 identification of the policy impaired and the nature of the
8 impairment including termination of coverage, as described in
9 section 3943 (relating to continuation of coverage). Notice by a
10 general agent satisfies the notice requirement for any agents
11 under contract to him.

12 (b) Penalty.--Any agent who fails to give notice as required
13 in subsection (a) shall be subject to payment of a penalty of
14 not more than \$1,000 and may have his license suspended. The
15 penalty shall be imposed only after a hearing held by the
16 department.

17 § 3948. Actions by and against liquidator.

18 (a) Stay.--Upon issuance of an order appointing the
19 department liquidator of a domestic insurer or of an alien
20 insurer domiciled in this Commonwealth, no action shall be
21 brought by or against the insurer, whether in this Commonwealth
22 or elsewhere, nor shall any such existing actions be continued
23 after issuance of the order.

24 (b) Intervention.--Whenever, in the liquidator's judgment,
25 protection of the estate of the insurer necessitates
26 intervention in an action against the insurer that is pending
27 outside this Commonwealth, ~~he~~ IT may intervene in the action <—
28 with approval of the court. The liquidator may defend any action
29 in which ~~he~~ IT intervenes under this section at the expense of <—
30 the estate of the insurer.

1 (c) Limitation of actions by liquidator.--The liquidator
2 may, upon or after an order for liquidation, within two years or
3 such additional time as the law permits, institute an action on
4 behalf of the estate of the insurer upon any cause of action if
5 the period of limitation has not expired at the time of the
6 filing of the petition upon which the order is entered. If a
7 period of limitation is fixed by agreement for instituting an
8 action or for filing any claim, proof of claim, proof of loss,
9 demand, notice or the like, or if in any proceeding, a period of
10 limitation is fixed for or doing any act, and if the period had
11 not expired at the date of the filing of the petition, the
12 liquidator may, for the benefit of the estate, take any action
13 required of or permitted to the insurer, within a period of 180
14 days subsequent to the entry of an order for liquidation, or
15 within such further period as is shown to the satisfaction of
16 the court not to be unfairly prejudicial to the other party.

17 (d) Limitation of actions against insurer.--The time between
18 the filing of a petition for liquidation against an insurer and
19 the denial of the petition shall not be considered to be a part
20 of the time within which any action may be commenced against the
21 insurer. Any action against the insurer that might have been
22 commenced when the petition was filed may be commenced for at
23 least 60 days after the petition is denied.

24 SUBCHAPTER F

25 ESTATE OF LIQUIDATED INSURER

26 Sec.

27 3951. Collection and list of assets.

28 3952. Fraudulent transfers prior to petition.

29 3953. Fraudulent transfers after petition.

30 3954. Voidable preferences and liens.

1 3955. Claims of holders of void or voidable rights.

2 3956. Setoffs and counterclaims.

3 3957. Assessments.

4 3958. Liability of reinsurer.

5 3959. Recovery of premiums.

6 3960. Proposal for distribution.

7 § 3951. Collection and list of assets.

8 (a) Filing of list.--As soon as practicable after the
9 liquidation order, the liquidator shall prepare in duplicate a
10 list of the insurer's assets. The list shall be amended or
11 supplemented from time to time as the court requires. One copy
12 shall be filed in the office of the clerk of the Commonwealth
13 Court and one copy shall be retained for the liquidator's files.
14 All amendments and supplements shall be similarly filed.

15 (b) Liquidation of assets.--The liquidator shall reduce the
16 assets to a degree of liquidity that is consistent with the
17 prompt, effective and economical execution of the liquidation.

18 § 3952. Fraudulent transfers prior to petition.

19 (a) Avoidance.--Every transfer made or suffered and every
20 obligation incurred by an insurer within one year prior to the
21 filing of a successful petition for rehabilitation or
22 liquidation under this chapter is fraudulent as to then existing
23 and future creditors if made or incurred without fair
24 consideration or with actual intent to hinder, delay or defraud
25 either existing or future creditors. A transfer made or an
26 obligation incurred by an insurer ordered to be rehabilitated or
27 liquidated under this chapter, which is fraudulent under this
28 section, may be avoided by the receiver, except as to a person
29 who in good faith is a purchaser, lienor or obligee for a
30 present fair equivalent value, and except that any purchaser,

1 lienor or obligee, who in good faith has given less than fair
2 consideration for the transfer, lien or obligation, may retain
3 it as security for repayment. The court may, on due notice,
4 order any such transfer or obligation to be preserved for the
5 benefit of the estate and, in that event, the receiver shall
6 succeed to and may enforce the rights of the purchaser, lienor
7 or obligee. Section 3954(d) (relating to voidable preferences
8 and liens) applies to determine the time when transfers are
9 deemed to be made or suffered under this section.

10 (b) Transaction with reinsurer.--Any transaction of the
11 insurer with a reinsurer shall be deemed fraudulent and may be
12 avoided by the receiver under subsection (a) if:

13 (1) the transaction consists of the termination,
14 adjustment or settlement of a reinsurance contract in which
15 the reinsurer is released from any part of its duty to pay
16 the originally specified share of losses that had occurred
17 prior to the time of the transaction, unless the reinsurer
18 gives a present fair equivalent value for the release; and

19 (2) any part of the transaction took place within one
20 year prior to the date of filing of the petition through
21 which the receivership was commenced.

22 § 3953. Fraudulent transfers after petition.

23 (a) General rule.--Except as otherwise provided in this
24 section, a transfer by or in behalf of the insurer after the
25 date of the petition for liquidation by any person other than
26 the liquidator shall not be valid against the liquidator.

27 (b) Transfer of real property.--After a petition for
28 rehabilitation or liquidation, a transfer of any of the real
29 property of the insurer made to a person acting in good faith
30 shall be valid against the receiver if made for a present fair

1 equivalent value, or, if not made for a present fair equivalent
2 value, then to the extent of the present consideration actually
3 paid, for which amount the transferee shall have a lien on the
4 property. The commencement of a proceeding for rehabilitation or
5 liquidation shall be constructive notice upon the recording of a
6 copy of the petition for or order of rehabilitation or
7 liquidation with the recorder of deeds in the county where any
8 real property in question is located. The exercise by any
9 Federal or state court of the power to authorize or effect a
10 judicial sale of real property of the insurer within any county
11 in any state shall not be impaired by the pendency of such a
12 proceeding unless the copy is recorded in the county prior to
13 the consummation of the judicial sale.

14 (c) Pending rehabilitation.--After a petition for
15 rehabilitation or liquidation and before either the receiver
16 takes possession of the property of the insurer or an order of
17 rehabilitation or liquidation is granted:

18 (1) A transfer of any of the property of the insurer,
19 other than real property, made to a person acting in good
20 faith shall be valid against the receiver if made for a
21 present fair equivalent value or, if not made for a present
22 fair equivalent value, then to the extent of the present
23 consideration actually paid, for which amount the transferee
24 shall have a lien on the property so transferred.

25 (2) A person indebted to the insurer or holding property
26 of the insurer may, if acting in good faith, pay the
27 indebtedness or deliver the property, or any part thereof, to
28 the insurer or upon his order, with the same effect as if the
29 petition were not pending.

30 (3) A person having actual knowledge of the pending

1 rehabilitation or liquidation shall be deemed not to act in
2 good faith.

3 (4) A person asserting the validity of a transfer under
4 this section shall have the burden of proof.

5 (d) Applicability.--This section does not impair the
6 negotiability of currency or negotiable instruments.

7 § 3954. Voidable preferences and liens.

8 (a) Preferences.--A preference is a transfer of any of the
9 property of an insurer to or for the benefit of a creditor, for
10 or on account of an antecedent debt, made or suffered by the
11 insurer within one year before the filing of a successful
12 petition for liquidation under this chapter, the effect of which
13 may be to enable the creditor to obtain a greater percentage of
14 ~~this~~ HIS debt than another creditor of the same class would <—
15 receive. If a liquidation order is entered while the insurer is
16 already subject to a rehabilitation order, then transfers
17 otherwise qualifying shall be deemed preferences if made or
18 suffered within one year before the filing of the successful
19 petition for rehabilitation or within two years before the
20 filing of the successful petition for liquidation, whichever
21 time is shorter.

22 (b) Voidable preferences.--Any preference may be avoided by
23 the liquidator if:

24 (1) the insurer was insolvent at the time of the
25 transfer;

26 (2) the transfer was made within four months before the
27 filing of the petition;

28 (3) the creditor receiving it or to be benefited thereby
29 or his agent acting with reference thereto had, at the time
30 when the transfer was made, reasonable cause to believe that

1 the insurer was insolvent or was about to become insolvent;
2 or

3 (4) the creditor receiving it was an officer, an
4 employee, attorney or other person who was in a position of
5 comparable influence to an officer whether or not he held
6 such position, or any shareholder holding directly or
7 indirectly more than 5% of any class of any equity security
8 issued by the insurer, or any other person with whom the
9 insurer did not deal at arm's length.

10 (c) Effect of voidable preferences.--If the preference is
11 voidable, the liquidator may recover the property or, if it has
12 been converted, its value from any person who has received or
13 converted the property. However, if a bona fide purchaser or
14 lienor has given less than fair equivalent value, he shall have
15 a lien upon the property to the extent of the consideration
16 actually given by him. Where a preference by way of lien or
17 security title is voidable, the court may on due notice order
18 the lien or title to be preserved for the benefit of the estate,
19 in which event the lien or title shall pass to the liquidator.

20 (d) Time transfer completed.--A transfer of property other
21 than real property shall be deemed to be made or suffered when
22 it becomes so far perfected that no subsequent lien obtainable
23 by legal or equitable proceedings on a simple contract could
24 become superior to the rights of the transferee. A transfer of
25 real property shall be deemed to be made or suffered when it
26 becomes so far perfected that no subsequent bona fide purchaser
27 from the insurer could obtain rights superior to the rights of
28 the transferee. A transfer which creates an equitable lien shall
29 not be deemed to be perfected if there are available means by
30 which a legal lien could be created. A transfer not perfected

1 prior to the filing of a petition for liquidation shall be
2 deemed to be made immediately before the filing of the
3 successful petition. The provisions of this subsection apply
4 whether or not there are or were creditors who might have
5 obtained liens or persons who might have become bona fide
6 purchasers.

7 (e) Liens.--A lien obtainable by legal or equitable
8 proceedings upon a simple contract is one arising in the
9 ordinary course of those proceedings upon the entry or docketing
10 of a judgment or decree, or upon attachment, garnishment,
11 execution or similar process, whether before, upon or after
12 judgment or decree and whether before or upon levy. It does not
13 include liens which under applicable law are given a special
14 priority over other liens which are prior in time.

15 (f) Priorities.--A lien obtainable by legal or equitable
16 proceedings could become superior to the rights of a transferee,
17 or a purchaser could obtain rights superior to the rights of a
18 transferee within the meaning of subsection (d), if these
19 consequences would follow only from the lien or purchase itself,
20 or from the lien or purchase followed by any step wholly within
21 the control of the respective lienholder or purchaser, with or
22 without the aid of ministerial action by public officials. The
23 lien could not, however, become superior and the purchaser could
24 not create superior rights for the purpose of subsection (d)
25 through any acts subsequent to the obtaining of the lien or
26 subsequent to the purchase which require the agreement or
27 concurrence of any third party or which require any further
28 judicial action or ruling.

29 (g) Transfers for new consideration.--A transfer of property
30 for or on account of a new and contemporaneous consideration

1 which is deemed under subsection (d) to be made or suffered
2 after the transfer because of delay in perfecting it does not
3 become a transfer for or on account of an antecedent debt if any
4 acts required by the law to be performed in order to perfect the
5 transfer as against liens or bona fide purchasers' rights are
6 performed within 21 days or any period expressly allowed by the
7 law, whichever is less. A transfer to secure a future loan, if
8 the loan is actually made, or a transfer which becomes security
9 for a future loan shall have the same effect as a transfer for
10 or on account of a new and contemporaneous consideration.

11 (h) Indemnifying transfers.--If any lien deemed voidable
12 under subsection (b) is dissolved by the furnishing of a bond or
13 other obligation, the surety on which is indemnified directly or
14 indirectly by the transfer of or the creation of a lien upon any
15 property of an insurer before the filing of a petition under
16 this chapter which results in a liquidation order, the
17 indemnifying transfer or lien shall also be deemed voidable.

18 (i) Discharge from lien.--The property affected by any lien
19 deemed voidable under subsections (b) and (h) shall be
20 discharged from the lien and that property and any of the
21 indemnifying property transferred to or for the benefit of a
22 surety shall pass to the liquidator. However, the court may on
23 due notice order the lien to be preserved for the benefit of the
24 estate and the court may direct that such conveyance be executed
25 as is proper to evidence the title of the liquidator.

26 (j) Summary jurisdiction of Commonwealth Court.--The
27 Commonwealth Court shall have summary jurisdiction of any
28 proceeding by the liquidator to hear and determine the rights of
29 any parties under this section. Reasonable notice of any hearing
30 in the proceeding shall be given to all parties in interest,

1 including the obligee of a releasing bond or other like
2 obligation. Where an order is entered for the recovery of
3 indemnifying property in kind or for the avoidance of an
4 indemnifying lien, the court, upon application of any party in
5 interest, shall ascertain in the same proceeding the value of
6 the property or lien. If that value is less than the amount for
7 which the property serves as indemnity or the amount of the
8 lien, the transferee or lienholder may elect to retain the
9 property or lien upon payment of its value, as ascertained by
10 the court, to the liquidator, within a reasonable time as
11 determined by the court.

12 (k) Liability of certain sureties.--The liability of a
13 surety under a releasing bond or other like obligation shall be
14 discharged to the extent of the value of the indemnifying
15 property recovered or the indemnifying lien nullified and
16 avoided by the liquidator, or where the property is retained
17 under subsection (j) to the extent of the amount paid to the
18 liquidator.

19 (l) Setoffs.--If a creditor has been preferred, and
20 afterward in good faith gives the insurer further credit without
21 security of any kind, for property which becomes a part of the
22 insurer's estate, the amount of the new credit remaining unpaid
23 at the time of the petition may be set off against the
24 preference which would otherwise be recoverable from him.

25 (m) Attorney fees.--If an insurer, within four months before
26 the filing of a successful petition for liquidation under this
27 chapter, or at any time in contemplation of a proceeding to
28 liquidate it, directly or indirectly pays money or transfers
29 property to an attorney at law for services rendered or to be
30 rendered, the transaction may be examined by the court on its

1 own motion or shall be examined by the court on petition of the
2 liquidator and shall be held valid only to the extent of a
3 reasonable amount to be determined by the court. The excess may
4 be recovered by the liquidator for the benefit of the estate.
5 However, if the attorney is in a position of influence in the
6 insurer or its affiliate, payment of any money or the transfer
7 of any property to the attorney for services rendered or to be
8 rendered shall be governed by subsection (b)(4).

9 (n) Personal liability.--Any other person acting on behalf
10 of the insurer who knowingly participates in giving any
11 preference when he has reasonable cause to believe the insurer
12 is or is about to become insolvent at the time of the preference
13 shall be personally liable to the liquidator for the amount of
14 the preference. It is permissible to infer that there is
15 reasonable cause to so believe if the transfer was made within
16 four months before the date of filing of the successful petition
17 for liquidation. Every person receiving any property from the
18 insurer or the benefit thereof as a preference voidable under
19 subsection (b) shall be personally liable therefor and shall be
20 bound to account to the liquidator. This subsection does not
21 prejudice any other claim by the liquidator against any person.
22 § 3955. Claims of holders of void or voidable rights.

23 (a) Creditor claims.--The claims of a creditor who has
24 received or acquired a voidable preference shall not be allowed
25 unless he surrenders the preference or encumbrance. If the
26 avoidance is effected by a proceeding in which a final judgment
27 has been entered, the claim shall not be allowed unless the
28 money is paid or the property is delivered to the liquidator
29 within 30 days from the date of the entering of the final
30 judgment. However, the court having jurisdiction over the

1 liquidation may allow further time if there is an appeal or
2 other continuation of the proceeding.

3 (b) Excused late filing.--A claim allowable under subsection
4 (a) by reason of the avoidance, whether voluntary or
5 involuntary, of a preference or encumbrance may be filed as an
6 excused late filing under section 3961 (relating to filing of
7 claims) if filed within 30 days from the date of the avoidance
8 or within the further time allowed by the court under subsection
9 (a).

10 § 3956. Setoffs and counterclaims.

11 (a) General rule.--Mutual debts or mutual credits between
12 the insurer and another person in connection with any action or
13 proceeding under this chapter shall be set off, and the balance
14 only shall be allowed or paid, except as provided in subsection
15 (b).

16 (b) Exceptions.--A setoff or counterclaim shall not be
17 allowed in favor of any person if:

18 (1) the obligation of the insurer to the person would
19 not at the date of the filing of a petition for liquidation
20 entitle the person to share as a claimant in the assets of
21 the insurer;

22 (2) the obligation of the insurer to the person was
23 purchased by or transferred to the person with a view to its
24 being used as a setoff;

25 (3) the obligation of the person is to pay an assessment
26 levied against the members or subscribers of the insurer, or
27 is to pay a balance upon a subscription to the capital stock
28 of the insurer, or is in any other way in the nature of a
29 capital contribution; or

30 (4) the obligation of the person is to pay premiums,

1 whether earned or unearned, to the insurer.

2 § 3957. Assessments.

3 (a) Report to Commonwealth Court.--As soon as practicable
4 but not more than two years from the date of an order of
5 liquidation under this chapter of an insurer issuing assessable
6 policies, the liquidator shall make a report to the Commonwealth
7 Court setting forth:

8 (1) The reasonable value of the assets of the insurer.

9 (2) The insurer's probable total liabilities.

10 (3) The probable aggregate amount of the assessment
11 necessary to pay all claims of creditors and expenses in
12 full, including expenses of administration and costs of
13 collecting the assessment.

14 (4) Whether or not an assessment should be made and for
15 what amount.

16 (b) Levy of assessment.--Upon the basis of the report
17 provided in subsection (a), the Commonwealth Court may levy one
18 or more assessments against all members of the insurer who are
19 subject to assessment. A member shall not be assessed for any
20 loss that occurred when his policy was not in effect. An
21 assessment shall not be made or collection procedures begun
22 after two years from the expiration date of a policy. The
23 maximum assessment against any member for each year or part
24 thereof in which a policy issued to the member was in effect
25 shall not exceed the average annual premium during the life of
26 the policy as written in the policy, including any increase or
27 reduction in premium as the result of any endorsement. Subject
28 to any applicable legal limits on assessability, the aggregate
29 assessment shall be for the amount that the sum of the probable
30 liabilities, the expenses of administration and the estimated

1 cost of collection of the assessment exceeds the value of
2 existing assets, with due regard being given to assessments that
3 cannot be collected economically.

4 (c) Order to show cause.--After levy of assessment under
5 subsection (b), the department shall issue an order directing
6 each member who has not paid the assessment pursuant to the
7 order to show cause why the liquidator should not pursue a
8 judgment. The liquidator shall give notice of the order to show
9 cause by publication and by first class mail to each member
10 liable. The notice shall be mailed to the member's last known
11 address as it appears on the records of the insurer at least 20
12 days before the return day of the order to show cause.

13 (d) Disposition.--If a member does not appear and serve
14 verified objections upon the liquidator on or before the return
15 day of the order to show cause, the court shall make an order
16 adjudging the member liable for the amount of the assessment
17 against him and other indebtedness under subsection (b),
18 together with costs, and the liquidator shall have a judgment in
19 that amount against the member. If, on or before the return day,
20 the member appears and serves verified objections upon the
21 liquidator, the department may hear and determine the matter or
22 may appoint a referee to hear it and make an order as the facts
23 warrant. If the department determines that the objections do not
24 warrant relief from assessment, the member may request the court
25 to review the matter and vacate the order to show cause.

26 (e) Enforcement.--The liquidator may enforce any order or
27 collect any judgment under subsection (d) by any lawful means.

28 § 3958. Liability of reinsurer.

29 The amount recoverable by the liquidator from reinsurers
30 shall not be reduced as a result of delinquency proceedings,

1 regardless of any provision in the reinsurance contract or other
2 agreement. Payment made directly to an insured or other creditor
3 shall not diminish the reinsurer's obligation to the insurer's
4 estate, except when the reinsurance contract provided for direct
5 coverage of an individual named insured and the payment was made
6 in discharge of that obligation.

7 § 3959. Recovery of premiums.

8 (a) General rule.--An insured, agent, broker, premium
9 finance company or other person responsible for the payment of a
10 premium shall pay any unpaid premium for the full policy term
11 due the insurer at the time of the declaration of insolvency,
12 whether earned or unearned, as shown on the records of the
13 insurer. The liquidator may recover from that person any part of
14 an unearned premium that represents its commission. Credits or
15 setoffs shall not be allowed to an agent, broker or premium
16 finance company on account of any credits volunteered by that
17 person.

18 (b) Enforcement by department.--Upon satisfactory evidence
19 of a violation of this section, the department may suspend,
20 revoke or refuse to renew the licenses of the offending party or
21 parties or impose a penalty of not more than \$1,000 for each
22 violation of this section by the party or parties.

23 (c) Notice and hearing.--Before the department takes any
24 action under subsection (b), it shall give written notice to the
25 person accused of violating the law, stating specifically the
26 nature of the alleged violation, and fixing a time and place, at
27 least ten days thereafter, when a hearing of the matter shall be
28 held.

29 (d) Appeal.--Any party aggrieved by an action taken by the
30 department under this section may appeal to the Commonwealth

1 Court.

2 § 3960. Proposal for distribution.

3 (a) Application to Commonwealth Court.--Within 120 days of a
4 final determination by the court that an insurer is insolvent or
5 in such a condition that its further transaction of business
6 will be hazardous to its policyholders, its creditors or the
7 public, the liquidator shall apply to the Commonwealth Court for
8 approval of a proposal to disburse assets out of the company's
9 marshaled assets, from time to time, as the assets become
10 available, to any guaranty association in this Commonwealth or
11 in any other state having substantially the same provision of
12 law. The liquidator need not apply if it is reasonable to
13 conclude that the assets of the insolvent insurer will not
14 exceed the amounts necessary to pay the costs of liquidation and
15 the payment of claims of creditors either secured or with a
16 priority higher than the claims of policyholders. A guaranty
17 association shall have the right to petition the Commonwealth
18 Court to review an order of the liquidator concluding the assets
19 will not exceed these costs.

20 (b) Contents of proposal.--The proposal shall at least
21 include provisions for all of the following:

22 (1) Reserving amounts for the payment of expenses of
23 administration and the payment of claims of secured creditors
24 to the extent of the value of the security held and claims
25 having a priority higher than that of the claims of
26 policyholders.

27 (2) Disbursement of assets marshaled to date and
28 subsequent disbursement of assets as they become available.

29 (3) Equitable allocation of disbursements to each of the
30 associations entitled thereto.

1 (4) The securing by the liquidator, from each of the
2 associations entitled to disbursements pursuant to this
3 section, of an agreement to return to the liquidator such
4 assets previously disbursed as are required to pay the claims
5 of secured creditors, claims falling within the priorities
6 referred to in paragraph (1) and the proportional share of
7 the assets disbursed required by the liquidator to make
8 equivalent distribution to creditors of the same class of
9 priority as policyholders if the association has received a
10 disbursement of assets in excess of that available to pay all
11 creditors of the insolvent insurer in the same class of
12 priority as policyholders. An association shall return these
13 assets to the liquidator when needed upon its own initiative
14 or upon demand of the liquidator together with any investment
15 income earned on the assets reimbursed. A bond shall not be
16 required of the association.

17 (c) Reports.--The liquidator may require reports to be made
18 by an association at the time and covering the matters he
19 determines. A full report shall be made by the association to
20 the liquidator when assets received have been disbursed or the
21 obligation of an association to pay covered claims of the
22 insolvent insurer has been fulfilled accounting for all assets
23 so disbursed to the association, all disbursements made
24 therefrom, any interest earned by the association on these
25 assets and any other matter the court directs.

26 (d) Disbursements to associations.--The proposal of the
27 liquidator shall provide for disbursements to the associations
28 in amounts estimated to be at least equal to the claim payments
29 made or to be made thereby for which the associations could
30 assert a claim against the liquidator, and shall further provide

1 that if the assets available for disbursement from time to time
2 do not equal or exceed the amount of the claim payments made or
3 to be made by the associations, then disbursements shall be in
4 the amount of available assets.

5 (e) Notice.--Notice of the application under subsection (a)
6 shall be given to the associations and to the departments of
7 insurance of each of the states where the company is licensed.
8 The notice shall be deemed to have been given when sent by
9 registered mail, first class postage prepaid, at least 30 days
10 prior to the submission of the application to the Commonwealth
11 Court. Action on the application may be taken by the court
12 provided the notice has been given and provided further that the
13 liquidator's proposal complies with subsection (b).

14 SUBCHAPTER G

15 DISTRIBUTION OF ESTATE OF LIQUIDATED INSURER

16 Sec.

17 3961. Filing of claims.

18 3962. Proofs of claim.

19 3963. Special claims.

20 3964. Third-party claims.

21 3965. Disputed claims.

22 3966. Claims of surety.

23 3967. Secured claims of creditors.

24 3968. Order of distribution.

25 3969. Liquidator's recommendations to the court.

26 3970. Distribution of assets.

27 3971. Unclaimed and withheld funds.

28 3972. Termination of proceedings.

29 3973. Reopening of liquidation.

30 3974. Disposition of records.

1 3975. External audit of receiver.

2 3976. Federal receivership.

3 § 3961. Filing of claims.

4 (a) Proof of claim.--Proof of all claims shall be filed with
5 the liquidator in the form required by section 3962 (relating to
6 proofs of claim) on or before the last day for filing specified
7 in the notice required under section 3946 (relating to notice to
8 creditors and others), except that proofs of claim for cash
9 surrender values or other investment values in life insurance
10 and annuities need not be filed unless the liquidator expressly
11 so requires.

12 (b) Late filing.--For good cause shown, the liquidator may
13 permit a claimant making a late filing to share in
14 distributions, whether past or future, as if he had timely
15 filed, to the extent that payment will not prejudice the orderly
16 administration of the liquidation. Good cause includes, but is
17 not limited to, the following:

18 (1) That existence of the claim was not known to the
19 claimant and that he filed his claim as promptly as
20 reasonably possible after learning of it.

21 (2) That a transfer to a creditor was avoided under
22 section 3952 (relating to fraudulent transfers prior to
23 petition), 3953 (relating to fraudulent transfers after
24 petition) or 3954 (relating to voidable preferences and
25 liens), or was voluntarily surrendered under section 3955
26 (relating to claims of holders of void or voidable rights),
27 and that the filing satisfies the conditions of section 3955.

28 (3) That valuation under section 3967 (relating to
29 secured claims of creditors) of security held by a secured
30 creditor shows a deficiency, which is filed within 30 days

1 after the valuation.

2 (4) That a claim was contingent and became absolute, and
3 was filed as promptly as reasonably possible after it became
4 absolute.

5 (5) That the claim was the claim of a guaranty
6 association for reimbursement of covered claims paid or
7 expenses incurred subsequent to the last day for filing, if
8 the payments were made and expenses incurred as a result of
9 requirements of law.

10 (c) Other late-filed claims.--The liquidator may consider
11 any claim filed late which is not covered by subsection (b), and
12 permit it to receive distributions which are subsequently
13 declared on any claims of the same or lower priority if the
14 payment does not prejudice the orderly administration of the
15 liquidation. The late-filing claimant shall receive at each
16 distribution the same percentage of the amount allowed on his
17 claim as is then being paid to other claimants of the same
18 priority, plus the same percentage of the amount allowed on his
19 claim as is then being paid to claimants of any lower priority.
20 This shall continue until his claim is paid in full.

21 § 3962. Proofs of claim.

22 (a) Contents.--A proof of claim shall consist of a statement
23 signed by the claimant that includes all of the following
24 information that is applicable:

25 (1) The particulars of the claim including the
26 consideration given for it.

27 (2) The identity and amount of the security on the
28 claim.

29 (3) The payments made on the debt.

30 (4) That the sum claimed is justly owing and that there

1 is no setoff, counterclaim or defense to the claim.

2 (5) Any right of priority of payment or other specific
3 right asserted by the claimants.

4 (6) A copy of any written instrument which is the
5 foundation of the claims.

6 (7) In the case of any third party claim based on a
7 liability policy issued by the insurer, a conditional release
8 of the insured pursuant to section 3964(a) (relating to
9 third-party claims).

10 (8) The name and address of the claimant and any
11 attorney who represents him.

12 A claim shall not be considered or allowed if it does not
13 contain all the required information which may be applicable.

14 The liquidator may require that a prescribed form be and may
15 require that other information and documents be included.

16 (b) Supplementary information.--At any time the liquidator
17 may request the claimant to present information or evidence
18 supplementary to that required under subsection (a), take
19 testimony under oath, require production of affidavits or
20 depositions or otherwise obtain additional information or
21 evidence.

22 (c) Use of judgments and orders.--A judgment or order
23 against an insured or the insurer entered after the date of
24 filing of a successful petition for liquidation, or a judgment
25 or order against an insured or the insurer entered at any time
26 by default or by collusion, need not be considered as evidence
27 of liability or of quantum of damages.

28 (d) Claim of guaranty association.--A claim of a guaranty
29 association for reimbursement of payments made for the payments
30 of covered claims and for expenses shall be in the form and

1 contain the substantiation agreed to by the guaranty association
2 and the liquidator subject to review by the Commonwealth Court.
3 § 3963. Special claims.

4 (a) Certain contingent third-party claims.--The claim of a
5 third party which is contingent only on his first obtaining a
6 judgment against the insured shall be considered and allowed as
7 if there were no such contingency.

8 (b) Claims affected by termination of coverage.--Any claim
9 that would have become absolute if there had been no termination
10 of coverage under section 3943 (relating to continuation of
11 coverage), and which is not covered by insurance acquired to
12 replace the terminated coverage, shall be allowed as if the
13 coverage had remained in effect, unless at least ten days before
14 the insured event occurred either the claimant had actual notice
15 of the termination or notice was mailed to him under section
16 3946 (relating to notice to creditors and others) or 3947
17 (relating to duties of agents). If allowed the claim shall share
18 in distributions under section 3968(6) (relating to order of
19 distribution).

20 (c) Allowance of contingent claims.--A claim may be allowed
21 even if contingent, if it is filed in accordance with section
22 3961(b) (relating to filing of claims). It may be allowed and
23 may participate in all distributions declared after it is filed
24 to the extent that it does not prejudice the orderly
25 administration of the liquidation.

26 (d) Claims due except for passage of time.--Claims that are
27 due except for the passage of time shall be treated as absolute
28 claims are treated, except that such claims may be discounted at
29 the legal rate of interest.

30 (e) Workmen's compensation security funds.--The State

1 Treasurer in his capacity as custodian of the workmen's
2 compensation security funds may file a claim with the liquidator
3 for all sums paid or to be paid from those funds.

4 § 3964. Third-party claims.

5 (a) General rule.--Whenever any third party asserts a cause
6 of action against an insured of an insurer in liquidation the
7 third party may file a claim with the liquidator. The filing of
8 the claim shall operate as a release of the insured's liability
9 to the third party on that cause of action in the amount of the
10 applicable policy limit, but the liquidator shall also insert in
11 any form used for the filing of third party claims appropriate
12 language to constitute this release. The release shall be void
13 if the insurance coverage is avoided by the liquidator.

14 (b) Filing of claim by insured.--Whether or not the third
15 party files a claim, the insured may file a claim on his own
16 behalf in the liquidation. If the insured fails to file a claim
17 by the date for filing claims specified in the order of
18 liquidation or within 60 days after mailing of the notice
19 required by section 3946(a) (relating to notice to creditors and
20 others), whichever is later, he shall be deemed to be an
21 unexcused late filer.

22 (c) Allowance of claims of an insured.--The liquidator shall
23 make his recommendations to the court under section 3969
24 (relating to liquidator's recommendations to the court) for the
25 allowance of an insured's claim under subsection (b) after
26 consideration of the probable outcome of any pending action
27 against the insured on which the claim is based, the probable
28 damages recoverable in the action and the probable costs and
29 expenses of defense. Those recommendations which are not
30 modified by the court within a period of 60 days following

1 submission by the liquidator shall be treated by the liquidator
2 as allowed recommendations, subject to later modification or to
3 rulings made by the court under section 3965 (relating to
4 disputed claims). After allowance by the court, the liquidator
5 shall withhold any distributions payable on the claim, pending
6 the outcome of litigation and negotiation with the insured.
7 Whenever appropriate, ~~he~~ THE LIQUIDATOR shall reconsider the <—
8 claim on the basis of additional information and amend ~~his~~ THE <—
9 LIQUIDATOR'S recommendations to the court, which may amend its
10 allowance as appropriate. As claims against the insured are
11 settled, the claimant shall be paid from the amount withheld the
12 same percentage distribution as was paid on other claims of like
13 priority, based on the lesser of either the amount allowed on
14 the claims by the court or the amount actually recovered from
15 the insured by action or paid by agreement plus the reasonable
16 costs and expenses of defense. After all claims are settled, any
17 sum remaining from the amount withheld shall revert to the
18 undistributed assets of the insurer. Delay in final payment
19 under this subsection shall not be a reason for unreasonable
20 delay of final distribution and discharge of the liquidator.

21 (d) Proration of claims.--Whenever several claims founded
22 upon one policy are filed, whether by third parties or as claims
23 by the insured under this section, and the aggregate allowed
24 amount of the claims to which the same limit of liability in the
25 policy is applicable exceeds that limit, then each claim as
26 allowed shall be reduced a proportionate amount so that the
27 total equals the policy limit. Claims by the insured shall be
28 evaluated as in subsection (c). If any insured's claim is
29 subsequently reduced under subsection (c), the amount thus freed
30 shall be apportioned pro rata among the claims which have been

1 reduced under this subsection.

2 § 3965. Disputed claims.

3 (a) Determination.--When a claim is denied in whole or in
4 part by the liquidator, written notice of the determination
5 shall be given to the claimant and his attorney by first class
6 mail at the address shown in the proof of claim. Within 60 days
7 from the mailing of the notice, the claimant may file his
8 objections with the court. If no such filing is made, the
9 claimant shall not further object to the determination.

10 (b) Hearing.--Whenever objections are filed with the
11 liquidator, the liquidator shall ask the court for a hearing as
12 soon as practicable and give notice of the hearing by first
13 class mail to the claimant or his attorney and to any other
14 persons directly affected, not less than 10 nor more than 30
15 days before the date of the hearing. The matter may be heard by
16 the court or by a court-appointed referee who shall submit
17 findings of fact along with his recommendation.

18 § 3966. Claims of surety.

19 (a) Filing of claim.--Whenever a creditor whose claim
20 against an insurer is secured, in whole or in part, by the
21 undertaking of another person, fails to prove and file that
22 claim, the other person may do so in the creditor's name, and
23 shall be subrogated to the rights of the creditor, whether the
24 claim has been filed by the creditor or by the other person in
25 the creditor's name, to the extent that he discharges the
26 undertaking. In the absence of an agreement with the creditor to
27 the contrary, the other person shall not be entitled to any
28 distribution, however, until the amount paid to the creditor on
29 the undertaking plus the distributions paid on the claim from
30 the insurer's estate to the creditor equals the amount of the

1 entire claim of the creditor. Any excess received by the
2 creditor shall be held by him in trust for the other person.

3 (b) Definition.--As used in this section the term "other
4 person" does not include a guaranty association.

5 § 3967. Secured claims of creditors.

6 (a) Valuation.--The value of any security held by a secured
7 creditor shall be determined as the court directs, either by
8 converting the security into money according to the terms of the
9 agreement pursuant to which the security was delivered to the
10 creditor, or by agreement, arbitration, compromise or litigation
11 between the creditor and the liquidator. The determination shall
12 be under the supervision and control of the court with due
13 regard for the recommendation of the liquidator.

14 (b) Treatment of claim.--The amount so determined shall be
15 credited upon the secured claim, and any deficiency shall be
16 treated as an unsecured claim. If the claimant surrenders his
17 security to the liquidator, the entire claim shall be allowed as
18 if unsecured.

19 § 3968. Order of distribution.

20 The order of distribution of claims from the insurer's estate
21 shall be in accordance with the order in which each class of
22 claims is set forth in this section. Every claim in each class
23 shall be paid in full or adequate funds retained for the payment
24 before the members of the next class receive any payment.
25 Subclasses shall not be established within any class. The order
26 of classes is as follows:

27 (1) Debts due to employees for services performed to the
28 extent that they do not exceed \$1,000 and represent payment
29 for services performed within one year before the filing of
30 the petition for liquidation. Officers and directors shall

1 not be entitled to the benefit of this priority. This
2 priority shall be in lieu of any other similar priority which
3 may be authorized by law as to wages or compensation of
4 employees.

5 (2) The costs and expenses of administration, including,
6 but not limited to, the following:

7 (i) The actual and necessary costs of preserving or
8 recovering the assets of the insurer.

9 (ii) Compensation for all services rendered in the
10 liquidation.

11 (iii) Any necessary filing fees.

12 (iv) Fees and mileage payable to witnesses.

13 (v) Reasonable attorney fees.

14 (vi) The expenses of a guaranty association in
15 handling claims.

16 (3) All claims under policies for losses wherever
17 incurred, including third-party claims, and all claims
18 against the insurer for liability for bodily injury or for
19 injury to or destruction of tangible property which are not
20 under policies. All claims under life insurance and annuity
21 policies, whether for death proceeds, annuity proceeds or
22 investment values shall be treated as loss claims. That
23 portion of any loss for which indemnification is provided by
24 other benefits or advantages recovered by the claimant shall
25 not be included in this class, other than benefits or
26 advantages recovered or recoverable in discharge of familial
27 obligations of support or by way of succession at death or as
28 proceeds of life insurance, or as gratuities. A payment made
29 by an employer to his employee shall not be treated as a
30 gratuity.

1 (4) Claims under nonassessable policies for unearned
2 premium or other premium refunds and claims of general
3 creditors.

4 (5) Claims of the Federal or any state or local
5 government. Claims, including those of any governmental body,
6 for a penalty or forfeiture shall be allowed in this class
7 only to the extent of the pecuniary loss sustained from the
8 act, transaction or proceeding out of which the penalty or
9 forfeiture arose, with reasonable and actual costs occasioned
10 thereby. The remainder of the claims shall be postponed to
11 the class of claims under paragraph (7).

12 (6) The following claims:

13 (i) Claims under section 3963 (relating to special
14 claims), to the extent that the claims were disallowed
15 under that section.

16 (ii) Claims filed late.

17 (iii) Claims or portions of claims, payment of which
18 is provided by other benefits or advantages recovered by
19 the claimant.

20 (7) Surplus or contribution notes, or similar
21 obligations, and premium refunds on assessable policies.
22 Payments to members of domestic mutual insurance companies
23 shall be limited in accordance with law.

24 (8) The claims of shareholders or other owners.

25 § 3969. Liquidator's recommendations to the court.

26 (a) Report of claims.--The liquidator shall review all
27 claims duly filed in the liquidation and shall make such further
28 investigation as is necessary. He THE LIQUIDATOR may compromise <—
29 or negotiate the amount for which claims will be recommended to
30 the court. Unresolved disputes shall be determined under section

1 3965 (relating to disputed claims). As soon as practicable, he <—
2 THE LIQUIDATOR shall present to the court a report of the claims <—
3 against the insurer with ~~his~~ THE LIQUIDATOR'S recommendations. <—
4 The report shall include the name and address of each claimant,
5 the particulars of the claim and the amount of the claim finally
6 recommended, if any.

7 (b) Court approval.--The court may approve, disapprove or
8 modify the report on claims by the liquidator. However, the
9 liquidator's agreements with other parties shall be final and
10 binding on the court to the extent permitted by law. The
11 recommendations which are not modified by the court within a
12 period of 60 days following submission by the liquidator shall
13 be treated by the liquidator as allowed recommendations, subject
14 to later modification or to rulings made by the court under
15 section 3965. A claim under a policy of insurance shall not be
16 allowed for an amount in excess of the applicable policy limits.
17 § 3970. Distribution of assets.

18 Under the direction of the court, the liquidator shall pay
19 distributions in a manner that will assure the proper
20 recognition of priorities and a reasonable balance between the
21 expeditious completion of the liquidation and the protection of
22 unliquidated and undetermined claims, including third party
23 claims. Distribution of assets in kind may be made at valuations
24 set by agreement between the liquidator and the creditor and
25 approved by the court.

26 § 3971. Unclaimed and withheld funds.

27 (a) Unclaimed funds.--All unclaimed funds subject to
28 distribution remaining with the liquidator when ~~he~~ IT is ready <—
29 to apply to the court for discharge, including the amount
30 distributable to any creditor, shareholder, member or other

1 person who is unknown or cannot be found, shall be deposited
2 with the State Treasurer. Any amount on deposit not claimed
3 within six years from the discharge of the liquidator shall be
4 deemed to have been abandoned, shall be escheated without formal
5 escheat proceedings and shall be paid into the State Treasury
6 and deposited in the General Fund. ANY AMOUNTS BARRED SHALL <—
7 BECOME THE PROPERTY OF THE COMMONWEALTH, AND THE STATE TREASURER
8 SHALL AT THE END OF EACH FISCAL YEAR TRANSFER THE AMOUNT SO
9 BARRED TO THE CREDIT OF THE APPROPRIATION OF THE DEPARTMENT FOR
10 THE USE AND OPERATION OF LIQUIDATION PROCEEDINGS.

11 (b) Withheld funds.--All funds withheld under section 3964
12 (relating to third-party claims) and not distributed shall upon
13 discharge of the liquidator be deposited with the State
14 Treasurer and paid by him in accordance with section 3964. Any
15 sums remaining, which under section 3964 would revert to the
16 undistributed assets of the insurer, shall be transferred to the
17 State Treasurer and become the property of the Commonwealth
18 under subsection (a), unless the department petitions the court
19 to reopen the liquidation under section 3973 (relating to
20 reopening of liquidation).

21 § 3972. Termination of proceedings.

22 (a) Discharge of liquidator.--When all assets justifying the
23 expense of collection and distribution have been collected and
24 distributed under this chapter, the liquidator shall apply to
25 the court for discharge. The court may grant the discharge and
26 make any other orders including an order to transfer any
27 remaining funds that are uneconomic to distribute.

28 (b) Application for order.--Any other person may apply to
29 the court at any time for an order under subsection (a). If the
30 application is denied, the applicant shall pay the costs and

1 expenses of the liquidator in resisting the application,
2 including a reasonable attorney fee.

3 § 3973. Reopening of liquidation.

4 After the liquidation proceeding has been terminated and the
5 liquidator discharged, the department or other interested party
6 may at any time petition the Commonwealth Court to reopen the
7 proceedings for good cause, including the discovery of
8 additional assets. If the court is satisfied that there is
9 justification for reopening, it shall so order.

10 § 3974. Disposition of records.

11 Whenever it appears to the department that the records of any
12 insurer in process of liquidation or completely liquidated are
13 no longer useful, the department may recommend to the court
14 which records should be retained for future reference and which
15 should be destroyed.

16 § 3975. External audit of receiver.

17 The Commonwealth Court may cause audits to be made of the
18 books of the department relating to any receivership established
19 under this chapter. A report of each audit shall be filed with
20 the department and with the court. The books, records and other
21 documents of the receivership shall be made available to the
22 auditor at any time without notice. The expense of each audit
23 shall be considered a cost of administration of the
24 receivership.

25 § 3976. Federal receivership.

26 (a) Appointment.--Whenever liquidation of a domestic insurer
27 or an alien insurer domiciled in this Commonwealth would be
28 facilitated by a Federal receivership, and when any ground
29 exists upon which the department could petition the court for an
30 order of rehabilitation or liquidation under section 3931

1 (relating to grounds for rehabilitation) or 3941 (relating to
2 grounds for liquidation), or if an order of rehabilitation or
3 liquidation has already been entered, the department may request
4 another department of another state to petition the Federal
5 court for the appointment of a Federal receiver. The department
6 may intervene in any action to appoint a Federal receiver to
7 support or oppose the petition, and may accept appointment as
8 the receiver if it is so designated. As much of this chapter
9 shall apply to the receivership as can be made applicable and is
10 appropriate. Upon motion of the department, the Commonwealth
11 Court shall relinquish all jurisdiction over the insurer for
12 purposes of rehabilitation or liquidation.

13 (b) Department as receiver.--If the department is appointed
14 receiver under this section, it shall comply with any
15 requirements necessary to give it title to and control over the
16 assets and affairs of the insurer.

17 SUBCHAPTER H

18 INTERSTATE RELATIONS

19 Sec.

20 3981. Conservation of property of foreign or alien insurers.

21 3982. Liquidation of property of foreign or alien insurers.

22 3983. Foreign domiciliary receivers in other states.

23 3984. Ancillary formal proceedings.

24 3985. Ancillary summary proceedings.

25 3986. Claims of nonresidents against domiciliary insurers.

26 3987. Claims of residents against insurers of reciprocal
27 states.

28 3988. Execution proceedings.

29 3989. Interstate priorities.

30 3990. Subordination of claims for lack of cooperation.

1 § 3981. Conservation of property of foreign or alien insurers.

2 (a) Petition to Commonwealth Court.--If a domiciliary
3 liquidator has not been appointed, the department may apply to
4 the Commonwealth Court by verified petition for an order
5 directing the department to conserve the property of an alien
6 insurer not domiciled in this Commonwealth or a foreign insurer
7 on any one or more of the following grounds:

8 (1) Any of the grounds in section 3931 (relating to
9 grounds for rehabilitation).

10 (2) That any of its property has been sequestered by
11 official action in its domiciliary state or in any other
12 state.

13 (3) That enough of its property has been sequestered in
14 a foreign country to give reasonable cause to fear that the
15 insurer is or may become insolvent.

16 (4) That its certificate of authority to do business in
17 this Commonwealth has been revoked or that none was ever
18 issued and there are residents of this Commonwealth with
19 outstanding claims or outstanding policies.

20 (b) Order.--The court may issue the order in whatever terms
21 it deems appropriate. The filing or recording of the order with
22 the recorder of deeds of Dauphin County shall impart the same
23 notice as a deed, bill of sale or other evidence of title duly
24 filed or recorded with that recorder of deeds would have
25 imparted.

26 (c) Petitions by conservator.--The conservator may at any
27 time petition for and the court may grant an order under section
28 3982 (relating to liquidation of property of foreign or alien
29 insurers) to liquidate the assets of a foreign or alien insurer
30 under conservation or, if appropriate, for an order under

1 section 3984 (relating to ancillary formal proceedings), to be
2 appointed ancillary receiver.

3 (d) Petition to terminate.--The conservator may at any time
4 petition the court for an order terminating conservation of an
5 insurer. If the court finds that the conservation is no longer
6 necessary, it shall order that the insurer be restored to
7 possession of its property and the control of its business. The
8 court may also make such a finding and issue such an order at
9 any time upon motion of any interested party.

10 § 3982. Liquidation of property of foreign or alien insurers.

11 (a) Petition to Commonwealth Court.--If a domiciliary
12 receiver has not been appointed, the department may apply to the
13 Commonwealth Court by petition for an order directing the
14 department to liquidate the assets found in this Commonwealth of
15 a foreign insurer or an alien insurer not domiciled in this
16 Commonwealth, on any of the grounds in section 3931 (relating to
17 grounds for rehabilitation) or 3981 (relating to conservation of
18 property of foreign or alien insurers).

19 (b) Order to liquidate.--If it appears to the court that the
20 best interests of creditors, policyholders and the public so
21 require, the court may issue an order to liquidate in whatever
22 terms it deems appropriate. The filing or recording of the order
23 with the recorder of deeds of Dauphin County shall impart the
24 same notice as a deed, bill of sale, or other evidence of title
25 duly filed or recorded with that recorder of deeds would have
26 imparted.

27 (c) Liquidation as ancillary receiver.--If a domiciliary
28 liquidator is appointed in a reciprocal state while a
29 liquidation is proceeding under this section, the liquidator
30 under this section shall THEREAFTER act as ancillary receiver

<—

1 under section 3984 (relating to ancillary formal proceedings).
2 If a domiciliary liquidator is appointed in a nonreciprocal
3 state while a liquidation is proceeding under this section, the
4 liquidator under this section may petition the court for
5 permission to act as ancillary receiver under section 3984.

6 (d) Petition to Federal ~~district~~ court.--On the same grounds <—
7 as are specified in subsection (a), the department may petition
8 any appropriate Federal ~~district~~ court to be appointed receiver <—
9 to liquidate that portion of the insurer's assets and business
10 over which the court will exercise jurisdiction, or any lesser
11 part thereof that the department deems desirable for the
12 protection of the policyholders and creditors in this
13 Commonwealth. The department may accept appointment as Federal
14 receiver if another person files a petition.

15 § 3983. Foreign domiciliary receivers in other states.

16 (a) Insurer domiciled in reciprocal state.--The domiciliary
17 liquidator of an insurer domiciled in a reciprocal state shall
18 be vested by operation of law with the title to all of the
19 property, contracts and rights of action, and all of the books,
20 accounts and other records of the insurer located in this
21 Commonwealth. The date of vesting shall be the date of the
22 filing of the petition, if that date is specified by the
23 domiciliary law for the vesting of property in the domiciliary
24 state. Otherwise, the date of vesting shall be the date of entry
25 of the order directing possession to be taken. The domiciliary
26 liquidator shall have the immediate right to recover balances
27 due from agents and to obtain possession of the books, accounts
28 and other records of the insurer located in this Commonwealth.
29 He also shall have the right to recover the other assets of the
30 insurer located in this Commonwealth, subject to section 3984

1 (relating to ancillary formal proceedings).

2 (b) Insurer not domiciled in a reciprocal state.--If a
3 domiciliary liquidator is appointed for an insurer not domiciled
4 in a reciprocal state, the department shall be vested by
5 operation of law with the title to all of the property,
6 contracts and rights of action, and all of the books, accounts
7 and other records of the insurer located in this Commonwealth,
8 at the same time that the domiciliary liquidator is vested with
9 title in the state of domicile. The department of this
10 Commonwealth may petition for a conservation or liquidation
11 order under section 3981 (relating to conservation of property
12 of foreign or alien insurers) or 3982 (relating to liquidation
13 of property of foreign or alien insurers), or for an ancillary
14 receivership under section 3984, or after approval by the
15 Commonwealth Court may transfer title to the domiciliary
16 liquidator, as the interests of justice and the equitable
17 distribution of the assets require.

18 (c) Claims of residents.--Claimants residing in this
19 Commonwealth may file claims with the liquidator or ancillary
20 receiver, if any, in this Commonwealth, or with the domiciliary
21 liquidator, if the law of the domiciliary state permits. The
22 claims must be filed on or before the last date fixed for the
23 filing of claims in the domiciliary liquidation proceedings.

24 (d) Powers and duties of ancillary receiver.--Subject to the
25 provisions of this section, the ancillary receiver ~~and his~~ <—
26 ~~deputies~~ shall have the same powers and be subject to the same
27 duties with respect to the administration of assets as a
28 liquidator of an insurer domiciled in this Commonwealth.

29 § 3984. Ancillary formal proceedings.

30 (a) Petition to Commonwealth Court.--If a domiciliary

1 liquidator has been appointed for an insurer not domiciled in
2 this Commonwealth, the department may petition the Commonwealth
3 Court requesting appointment as ancillary receiver in this
4 Commonwealth:

5 (1) if it finds that there are sufficient assets of the
6 insurer located in this Commonwealth to justify the
7 appointment of an ancillary receiver; or

8 (2) if the protection of creditors or policyholders in
9 this Commonwealth so requires.

10 (b) Order appointing receiver.--The court may order the
11 appointment of an ancillary receiver in whatever terms it deems
12 appropriate. The filing or recording of the order with the
13 recorder of deeds of Dauphin County shall impart the same notice
14 as a deed, bill of sale or other evidence of title duly filed or
15 recorded with that recorder of deeds would have imparted.

16 (c) Ancillary receivers appointed in this Commonwealth.--
17 When a domiciliary liquidator has been appointed in a reciprocal
18 state, the ancillary receiver appointed in this Commonwealth
19 under subsection (a) shall have the sole right to recover all
20 the assets of the insurer in this Commonwealth not already
21 recovered by the domiciliary liquidator. The ancillary receiver
22 shall, as soon as practicable, liquidate from ~~his~~ THEIR <—
23 respective securities those special deposit claims and secured
24 claims which are proved and allowed in the ancillary proceedings
25 in this Commonwealth and shall pay the necessary expenses of the
26 proceedings. ~~He~~ THE ANCILLARY RECEIVER shall promptly transfer <—
27 all remaining assets, books, accounts and records to the
28 domiciliary liquidator. Subject to this section, the ancillary
29 receiver ~~and his deputies~~ shall have the same powers and be <—
30 subject to the same duties with respect to the administration of

1 assets as a liquidator of an insurer domiciled in this
2 Commonwealth.

3 (d) Ancillary receivers appointed in reciprocal states.--

4 When a domiciliary liquidator has been appointed in this
5 Commonwealth, ancillary receivers appointed in reciprocal states
6 shall have, as to assets and books, accounts and other records
7 in their respective states, corresponding rights, duties and
8 powers to those provided in subsection (c) for ancillary
9 receivers appointed in this Commonwealth.

10 § 3985. Ancillary summary proceedings.

11 The department in its sole discretion may institute
12 proceedings under Subchapter C (relating to summary proceedings)
13 at the request of the appropriate insurance official of the
14 domiciliary state of any foreign or alien insurer having
15 property located in this Commonwealth.

16 § 3986. Claims of nonresidents against domiciliary insurers.

17 (a) Filing of claims.--In a liquidation proceeding
18 instituted in this Commonwealth against an insurer domiciled in
19 this Commonwealth, claimants residing in foreign countries or in
20 nonreciprocal states shall file claims in this Commonwealth, and
21 claimants residing in reciprocal states may file claims either
22 with the ancillary receivers, if any, in their respective
23 states, or with the domiciliary liquidator. In reciprocal
24 states, if an ancillary receiver has been appointed, a guaranty
25 association of that state shall file its claims with the
26 ancillary receiver. Claims shall be filed on or before the last
27 dates fixed for the filing of claims in the domiciliary
28 liquidation proceeding.

29 (b) Proving claims.--Claims of persons residing in
30 reciprocal states may be proved either in the liquidation

1 proceeding in this Commonwealth under this chapter, or in
2 ancillary proceedings, if any, in the reciprocal states. If
3 notice of the claim and opportunity to appear and be heard is
4 afforded the domiciliary liquidator of this Commonwealth under
5 section 3987 (relating to claims of residents against insurers
6 of reciprocal states), the final allowance of claims by the
7 courts in ancillary proceedings in reciprocal states shall be
8 conclusive as to amount and as to priority against special
9 deposits or other security located in such ancillary states, but
10 shall not be conclusive with respect to priorities against
11 general assets under section 3968 (relating to order of
12 distribution).

13 § 3987. Claims of residents against insurers of reciprocal
14 states.

15 (a) Filing of claims.--In a liquidation proceeding in a
16 reciprocal state against an insurer domiciled in that state,
17 claimants against the insurer who reside in this Commonwealth
18 may file claims either with the ancillary receiver, if any, in
19 this Commonwealth or with the domiciliary liquidator. Claims
20 must be filed on or before the last dates fixed for the filing
21 of claims in the domiciliary liquidation proceeding.

22 (b) Where claims may be proved.--Claims belonging to
23 claimants residing in this Commonwealth may be proved either in
24 the domiciliary state under the law of that state, or in
25 ancillary proceedings, if any, in this Commonwealth. If a
26 claimant elects to prove his claim in this Commonwealth, he
27 shall file his claim with the liquidator in the manner provided
28 in sections 3961 (relating to filing of claims) and 3962
29 (relating to proofs of claim). The ancillary receiver shall make
30 his ITS recommendation to the court as under section 3969

<—

1 (relating to liquidator's recommendations to the court). He THE <—
2 ANCILLARY RECEIVER shall also arrange a date for hearing if
3 necessary under section 3965 (relating to disputed claims) and
4 shall give notice to the liquidator in the domiciliary state,
5 either by registered mail or by personal service, at least 40
6 days prior to the date set for hearing. If the domiciliary
7 liquidator, within 30 days after the giving of notice, gives
8 notice in writing to the ancillary receiver and to the claimant,
9 either by registered mail or by personal service, of his
10 intention to contest the claim, he may appear in any proceeding
11 in this Commonwealth involving the adjudication of the claims.
12 The final allowance of the claim by the courts of this
13 Commonwealth shall be conclusive as to amount and as to priority
14 against special deposits or other security located in this
15 Commonwealth.

16 § 3988. Execution proceedings.

17 During the pendency in this Commonwealth or any other state
18 of a liquidation proceeding, whether called by that name or not,
19 no proceeding in the nature of an attachment, garnishment or
20 levy of execution shall be commenced or maintained in this
21 Commonwealth against the delinquent insurer or its assets.

22 § 3989. Interstate priorities.

23 (a) Order of distribution.--In a liquidation proceeding in
24 this Commonwealth involving one or more reciprocal states, the
25 order of distribution of the domiciliary state shall control as
26 to all claims of residents of this Commonwealth and reciprocal
27 states. These claims shall have equal priority of payment from
28 general assets regardless of where the assets are located.

29 (b) Special deposit claims.--The owners of special deposit
30 claims against an insurer for which a liquidator is appointed in

1 this Commonwealth or any other state shall be given priority
2 against the special deposits in accordance with the statutes
3 governing the creation and maintenance of the deposits. If there
4 is a deficiency in any deposit, so that the claims secured by it
5 are not fully discharged from it, the claimants may share in the
6 general assets. However, this sharing shall be deferred until
7 general creditors, and also claimants against other special
8 deposits who have received smaller percentages from their
9 respective special deposits, are paid percentages of their
10 claims equal to the percentage paid from the special deposit.

11 (c) Secured claims.--The owner of a secured claim against an
12 insurer for which a liquidator has been appointed in this
13 Commonwealth or any other state may surrender his security and
14 file his claim as a general creditor, or the claim may be
15 discharged by resort to the security in accordance with section
16 3967 (relating to secured claims of creditors), in which case
17 any deficiency shall be treated as an unsecured claim against
18 the general assets of the insurer.

19 § 3990. Subordination of claims for lack of cooperation.

20 If an ancillary receiver in another state or foreign country,
21 whether called by that name or not, fails to transfer to the
22 domiciliary liquidator in this Commonwealth any assets within
23 his control other than special deposits, diminished only by the
24 expenses of the ancillary receivership, the claims filed in the
25 ancillary receivership, other than special deposit claims or
26 secured claims, shall be placed in the class of claims under
27 section 3968(6) (relating to order of distribution).

28 CHAPTER 41

29 BENEFICIAL SOCIETIES

30 Sec.

1 4101. Short title of chapter.
2 4102. Applicability of chapter.
3 4103. Limitation of benefits.
4 4104. Selection of directors.
5 4105. Holding, management or agency corporations.
6 4106. Reserves.
7 4107. Investment of surplus.
8 4108. Annual statements.
9 4109. Examinations.
10 4110. Filing and approval of documents.
11 4111. Qualifications of solicitors and agents.
12 4112. Inclusion of certain documents in policy.
13 4113. Criminal penalties.
14 4114. Civil penalties.
15 4115. Transfer restrictions.

16 § 4101. Short title of chapter.

17 This chapter shall be known and may be cited as the
18 Beneficial Society Act.

19 § 4102. Applicability of chapter.

20 (a) General rule.--This chapter applies to the following
21 beneficial societies:

22 (1) All beneficial societies incorporated under general
23 or special laws since October 13, 1857.

24 (2) All beneficial societies incorporated before
25 September 1, 1937, which have accepted the provisions of the
26 Constitution of Pennsylvania and the general insurance laws
27 enacted since October 13, 1857.

28 (3) All beneficial societies incorporated under any
29 general or special law prior to October 13, 1857, which by
30 the terms of their charters or the statutes under which they

1 were incorporated hold charters subject to alteration or
2 revocation.

3 (b) Exclusions.--This chapter does not apply to:

4 (1) Beneficial associations which are formed by or for
5 the exclusive benefit of those who, at the time of becoming
6 members, are engaged in educational work in any department or
7 district of the public school system of this Commonwealth or
8 in any college or university in this Commonwealth, and which
9 issued beneficiary certificates only to such members.

10 (2) Fraternal, charitable or secret societies issuing
11 beneficial certificates and paying benefits to their
12 membership through the lodge system.

13 (3) Insurance or relief associations formed by or for
14 the exclusive benefit of employees of corporations or firms,
15 or formed by or for the exclusive benefit of members of any
16 religious corporation or association.

17 (4) Associations whose benefits are limited to post-
18 mortem assessments of the members.

19 (c) Applicability of insurance law.--Except as otherwise
20 provided in this chapter and in section 4505(f) (relating to
21 applicability of chapter), the business and affairs of every
22 beneficial society shall be run and regulated under the law
23 relating to insurance companies.

24 (d) Regulation of other beneficial societies and
25 associations.--All beneficial societies or associations not
26 subject to regulation under this chapter, transacting any class
27 of insurance, shall file with the department copies of their
28 charter, constitution and laws and shall annually make a report
29 in such form as the department requires, showing their condition
30 and standing at the end of the preceding calendar year, and

1 their transactions for that year. The department may, at any
2 time, make an examination of the books and accounts of any such
3 society or association.

4 § 4103. Limitation of benefits.

5 Any beneficial society may pay or enter into contracts to pay
6 money or benefits, not exceeding \$20 per week in the event of
7 sickness, accident or disability, and not exceeding \$250 in the
8 event of death.

9 § 4104. Selection of directors.

10 (a) General rule.--The annual meeting of members for
11 election of directors of a beneficial society shall be held at
12 such time, prior to May 1 in every year, as the bylaws of the
13 society may direct. Notice of the time and place of meeting
14 shall be given to the members in accordance with the bylaws. At
15 this annual meeting, the members shall elect by ballot the
16 number of directors stated in the articles of association or the
17 bylaws, which shall be not less than 5 nor more than 13. Each
18 director shall hold office for the term for which he is elected
19 and until his successor has been elected and qualified.

20 (b) Terms of service.--Except as otherwise provided in the
21 bylaws, each director shall be elected for a term of one year.
22 If the articles or bylaws of a beneficial society so provide,
23 the directors may be classified in respect to the time for which
24 they shall hold office. In such case, each class shall be as
25 nearly equal in number as possible, the term of office of at
26 least one class shall expire in each year, and the members of a
27 class shall not be elected for a shorter period than one year or
28 for a longer period than three years. At each ensuing election
29 of directors after classification, only the number of directors
30 equal to the number of the class whose terms expire at the time

1 of the election shall be elected, and these directors shall be
2 elected for the longest term for which any class may have been
3 elected, as provided in this section.

4 (c) Vacancies.--Except as otherwise provided in the bylaws,
5 vacancies in the board of directors shall be filled by the
6 remaining members of the board. Each person so elected shall be
7 a director until his successor is elected by the shareholders or
8 members, who may make such election at the next annual meeting
9 of the shareholders or members or at any special meeting called
10 for that purpose and held prior thereto.

11 § 4105. Holding, management or agency corporations.

12 The business and affairs of each beneficial society shall be
13 conducted and managed by its elected officers. Contracts or
14 agreements shall not be entered into by any society with any
15 holding, management or agency corporation or other person by
16 which the control of the management of the society would pass to
17 such a corporation or other person or through which percentages
18 or portions of the members' dues and other payments would be
19 paid over to them.

20 § 4106. Reserves.

21 (a) Determination of amount.--A beneficial society doing
22 business in this Commonwealth shall, at all times, maintain
23 reserves as follows:

24 (1) On the life portion, contained in all policies or
25 contracts, reserves shall be based upon a standard table of
26 mortality, approved by the department, with interest at a
27 rate also approved by the department, and such reserves shall
28 be computed in accordance with the requirements of this title
29 for the computation of the reserve liability for life
30 insurance.

1 (2) On the disability portion, except in the case of
2 noncancelable health and accident insurance issued on and
3 after January 1, 1950, contained in all policies or
4 contracts, reserves shall be computed in accordance with the
5 requirements of this title for the computation of the
6 unearned premium reserve liability for casualty insurance.

7 (3) For all definite and outstanding claims, reserves
8 shall be calculated in accordance with the requirements of
9 this title for the computation of reserves against unpaid
10 losses in casualty insurance, other than losses under
11 noncancelable health and accident insurance issued on and
12 after January 1, 1950, compensation insurance or liability
13 insurance.

14 (4) On the noncancelable health and accident insurance
15 portion contained in all policies or contracts issued on and
16 after January 1, 1950, reserves shall be computed in
17 accordance with the requirements of this title for the
18 computation of policy and loss reserves for noncancelable
19 health and accident insurance.

20 (b) Investment of reserves.--A sum equal to the amount of
21 the reserves required by this section shall be invested in those
22 investments authorized by this title for the investment of the
23 reserve funds of life insurance companies.

24 (c) Approval by department.--The department shall each year
25 approve the computation of the reserve liability, as of December
26 31 of the preceding year, of every beneficial society authorized
27 to make insurance on lives in this Commonwealth.

28 (d) Suspension of authority.--Whenever any beneficial
29 society doing business in this Commonwealth does not have on
30 hand the net value of all policies in force after all other

debts and claims against it have been provided for, the department shall prohibit the beneficial society from issuing new policies until its funds become equal to its liabilities.

(e) Definitions--As used in this section the term "noncancelable health and accident insurance" means insurance against disability resulting from sickness, ailment or bodily injury under a policy or contract under which the insurer does not have the option to cancel or otherwise terminate the contract at or after the expiration of one year from its effective date.

§ 4107. Investment of surplus.

The surplus of a beneficial society or a reincorporated mutual beneficial society shall be invested in accordance with the requirements of this title for the investment of the surplus of life insurance companies.

§ 4108. Annual statements.

(a) General rule.--Every beneficial society doing business in this Commonwealth shall annually, on or before March 1, file with the department a statement which shall exhibit its financial condition as of December 31 of the previous year and its business of that year. The statement shall be in the form prescribed, or on forms furnished, by the department, and shall contain such information as the department deems best adapted for the purpose of eliciting from the beneficial society a true exhibit of its financial condition. Within 30 days after being requested by the department, the society shall render such additional statements concerning its affairs and financial condition as the department requires.

(b) Penalties.--Any beneficial society which neglects to make and file its annual statement in the form or within the

1 time required by this section shall forfeit a sum of not more
2 than \$100 for each day during which its failure to file a
3 statement continues, and, upon notice from the department, its
4 authority to transact new business shall cease while its default
5 continues. A beneficial society and the persons who make an oath
6 or subscribe to a false annual statement in its behalf shall
7 severally be punished for willfully making a false annual
8 statement by a fine of not less than \$500 or more than \$5,000. A
9 person who makes oath to a false statement filed under
10 subsection (a) with the knowledge that it is false shall also be
11 subject to any applicable penalties under 18 Pa.C.S. Ch. 49
12 Subch. A (relating to perjury and falsification in official
13 matters).

14 § 4109. Examinations.

15 (a) Powers of department.--The department shall have the
16 power of visitation and examination into the affairs of every
17 beneficial society. The department shall have free access to all
18 the books, papers and documents that relate to the business of
19 the society and may summon and qualify as a witness under oath
20 and examine its officers and employees or other persons in
21 relation to the affairs, transactions and conditions of the
22 society. These examinations shall be made every three years or
23 more often as necessary, and the costs of the examinations, as
24 determined by the department, shall be imposed upon each society
25 examined.

26 (b) Proceedings by Attorney General.--Whenever after
27 examination the department finds that any beneficial society is
28 exceeding its powers, transacting business fraudulently,
29 operating in such a condition that its further transaction of
30 business will be hazardous to its members or to the public or

1 discontinuing business, the department may present the facts
2 relating thereto to the Attorney General who may proceed against
3 the society under the provisions relating to the liquidation of
4 insolvent or delinquent companies or associations transacting
5 any class of insurance. Proceedings shall not be commenced by
6 the Attorney General until after notice has been duly served on
7 the chief executive officers of the society, and a reasonable
8 opportunity given to it, on a date stated in the notice, to show
9 cause why such proceedings should not be commenced. An
10 application for injunction against or proceedings for the
11 dissolution of, or appointment of a receiver for, any beneficial
12 society or branch thereof, shall not be entertained by any court
13 unless made by the Attorney General.

14 § 4110. Filing and approval of documents.

15 A policy, contract or certificate of membership shall not be
16 issued or delivered by any beneficial society in this
17 Commonwealth, nor any application, rider or endorsement used in
18 connection therewith, until the forms of the same have been
19 submitted to and approved by the department under such rules and
20 regulations as it shall make concerning their terms and
21 provisions and their submission to and approval by it.

22 § 4111. Qualifications of solicitors and agents.

23 Solicitors or agents for beneficial societies shall meet the
24 requirements of Subchapter A of Chapter 11 (relating to agents).

25 § 4112. Inclusion of certain documents in policy.

26 All beneficial certificates issued by any beneficial society
27 in which the application of the member, the constitution, bylaws
28 or other rules of the society form part of the certificate or
29 contract between the parties thereto, or have any bearing
30 thereon, shall contain or have attached thereto correct copies

1 of the application as signed by the applicant or the
2 constitution, bylaws or other rules referred to. Unless so
3 attached and accompanying the certificate or contract, the
4 application, constitution, bylaws or other rules shall not be
5 received in evidence in any controversy between the parties to
6 or interested in the certificate or contract, nor shall they be
7 considered a part of the certificate or contract between the
8 parties.

9 § 4113. Criminal penalties.

10 Any person or beneficial society violating any of the
11 provisions of this chapter commits a summary offense.

12 § 4114. Civil penalties.

13 (a) General rule.--Upon satisfactory evidence of the
14 violation of this chapter by any beneficial society, the
15 department may pursue any one or more of the following courses
16 of action:

17 (1) Suspend or revoke the certificate of authority of
18 the offending beneficial society.

19 (2) Refuse for a period of not to exceed one year
20 thereafter to issue a new certificate of authority to the
21 beneficial society.

22 (3) Impose a penalty of not more than \$1,000 for each
23 violation.

24 (b) Procedure.--Before the department takes any action under
25 subsection (a) it shall give written notice to the beneficial
26 society accused of violating the law, stating specifically the
27 nature of the alleged violation, and fixing a time and place, at
28 least ten days thereafter, when a hearing on the matter shall be
29 held. After the hearing or upon failure of a duly authorized
30 representative of the accused beneficial society to appear at

1 the hearing, the department shall impose the penalty.

2 § 4115. Transfer restrictions.

3 (a) General rule.--An unincorporated association which
4 provides mutual benefit insurance to persons engaged in a common
5 calling, labor or enterprise of an agricultural or industrial
6 nature may provide, by rule or bylaw, that membership in the
7 association or interest in its funds or property shall be
8 nontransferable without the consent of the association.

9 (b) Effect of transfer restriction.--Whenever such an
10 association adopts a restriction under subsection (a), the
11 restriction shall be valid and binding. An attempted assignment,
12 pledge or other transfer of membership or interest made in
13 violation of the restriction shall not pass any legal or
14 equitable right or interest to any person to whom it is
15 attempted to be made if the rule or bylaw is brought to the
16 knowledge of such attempted transferee. If the interest of a
17 member in the funds or property of such an association is
18 evidenced by a certificate, an endorsement thereon that the
19 certificate is nontransferable is conclusive evidence that the
20 attempted transferee of the certificate has knowledge of the
21 nontransferable character of the member's interest.

22 CHAPTER 43

23 (RESERVED)

24 CHAPTER 45

25 FRATERNAL BENEFIT ~~SOCIETY CODE~~ SOCIETIES

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26 Subchapter

27 A. General Provisions

28 B. Organization and Corporate Operations

29 C. Benefits and Beneficiaries

30 D. Certificates

1 E. Accident, Health and Disability Insurance Contracts

2 F. Licensure

3 G. Regulation of Operations

4 SUBCHAPTER A

5 GENERAL PROVISIONS

6 Sec.

7 4501. Short title of chapter.

8 4502. Definitions.

9 4503. Exemption from general insurance law.

10 4504. Taxation.

11 4505. Applicability of chapter.

12 § 4501. Short title of chapter.

13 This chapter shall be known and may be cited as the Fraternal
14 Benefit Society Code.

15 § 4502. Definitions.

16 The following words and phrases when used in this chapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Fraternal benefit society" or "society." Any incorporated
20 society, order or lodge, without capital stock, including one
21 exempted under section 4505(a)(2) (relating to applicability of
22 chapter), whether incorporated or not, conducted solely for the
23 benefit of its members and their beneficiaries and not for
24 profit, operated on a lodge system with or without ritualistic
25 form of work, having a representative form of government and
26 which makes provision for the payment of benefits in accordance
27 with this chapter.

28 "Lodge system." With respect to a society having a supreme
29 legislative or governing body and subordinate lodges or branches
30 by whatever name known, into which members are elected,

1 initiated or admitted in accordance with its constitution,
2 bylaws, rituals or rules, which subordinate lodges or branches
3 are required by the bylaws of the society to hold regular
4 meetings at least once in each quarter.

5 "Premium." Any charges, fees, dues or other required
6 contributions by whatever name known.

7 "Representative form of government." With respect to a
8 society, a form of its governance which meets the following
9 standards:

10 (1) The constitution or bylaws provide for a supreme
11 legislative or governing body, composed of representatives
12 elected either by the members or by delegates elected
13 directly or indirectly by the members, together with such
14 other members of the body as are prescribed by the society's
15 constitution and bylaws.

16 (2) The representatives elected constitute a majority in
17 number and have not less than two-thirds of the votes nor
18 less than the votes required to amend its constitution and
19 bylaws.

20 (3) The meetings of the supreme legislative or governing
21 body and the election of officers, representatives or
22 delegates are held at least once every four calendar years.

23 (4) Each benefit member is eligible for election to
24 serve as a delegate to these meetings.

25 (5) The society has a board of directors charged with
26 the responsibility for managing its affairs in the interim
27 between meetings of its supreme legislative or governing
28 body, subject to control by that body and having powers and
29 duties delegated to it in the constitution or bylaws of the
30 society.

1 (6) The board of directors is elected by the supreme
2 legislative or governing body, except in case of filling a
3 vacancy in the interim between meetings of that body.

4 (7) The officers are elected either by the supreme
5 legislative or governing body or by the board of directors.

6 (8) The members, officers, representatives or delegates
7 are not permitted to vote by proxy.

8 § 4503. Exemption from general insurance law.

9 Except as otherwise provided in this chapter, a fraternal
10 benefit society holding a certificate of authority shall not be
11 subject to the other provisions of this title. A statute
12 relating to the business of insurance does not apply to a
13 society unless the statute specifically refers and applies to a
14 society subject to this chapter. To the extent that statutes and
15 regulations are applicable to societies, the terms thereof shall
16 be deemed of no effect to the extent they are inconsistent with
17 the express terms of this chapter.

18 § 4504. Taxation.

19 Every society organized or licensed under this chapter is
20 deemed a charitable and benevolent institution, and all of its
21 funds shall be exempt from all and every state, county,
22 district, municipal and school tax other than taxes on real
23 estate and office equipment.

24 § 4505. Applicability of chapter.

25 (a) General rule.--This chapter does not apply to any of the
26 following:

27 (1) Grand or subordinate lodges of societies, orders or
28 associations now doing business in this Commonwealth which
29 provide benefits exclusively through local or subordinate
30 lodges.

1 (2) Orders, societies or associations which admit to
2 membership only persons engaged in one or more crafts or
3 hazardous occupations, in the same or similar lines of
4 business, insuring only their own members and their families,
5 and the auxiliaries to such orders, societies or
6 associations.

7 (3) Domestic societies which limit their membership to
8 employees of a particular municipal corporation, firm or
9 corporation which provide for a death benefit of not more
10 than \$400 or disability benefits of not more than \$350 to any
11 person in any one year, or both.

12 (4) Domestic religious, charitable or benevolent
13 societies or associations which provide for a death benefit
14 of not more than \$400 or for disability benefits of not more
15 than \$350 to any one person in any one year, or both.

16 (b) Coverage extended.--Any society or association described
17 in subsection (a)(3) or (4) which provides for death or
18 disability benefits for which benefit certificates are issued,
19 and any such society or association described in subsection
20 (a)(4) which has more than 1,000 members, is not exempt from
21 this chapter.

22 (c) Prohibition.--A society which is exempt under this
23 section from the requirements of this chapter, except a society
24 described in subsection (a)(2), shall not give or allow, or
25 promise to give or allow, to any person any compensation for
26 procuring new members.

27 (d) Accidental death or disability benefits.--Every society
28 which provides for benefits in case of death or disability
29 resulting solely from accident, and which does not obligate
30 itself to pay death or sick benefits arising from natural

1 causes, is subject to this chapter except that the provisions
2 relating to medical examination, valuations of benefit
3 certificates and incontestability do not apply.

4 (e) Verification of exemptions.--The department may require
5 from any society or association, by examination or otherwise,
6 such information as will enable it to determine whether the
7 society or association is exempt from this chapter.

8 (f) Provisions in other chapters.--The provisions of this
9 chapter prevail over any inconsistent provisions in Chapter 41
10 (relating to beneficial societies).

11 SUBCHAPTER B

12 ORGANIZATION AND CORPORATE OPERATIONS

13 Sec.

14 4511. Initial organization.

15 4512. Filing of initial papers with department.

16 4513. Validity of preliminary certificate.

17 4514. Solicitation of members.

18 4515. Examination by department.

19 4516. Exemption.

20 4517. Approval of documents.

21 4518. General corporate powers of societies.

22 4519. Review of orders of department.

23 4520. Classes of membership.

24 4521. Prohibition of activity.

25 4522. Location of offices and meetings.

26 4523. Consolidations and mergers.

27 4524. Amendments to articles of incorporation, constitution
28 and bylaws.

29 4525. Institutions.

30 4526. Personal liability.

1 4527. Waiver.

2 4528. Conversion of society into mutual life insurance
3 company.

4 4529. Reinsurance.

5 § 4511. Initial organization.

6 The organization of a society shall be as provided in this
7 subchapter. Seven or more citizens of the United States, a
8 majority of whom are citizens of this Commonwealth, who desire
9 to form a fraternal benefit society, may make, sign and
10 acknowledge before an officer competent to take acknowledgment
11 of deeds or articles of incorporation, in which the following
12 shall be stated:

13 (1) The proposed corporate name of the society, which
14 shall not so closely resemble the name of any society or
15 insurance company as to be misleading or confusing.

16 (2) The purposes for which it is being formed and the
17 mode in which its corporate powers are to be exercised. The
18 purposes shall not include more liberal powers than are
19 granted by this chapter. Any lawful, social, intellectual,
20 educational, charitable, benevolent, moral, fraternal or
21 religious advantages may be set forth among the purposes of
22 the society.

23 (3) The names and residences of the incorporators and
24 the names, residences and official titles of all the
25 officers, trustees, directors or other persons who are to
26 have and exercise the general control of the management of
27 the affairs and funds of the society for the first year or
28 until the ensuing election at which all such officers shall
29 be elected by the supreme legislative or governing body. This
30 election shall be held not later than one year from the date

1 of the issuance of the permanent certificate.

2 § 4512. Filing of initial papers with department.

3 The articles of incorporation, certified copies of the
4 constitution and rules, copies of all proposed forms of
5 certificates, applications therefor, receipts and circulars to
6 be issued by the society and a bond conditioned upon the return
7 to applicants of the advanced payments if the organization is
8 not completed within one year shall be filed with the
9 department, which may require such further information as is
10 necessary. The bond with sureties approved by the department
11 shall be in an amount, not less than \$5,000 nor more than
12 \$25,000, required by the department. All documents filed shall
13 be in the English language. If the purposes of the society
14 conform to the requirements of this chapter and all provisions
15 of this chapter have been complied with, the department shall so
16 certify, retain and file IN THE DEPARTMENT OF STATE the articles <—
17 of incorporation and furnish the incorporators with a
18 preliminary certificate authorizing the society to solicit
19 members.

20 § 4513. Validity of preliminary certificate.

21 A preliminary certificate granted under this chapter shall
22 not be valid after one year from its date or after such other
23 period, not exceeding one year, as is authorized by the
24 department upon cause shown, unless the 500 applicants required
25 under section 4514 (relating to solicitation of members) have
26 been secured and the organization has been completed as herein
27 provided. The articles of incorporation and all other
28 proceedings thereunder shall become void one year from the date
29 of the preliminary certificate, or at the expiration of the
30 extended period, unless the society completes its organization

1 and receives a certificate of authority to do business within
2 that period.

3 § 4514. Solicitation of members.

4 Upon receipt of a preliminary certificate from the
5 department, the society may solicit members for the purpose of
6 completing its organization, shall collect from each applicant
7 the amount of not less than one regular monthly premium in
8 accordance with its table of premiums as provided by its
9 constitution and bylaws and shall issue to each applicant a
10 receipt for the amount so collected. A society shall not incur
11 any liability other than for the return of such advance premium,
12 nor issue any certificate, nor pay or allow, or offer or promise
13 to pay or allow, any death or disability benefit to any person
14 until:

15 (1) Actual bona fide applications for death benefits
16 have been secured aggregating at least \$500,000 on not less
17 than 500 lives.

18 (2) All applicants for death benefits furnish evidence
19 of insurability satisfactory to the society.

20 (3) Certificates of examinations or acceptable
21 declarations of insurability are duly filed and approved by
22 the chief medical examiner of the society.

23 (4) Ten subordinate lodges or branches are established
24 into which the 500 applicants are admitted.

25 (5) There is submitted to the department, under oath of
26 the president, secretary or corresponding officer of the
27 society, a list of the applicants, giving their names,
28 addresses, date each was admitted, name and number of the
29 subordinate branch of which each applicant is a member,
30 amount of benefits to be granted and premiums therefor.

(6) A sworn statement of the treasurer or corresponding officer of the society is filed with the department, stating that at least 500 applicants have each paid in cash at least one regular monthly premium, which premiums in the aggregate shall total at least \$2,500, all of which shall be credited to the fund or funds from which benefits are to be paid and no part of which may be used for expenses. The advance premiums shall be held in trust during the period of organization, and if the society has not qualified for a certificate of authority within one year, the premiums shall be returned to the applicants.

§ 4515. Examination by department.

The department may make such examination and require such further information as is advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of this chapter, it shall issue to the society a certificate to that effect, stating that the society is authorized to transact business under this chapter. The certificate shall be prima facie evidence of the existence of the society on the date of the certificate. The department shall cause a record of the certificate to be made; a certified copy of this record may be given in evidence with like effect as the original certificate.

§ 4516. Exemption.

The provisions of sections 4514 (relating to solicitation of members) and 4515 (relating to examination by department) do not apply to:

(1) Any society organized prior to April 6, 1893, under any statute of this Commonwealth which was engaged in doing business in this Commonwealth on that date. Any such society

1 may exercise all the rights conferred by this chapter and all
2 the rights, powers, privileges and exemptions now exercised
3 or possessed by it, under its charter or articles of
4 incorporation or articles of association, and neither its
5 existence as a corporation nor its right to exercise any
6 corporate rights vested in it by virtue of its past
7 incorporation are affected by this chapter. Any corporation
8 described in this paragraph shall be deemed a holder of a
9 certificate of authority issued under this chapter.

10 (2) Any society incorporated under the provisions of the
11 act of April 6, 1893 (P.L.10, No.6), the act of May 20, 1921
12 (P.L.916, No.324) or the act of July 17, 1935 (P.L.1092,
13 No.357), relating to fraternal benefit societies.

14 § 4517. Approval of documents.

15 A society authorized to transact business under this chapter
16 shall not issue any insurance forms, endorsements or riders
17 without first having obtained approval thereof by the
18 department.

19 § 4518. General corporate powers of societies.

20 Every society may adopt a constitution and bylaws for the
21 government of the society, the admission of its members, the
22 management of its affairs and the fixing of the premiums of its
23 members. It may change, alter, add to or amend the constitution
24 and bylaws and do such other acts as are necessary and
25 incidental to carrying into effect the objects and purposes of
26 the society.

27 § 4519. Review of orders of department.

28 Orders of the department upon an application for a
29 certificate of authority under this subchapter shall be subject
30 to judicial review as provided by law.

1 § 4520. Classes of membership.

2 (a) General rule.--Every society authorized to do business
3 in this Commonwealth may admit to membership two classes of
4 members: benefit members and social members by whatever name
5 known. Social members shall not be entitled to any of the
6 benefits prescribed by sections 4531 (relating to benefits) and
7 4532 (relating to benefits on lives of children) and shall have
8 no voice in the management of the insurance affairs of the
9 society. Benefit members may be either adult members or juvenile
10 members. Juvenile members shall have no voice in the management
11 of the insurance affairs of the society.

12 (b) Adult benefit membership.--The society may admit to
13 adult benefit membership any person not less than 15 years of
14 age at the nearest birthday. Any person so admitted prior to
15 attaining the full age of 18 years shall be deemed competent to
16 contract for insurance benefits and to enjoy every right,
17 privilege and benefit provided by any insurance certificate on
18 the minor subject to the limitations contained in section 4532
19 as to the designation of beneficiary.

20 (c) Evidence of insurability.--Every adult benefit member
21 entitled to insurance benefits shall, as to each application for
22 insurance, furnish evidence of insurability acceptable to the
23 society.

24 § 4521. Prohibition of activity.

25 An unincorporated or voluntary association may not transact
26 business in this Commonwealth as a fraternal benefit society
27 unless the association incorporates under this chapter.

28 § 4522. Location of offices and meetings.

29 The principal office of any domestic society shall be located
30 in this Commonwealth. The meetings of its supreme legislative or

1 governing body may be held in any state or country in North
2 America and all business transacted at such meetings shall be as
3 valid as if the meetings were held in this Commonwealth.

4 § 4523. Consolidations and mergers.

5 (a) Right to consolidate or merge.--A domestic society may
6 consolidate or merge with any other society by complying with
7 this section.

8 (b) Statements to be filed.--The societies shall file all of
9 the following with the department:

10 (1) A certified copy of the written contract containing,
11 in full, the terms and conditions of the consolidation or
12 merger.

13 (2) A sworn statement by the president and secretary or
14 corresponding officers of each society showing the financial
15 condition thereof on a date fixed by the department but not
16 earlier than the December 31 next preceding the date of the
17 contract.

18 (3) A certificate of such officers, verified by all of
19 them, that the consolidation or merger has been approved by a
20 two-thirds vote of the supreme legislative or governing body
21 of each society.

22 (4) Evidence that at least 60 days prior to the action
23 of the supreme legislative or governing body of each society,
24 the text of the contract was furnished to all members of each
25 society either by mail or by publication in full in the
26 official organ of each society.

27 (c) Approval by department.--If the department finds that
28 the contract is in conformity with this section, that the
29 financial statements are correct and that the consolidation or
30 merger is just and equitable to the members of each society, the

1 department shall issue a certificate stating that it approves
2 the contract. Upon approval, the contract shall be effective
3 unless any society which is a party to the contract is
4 incorporated under the law of any other state. In such event the
5 consolidation or merger shall not become effective until it is
6 approved as provided by the law of that state and a certificate
7 of such approval is filed with the department. If the law of the
8 state contains no such provision, then the consolidation or
9 merger shall not become effective until it is approved by the
10 department of insurance of the state and a certificate of
11 approval filed with the department.

12 (d) Property merged.--Upon the consolidation or merger
13 becoming effective, all the rights and interests of the
14 consolidated or merged societies in every kind of property and
15 things in action pertaining thereto shall be vested in the
16 society remaining after the consolidation or merger without any
17 other instrument. Conveyances of real property may be evidenced
18 by proper deeds, and the title to any real estate or interest
19 therein vested in any of the societies consolidated or merged
20 shall not revert or be impaired by reason of the consolidation
21 or merger, but shall vest in the society remaining after the
22 consolidation or merger.

23 (e) Affidavit as evidence.--The affidavit of any officer of
24 the society or of anyone authorized by it to mail any notice or
25 document, stating that the notice or document has been duly
26 addressed and mailed, shall be prima facie evidence that the
27 notice or document has been furnished the addressee.

28 § 4524. Amendments to articles of incorporation, constitution
29 and bylaws.

30 (a) Power to amend.--A domestic society may amend its

1 articles of incorporation, constitution or bylaws, in accordance
2 with the provisions thereof, by action of its supreme
3 legislative or governing body at any regular or special meeting
4 or, if its articles of incorporation, constitution or bylaws so
5 provide, by referendum. The referendum may be held in accordance
6 with the provisions of its articles of incorporation,
7 constitution or bylaws by the vote of the voting members of the
8 society, by the vote of delegates or representatives of voting
9 members or by the vote of local lodges or branches. An amendment
10 submitted for adoption by referendum shall not be adopted
11 unless, within six months from the date of submission thereof, a
12 majority of all of the voting members of the society have
13 signified their consent to the amendment by one of the methods
14 provided in this subsection.

15 (b) Approval of department.--An amendment shall not take
16 effect until approved by the department, which shall approve the
17 amendment if it finds that it has been adopted and is not
18 inconsistent with any requirement of law or with the character,
19 objects and purposes of the society. Unless the department
20 disapproves the amendment within 60 days after filing, the
21 amendment shall be deemed approved. The approval or disapproval
22 of the department shall be in writing and mailed to the
23 secretary or corresponding officer of the society at its
24 principal office. If the department disapproves the amendment,
25 the reasons shall be stated in the written notice.

26 (c) Copies of changes.--Within 90 days from approval by the
27 department, the amendments or a summary thereof shall be
28 furnished to all members of the society either by mail or by
29 publication in full in the official organ of the society. The
30 affidavit of any officer of the society or of anyone authorized

1 by it to mail any amendments or summary thereof, stating facts
2 which show that these have been addressed and mailed, shall be
3 prima facie evidence that the amendments or summary have been
4 furnished to the addressee.

5 (d) Power of department to review.--The department may
6 review existing articles of incorporation, constitutions and
7 bylaws of domestic fraternal benefit societies at any time in
8 order to determine whether they comply with the minimum
9 standards set forth in this chapter.

10 (e) Foreign or alien societies.--Every ~~authorized~~ foreign or <—
11 alien society authorized to do business in this Commonwealth
12 shall file with the department a duly certified copy of all
13 amendments of, or additions to, its articles of incorporation,
14 constitution or bylaws within 90 days after their enactment.

15 (f) Printed copies as evidence.--Printed copies of the
16 constitution or bylaws as amended, certified by the secretary or
17 corresponding officer of the society, shall be prima facie
18 evidence of the legal adoption thereof.

19 § 4525. Institutions.

20 (a) Power to own or establish.--A society may create,
21 maintain and operate charitable, benevolent or educational
22 institutions for the benefit of its members and their families
23 and dependents and for the benefit of children insured by the
24 society. For this purpose it may own, hold or lease personal
25 property or real property located in or outside this
26 Commonwealth, with necessary buildings thereon. This property
27 shall be reported in every annual statement but shall not be
28 allowed as an admitted asset of the society.

29 (b) Nonprofit operation.--Maintenance, treatment and proper
30 attendance in any such institution may be furnished free or a

1 reasonable charge may be made therefor, but no such institution
2 shall be operated for profit. The society shall maintain a
3 separate accounting of any income and disbursements under this
4 section and report them in its annual statement. A society shall
5 not own or operate any funeral home or undertaking
6 establishment.

7 § 4526. Personal liability.

8 The officers and members of the supreme, grand or any
9 subordinate body of a society shall not be personally liable for
10 payment of any benefits provided by a society.

11 § 4527. Waiver.

12 The constitution and bylaws of the society shall provide that
13 no subordinate body, subordinate officer or member may waive any
14 of the provisions of the constitution or bylaws of the society.
15 This provision shall be binding on the society and every member
16 and beneficiary of a member.

17 § 4528. Conversion of society into mutual life insurance
18 company.

19 Any domestic fraternal benefit society may be converted and
20 licensed as a mutual life insurance company by compliance with
21 all the applicable financial requirements of this title if the
22 plan of conversion is approved by the department. The plan shall
23 be prepared in writing setting forth all the terms and
24 conditions thereof. The board of directors shall submit the plan
25 to the supreme legislative or governing body of the society at
26 any regular or special meeting thereof, by giving a complete
27 copy of the plan with the notice of such meeting. The notice
28 shall be given as provided in the bylaws of the society for a
29 regular or special meeting of the body, as the case may be. The
30 affirmative vote of two-thirds of all members of the body shall

1 be necessary for the approval of the agreement. A conversion
2 shall not take effect until approved by the department, which
3 may give approval if it finds that the proposed change is in
4 conformity with the requirements of law and not prejudicial to
5 the certificate holders of the society.

6 § 4529. Reinsurance.

7 A domestic society may, by a reinsurance agreement, cede any
8 individual risk or risks in whole or in part to an insurer,
9 other than another society, having the power to make such
10 reinsurance and authorized to do business in this Commonwealth,
11 or if not so authorized, one which is approved by the
12 department. The society may not reinsure in excess of 50% all of
13 its insurance in force without the written permission of the
14 department. It may take credit for the reserves on the ceded
15 risks to the extent reinsured, but no credit shall be allowed as
16 an admitted asset or as a deduction from liability to a ceding
17 society for reinsurance made, ceded, renewed or otherwise
18 becoming effective unless the reinsurance is payable by the
19 assuming insurer on the basis of the liability of the ceding
20 society under the contract reinsured without diminution because
21 of the insolvency of the ceding society.

22 SUBCHAPTER C

23 BENEFITS AND BENEFICIARIES

24 Sec.

25 4531. Benefits.

26 4532. Benefits on lives of children.

27 4533. Benefit options.

28 4534. Beneficiaries.

29 4535. Attachment of benefits.

30 4536. Contract for benefits.

1 § 4531. Benefits.

2 (a) Power to grant benefits.--Any society holding a
3 certificate of authority under this chapter may enter into
4 contracts in such forms and grant such benefits as its bylaws
5 may authorize. In the case of life insurance benefits, the
6 society shall provide for the accumulation and maintenance of
7 assets required for the payment of these benefits, when valued
8 upon an interest basis, not exceeding 4% a year, and mortality
9 standards adopted by it within the limitations provided in this
10 chapter or, at the option of the society, in Chapter 53
11 (relating to life insurance). Any life certificates issued on a
12 renewable term basis shall set forth clearly the successive
13 future rates of contribution to be paid under the contract.

14 (b) Family eligibility.--Benefits may be provided on the
15 lives of members or, upon application of a member, on the lives
16 of the member's family, including the member, the member's
17 spouse and minor children, in the same or separate certificates.

18 § 4532. Benefits on lives of children.

19 (a) General rule.--A society may provide for insurance
20 benefits, annuity benefits or both on the lives of children
21 under the minimum age for adult membership but not greater than
22 18 years of age at the time of application therefor, upon the
23 application of some adult person, as its bylaws or rules may
24 provide, which benefits shall be in accordance with section
25 4531(a) (relating to benefits). A society may organize and
26 operate branches for such children. Membership and initiation in
27 local lodges shall not be required of such children, nor shall
28 they have any voice in the management of the society.

29 (b) Powers.--A society may provide for the designation and
30 changing of designation of beneficiaries in the certificates

1 providing for the benefits and provide in all other respects for
2 the regulation of the certificates and all rights, obligations
3 and liabilities incident thereto.

4 § 4533. Benefit options.

5 (a) Authorization.--A society may grant paid-up
6 nonforfeiture benefits, cash surrender values, certificate loans
7 and such other options as its bylaws permit. The society shall
8 grant by means of the certificate at least one paid-up
9 nonforfeiture benefit, except in the case of pure endowment,
10 annuity or reversionary annuity contracts, reducing term
11 insurance contracts or contracts of term insurance of a uniform
12 amount of 15 years or less expiring before 66 years of age.

13 (b) Reserves computed on certain tables.--In the case of
14 certificates for which reserves are computed on the
15 Commissioner's 1941 Standard Ordinary Mortality Table, the 1941
16 Standard Industrial Table or the Commissioner's 1958 Standard
17 Ordinary Mortality Table or any more recent table made
18 applicable to life insurance companies, every paid-up
19 nonforfeiture benefit and the amount of any cash surrender
20 value, loan or other option granted shall not be less than the
21 corresponding amount ascertained in accordance with the
22 provisions of this title applicable to life insurance companies
23 issuing policies containing similar insurance benefits based
24 upon those tables.

25 (c) Computation of certain benefits.--In the case of
26 certificates other than those for which reserves are computed on
27 the Commissioner's 1941 Standard Ordinary Mortality Table, the
28 1941 Standard Industrial Table or the Commissioner's 1958
29 Standard Ordinary Mortality Table, or any more recent table made
30 applicable to life insurance companies the value of every paid-

up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, of paragraph (1) over paragraph (2) as follows:

(1) The reserve under the certificate determined on the basis specified in the certificate.

(2) The sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to 2.5% of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

(d) Reserves computed on substandard basis.--In the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American Men Ultimate Table of Mortality the term of any extended insurance benefit granted including any accompanying pure endowment may be computed upon the rates of mortality not greater than 130% of those shown by the mortality table specified in the certificate for the computation of the reserve.

§ 4534. Beneficiaries.

(a) Power to change beneficiaries.--Unless otherwise provided in the contract:

(1) The member shall have the right at all times to change the beneficiary or beneficiaries and to assign the certificate.

(2) A beneficiary shall not have or obtain any interest in the proceeds of any certificate until a certificate becomes due and payable in conformity with its provisions.

(b) Limitation on scope of beneficiaries.--The society by its constitution, bylaws and rules may limit the scope of

1 beneficiaries.

2 (c) Payment of funeral benefits.--A society may make
3 provision for the payment of funeral benefits to the extent of
4 such portion of any payment under a certificate as might
5 reasonably appear to be due to any person equitably entitled
6 thereto by reason of having incurred expense occasioned by the
7 burial of the member, but the portion so paid shall not exceed
8 \$1,000.

9 (d) Payment to personal representative.--If at the death of
10 any member there is no lawful beneficiary to whom the insurance
11 benefits are payable, the amount of the benefits, except to the
12 extent that funeral benefits may be paid under subsection (c),
13 shall be payable to the personal representative of the deceased
14 member.

15 § 4535. Attachment of benefits.

16 Money or other benefit, charity, relief or aid to be provided
17 by any society shall not be liable to attachment, garnishment or
18 other process, or to be applied by any legal or equitable
19 process or operation of law, to pay any debt or liability of a
20 member or beneficiary or any other person who may have a right
21 thereunder, either before or after payment by the society.

22 § 4536. Contract for benefits.

23 (a) Materials forming contract.--Every society authorized to
24 do business in this Commonwealth shall issue a certificate to
25 the benefit member, or the spouse of a member, or to the
26 applicant for a minor, specifying the amount of benefits
27 provided thereby. The certificate, together with any riders or
28 endorsements attached thereto, the charter or articles of
29 incorporation, the constitution and bylaws of the society, any
30 application for benefits and declaration of insurability signed

1 by the applicant and all amendments to these shall constitute
2 the agreement, as of the date of issuance, between the society
3 and the member, and the certificate shall so state. A copy of
4 any application for benefits and of any declaration of
5 insurability shall be endorsed upon or attached to the
6 certificate.

7 (b) Statements and waiver.--All statements purporting to be
8 made by the member shall be representations and not warranties.
9 Any waiver of this provision shall be void.

10 (c) Amendments.--Any amendment to the charter or articles of
11 incorporation, constitution or bylaws, made or enacted
12 subsequent to the issuance of the certificate, shall bind the
13 member and the beneficiaries, and shall control the agreement as
14 though in force at the time of the application for membership.
15 However, no amendment shall diminish benefits which the society
16 contracted to give the member as of the date of issuance.

17 (d) Responsibility of members for deficiency.--Every society
18 shall contain a provision in its bylaws and in each certificate
19 of life insurance it issues, to which every certificate of
20 insurance issued by the society shall be subject, that if the
21 financial position of the society becomes impaired, subject to
22 the prior written approval of the department, the board of
23 directors or the supreme governing body may determine on an
24 equitable basis the proportionate share of the deficiency of
25 each member of the society. Each benefit member may then either
26 pay his share of the deficiency, accept the imposition of a lien
27 on the certificate of insurance or accept a proportionate
28 reduction in benefits under his certificate. The society may
29 specify the manner of the election and which alternative is to
30 be presumed if no election is made, subject to the prior written

1 approval of the department in the case of domestic societies.
2 Any lien on a certificate of insurance shall bear interest at
3 the rate charged on policy loans under the certificate, if
4 applicable, or otherwise at a rate approved by the department,
5 compounded annually until paid.

6 SUBCHAPTER D
7 CERTIFICATES

8 Sec.

9 4541. Approval of certificates.

10 4542. Criteria for review.

11 4543. Statement of title and premiums.

12 4544. Membership provisions.

13 4545. Default.

14 4546. Tables.

15 4547. Redetermination of premiums.

16 4548. Surplus.

17 4549. Loan value.

18 § 4541. Approval of certificates.

19 (a) General rule.--A fraternal benefit society doing
20 business in this Commonwealth shall not issue, sell or dispose
21 of any certificate, covering life, health, accident or any other
22 contract of insurance or any contracts pertaining to a pure
23 endowment or annuity, or use applications, riders or
24 endorsements in connection therewith, until the forms of the
25 same have been filed with and approved by the department.
26 However, riders and endorsements relating to the manner of
27 distribution of benefits and to the reservation of rights and
28 benefits under any such certificate, and used at the request of
29 the individual certificate holder, and any forms which, in the
30 opinion of the department, do not require approval need not be

1 filed under this section.

2 (b) Deemed approval.--Forms so filed shall be deemed
3 approved at the expiration of 30 days after filing, unless
4 earlier approved or disapproved by the department. The
5 department, by written notice to the society within the 30-day
6 period, may extend the period for approval or disapproval for an
7 additional 30 days.

8 (c) Voiding of approval.--Such approval shall become void
9 upon any subsequent notice of disapproval from the department,
10 or upon any subsequent withdrawal of license or refusal of the
11 department to relicense the society, or upon the subsequent
12 passage of a statute which would no longer make such contracts
13 or related forms a fit subject for approval, except that this
14 provision shall not affect contracts issued prior thereto.

15 (d) Notification of disapproval.--Upon any disapproval, the
16 department shall notify the society in writing, specifying the
17 reason for disapproval. Within 30 days from the date of mailing
18 of the notice to the society, the society may make written
19 application to the department for a hearing thereon. The hearing
20 shall be held within 30 days after receipt of the application.
21 The procedure before the department shall be in accordance with
22 the adjudication procedure set forth in 2 Pa.C.S. Ch. 5 Subch. A
23 (relating to practice and procedure of Commonwealth agencies),
24 and the society shall be entitled to judicial review under 2
25 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of
26 Commonwealth agency action).

27 (e) Penalty.--Any person that, either as principal or agent,
28 issues or causes to be issued any certificate or contract of
29 insurance in this Commonwealth, contrary to this section,
30 commits a misdemeanor of the third degree.

(f) Civil penalties.--Upon satisfactory evidence of the violation of this section by any person, the department may pursue any one or more of the following courses of action:

(1) Suspend or revoke the license of the offending person.

(2) Refuse, for a period of not to exceed one year thereafter, to issue a new license to the person.

(3) Impose a fine of not more than \$1,000 for each act in violation of this chapter.

§ 4542. Criteria for review.

(a) Required provisions.--The certificate shall contain in substance the standard provisions set forth in sections 4543 (relating to statement of title and premiums) through 4549 (relating to loan value) or, in lieu thereof, provisions which are more favorable to the member. Any of the mandated provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate.

(b) Prohibited provisions.--A life benefit certificate shall not be delivered or issued for delivery in this Commonwealth containing in substance any of the following provisions:

(1) Any provision limiting the time within which any action at law or in equity may be commenced to less than two years after the cause of action shall accrue.

(2) Any provision by which the certificate shall purport to be issued or to take effect more than six months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for

1 any reserve accumulation under the form of certificate from
2 which the transfer is made.

3 (3) Any provision for forfeiture of the certificate for
4 failure to repay any loan thereon or to pay interest on such
5 loan while the total indebtedness, including interest, is
6 less than the loan value of the certificate.

7 § 4543. Statement of title and premiums.

8 There shall appear on the face of the filing page of the
9 certificate a statement of the title of the certificate and a
10 brief description which clearly and correctly describes its form
11 and identifies the ~~insurer~~ INSURED as a member of a fraternal <—
12 benefit society. There shall also appear a provision stating the
13 amount of premiums, dues or other required contributions, by
14 whatever name known, which are payable by the insured under the
15 certificate.

16 § 4544. Membership provisions.

17 (a) Right to maintain insurance.--There shall be a statement
18 that any benefit member expelled or suspended, except for
19 nonpayment of a premium or within the contestable period for
20 material misrepresentations in the member's application for
21 membership, may maintain his insurance in force by continuing
22 payment of the required premium.

23 (b) Grace period.--There shall be a provision that the
24 member is entitled to a grace period of not less than a full
25 month, or 30 days at the option of the society in which the
26 payment of any premium after the initial premium may be made.
27 During the grace period the certificate shall continue in full
28 force, but if the certificate becomes a claim during the grace
29 period before the overdue payment is made, the amount of the
30 overdue payment or payments may be deducted in any settlement

1 under the certificate.

2 (c) Reinstatement.--There shall be a provision that the
3 member shall be entitled to have the certificate reinstated at
4 any time within three years from the due date of the premium in
5 default, unless the certificate has been completely terminated
6 through the application of a nonforfeiture benefit, cash
7 surrender value or certificate loan, upon the production of
8 evidence of insurability satisfactory to the society and the
9 payment of all overdue premiums and any other indebtedness to
10 the society upon the certificate together with any interest on
11 the premiums and the indebtedness, at a rate not exceeding 6% a
12 year compounded annually.

13 (d) Contestability.--There shall be a provision that the
14 certificate shall be incontestable after it has been in force
15 during the lifetime of the member for a period of two years from
16 its date of issue except for nonpayment of premiums. At the
17 option of the society, supplemental provisions relating to
18 waiver of premium and provisions which grant additional
19 insurance specifically against death by accident may also be
20 excepted. The certificate may provide, as to statements made to
21 procure reinstatement, that the society may contest a reinstated
22 certificate within a period of two years from the date of
23 reinstatement based on the information in the reinstatement
24 application.

25 § 4545. Default.

26 (a) Paid-up nonforfeiture benefits.--There shall be a
27 provision that, in the event of default in payment of any
28 premium after three full years premiums have been paid or after
29 premiums for a lesser period have been paid if the contract so
30 provides, the society will grant, upon proper request not later

1 than 60 days after the due date of the premium in default, a
2 paid-up nonforfeiture benefit on the plan stipulated in the
3 certificate, effective as of the due date, of such value as
4 specified in this chapter.

5 (b) Optional payment provisions.--The certificate may
6 provide, if the society's bylaws so specify and if the member so
7 elects prior to the expiration of the grace period of any
8 overdue premium, that default does not occur so long as premiums
9 can be paid under an arrangement for automatic premium loan as
10 set forth in the certificate.

11 (c) Election of other paid-up nonforfeiture benefits.--There
12 shall be a statement that one paid-up nonforfeiture benefit as
13 specified in the certificate shall become effective
14 automatically unless the member elects another available paid-up
15 nonforfeiture benefit, not later than 60 days after the due date
16 of the premium in default.

17 (d) Applicability of section.--This section does not apply
18 in the case of pure endowment, annuity or reversionary annuity
19 contracts, reducing term insurance contracts, or contracts of
20 term insurance of uniform amount of 15 years or less expiring
21 before 66 years of age.

22 § 4546. Tables.

23 (a) Mortality table and interest rate.--There shall be a
24 statement of the mortality table and rate of interest used in
25 determining all paid-up nonforfeiture benefits and cash
26 surrender options available under the certificate and a brief
27 general description of the method used in calculating such
28 benefits.

29 (b) Table of certain values.--There shall be a table showing
30 in numbers the value of every paid-up nonforfeiture benefit and

1 cash surrender option available under the certificate for each
2 certificate anniversary either during the first 20 certificate
3 years or during the term of the certificate, whichever is
4 shorter.

5 § 4547. Redetermination of premiums.

6 There shall be a provision that in case the age or sex of the
7 member or of any other person is considered in determining the
8 premium and it is found at any time before final settlement
9 under the certificate that the age or sex has been misstated,
10 and the discrepancy and premium involved have not been adjusted,
11 the amount payable under the certificate shall be such as the
12 premium would have purchased at the correct age and sex. If the
13 correct age was not an insurable age under the society's charter
14 or laws, only the premiums paid to the society, less any
15 payments previously made to the member, shall be returned or, at
16 the option of the society, the amount payable under the
17 certificate shall be such as the premium would have purchased at
18 the correct age according to the society's promulgated rates and
19 any extension thereof based on actuarial principles.

20 § 4548. Surplus.

21 (a) Right to surplus.--There shall be a provision that the
22 certificate shall participate in the surplus of the society, and
23 that, beginning not later than the end of the third certificate
24 year, the society will annually determine the portion of the
25 divisible surplus accruing on the certificate, and that the
26 member entitled to elect the option may have the dividend
27 arising from such participation paid in cash or applied in
28 accordance with any one of the other dividend options as
29 provided by the certificate. If any such other dividend options
30 are provided, the certificate shall further state which option

1 shall be automatically effective, if the member has not elected
2 a different option.

3 (b) Optional surplus provision.--The certificate may contain
4 a provision that the certificate shall participate in the
5 surplus of the society, and that, beginning not later than the
6 end of the fifth certificate year, the society will determine
7 the portion of the divisible surplus accruing on the
8 certificate, and that the member entitled thereto may have the
9 current dividend arising from such participation paid in cash,
10 and that, at periods of not more than five years thereafter,
11 such apportionment and payment shall be done at the option of
12 the member.

13 (c) Surplus on term certificates.--Renewable term
14 certificates of ten years or less may provide that the surplus
15 accruing to such certificates shall be determined and
16 apportioned each year after the second certificate year, and
17 accumulated during each renewal period, and that at the end of
18 any renewal period, or renewal of the certificate by the member,
19 the society shall apply the accumulated surplus as an annuity
20 for the next succeeding renewal term to the reduction of
21 premiums.

22 § 4549. Loan value.

23 There shall be a provision for a loan value at any time after
24 three full years' premiums have been paid and while no premium
25 is in default beyond the grace period of payment. The loan
26 provision shall further provide that the society will advance,
27 on proper assignment or pledge of the certificate, and on the
28 sole security thereof, at a specified rate of interest, a sum
29 equal to or, at the option of the member entitled thereto, less
30 than, the cash surrender value at the end of the current

1 certificate year as required by section 4532 (relating to
2 benefits on lives of children) and that the society may deduct
3 from such loan value, in addition to any indebtedness deducted
4 in determining such value, any unpaid balance of the premium for
5 the current certificate year, and may collect interest in
6 advance on the loan to the end of the current certificate year.
7 The society shall reserve the right to defer such loan, except
8 any made to pay premiums to the society, for six months after
9 application therefor is made. This section does not apply to
10 term insurance.

11 SUBCHAPTER E
12 ACCIDENT, HEALTH AND DISABILITY INSURANCE CONTRACTS

13 Sec.

14 4551. ~~Approval of contracts~~ REGULATION by department. <—

15 4552. Conditions for certificates.

16 4553. Standard contract provisions.

17 4554. Entire contract and changes.

18 4555. Time limits on certain defenses.

19 4556. Grace periods.

20 4557. Reinstatement.

21 4558. Claim procedure.

22 4559. Payment of claims.

23 4560. Legal actions.

24 4561. Change of beneficiary.

25 4562. Change of occupation.

26 4563. Conduct of insured.

27 4564. Other insurance.

28 4565. Relation of earnings to insurance.

29 4566. Cancellation.

30 4567. Conformity of provisions with state statutes.

1 4568. Inapplicable provisions.

2 4569. Composition and construction of certificates.

3 § 4551. ~~Approval of contracts~~ REGULATION by department. <—

4 ~~A certificate of insurance against loss from sickness or loss~~ <—

5 (A) GENERAL RULE.--THE DEPARTMENT MAY PROMULGATE REASONABLE <—

6 REGULATIONS PRESCRIBING THE REQUIRED, OPTIONAL AND PROHIBITED

7 PROVISIONS IN HEALTH AND ACCIDENT INSURANCE CONTRACTS AND IN

8 TOTAL AND PERMANENT DISABILITY INSURANCE CONTRACTS. THESE

9 REGULATIONS SHALL CONFORM, AS FAR AS PRACTICABLE, TO SUBSECTION

10 (B) AND SECTIONS 4552 (RELATING TO CONDITIONS FOR CERTIFICATES)

11 THROUGH 4567 (RELATING TO CONFORMITY OF PROVISIONS TO STATE

12 STATUTES).

13 (B) APPROVAL OF CERTIFICATES.--A CERTIFICATE OF INSURANCE

14 AGAINST LOSS FROM SICKNESS OR LOSS or damage from bodily injury

15 or death of the insured by accident shall not be issued or

16 delivered by any society, association or exchange issuing the

17 certificate to any person in this Commonwealth until a copy of

18 the form thereof, and of the classification of risks and the

19 dues, premiums or other required contribution pertaining

20 thereto, have been filed with and approved by the department. If

21 the department notifies the society which has filed the form in

22 writing that it does not comply with the requirements of law,

23 specifying the reason for its conclusion, the society shall not

24 issue any certificate in that form. The action of the department

25 in this regard shall be subject to review by the Commonwealth

26 Court.

27 § 4552. Conditions for certificates.

28 (a) General conditions.--A certificate shall not be

29 delivered or issued for delivery to any person in this

30 Commonwealth unless all of the following conditions are met:

1 (1) The entire money and other considerations therefor
2 shall be stated in the certificate.

3 (2) The time at which the insurance takes effect and
4 terminates shall be stated in the certificate.

5 (3) It shall purport to insure only one person, except
6 that upon the application of an adult head of a family, who
7 shall be deemed the certificate holder, a policy may insure,
8 originally or by amendment, any two or more eligible members
9 of that family, including husband, wife, dependent children
10 or any children under a specified age, which shall not exceed
11 19 years of age, and any other person dependent upon the
12 certificate holder.

13 (4) The style, arrangement and overall appearance of the
14 certificate shall give no undue prominence to any portion of
15 the text, and every printed portion of the text of the
16 certificate and of any endorsements or attached papers shall
17 be plainly printed in light face type of a style in general
18 use, the size of which type shall be uniform and not less
19 than ten point with a lower case unspaced alphabet length not
20 less than 120 point. As used in this paragraph the term
21 "text" includes all printed matter except the name and
22 address of the society, name or title of the certificate, the
23 brief description, if any, and captions and subcaptions.

24 (5) The exceptions and reductions of indemnity shall be
25 set forth in the certificate. Except for those set forth in
26 this chapter, these exceptions and reductions shall, at the
27 society's option, either be included with the benefit
28 provision to which they apply or under an appropriate caption
29 such as "exceptions" or "exceptions and reductions." If an
30 exception or reduction specifically applies only to a

1 particular benefit of the certificate, a statement of the
2 exception or reduction shall be included with the benefit
3 provision to which it applies.

4 (6) Each such form, including riders and endorsements,
5 shall be identified by a form number in the lower left-hand
6 corner of the first page thereof.

7 (7) It contains no provision purporting to make any
8 portion of the charter, rules, constitution or bylaws of the
9 society a part of the policy unless such portion is set forth
10 in full in the policy, except in the case of the
11 incorporation of, or reference to, a statement of rates or
12 classification of risks or short-rate table filed with the
13 department.

14 (8) If the certificate is entitled or referred to as
15 "noncancelable," the noncancelable certificate is
16 automatically renewable until 60 years of age upon payment of
17 the required premiums by the insured.

18 (9) With respect to an unmarried child covered by the
19 certificate prior to the attainment of 19 years of age who is
20 incapable of self-sustaining employment by reason of mental
21 retardation or physical handicap, who became so incapable
22 prior to attainment of 19 years of age and who is chiefly
23 dependent upon the certificate holder for support and
24 maintenance, a certificate under which coverage of a
25 dependent of a certificate holder terminates at a specified
26 age shall not terminate while the certificate remains in
27 force and the dependent remains in such condition, if the
28 certificate holder has within 31 days of the dependent's
29 attainment of the limiting age submitted proof of his
30 incapacity. This paragraph does not require a society to

1 insure a mentally retarded or physically handicapped
2 dependent child where the certificate is underwritten on
3 evidence of insurability based on health factors set forth in
4 the application or where the dependent does not satisfy the
5 conditions of the certificate as to evidence of insurability
6 or other provisions of the certificate, satisfaction of which
7 is required for the coverage to take effect; in any such
8 case, the terms of the certificate shall apply with regard to
9 the coverage or exclusion from coverage of the dependent.

10 (b) Nonresident members.--If any certificate is issued by a
11 society domiciled in this Commonwealth for delivery to a person
12 residing in another state, and if the official having
13 responsibility for the administration of the insurance laws of
14 the other state has advised the department that such a
15 certificate is not subject to approval or disapproval by the
16 official, the department may by ruling require that the
17 certificate meet the standards set forth in section 4541
18 (relating to approval of certificates) and this chapter.

19 § 4553. Standard contract provisions.

20 Except as provided in this chapter, each certificate
21 delivered or issued for delivery to any person in this
22 Commonwealth with respect to accident and health coverage and
23 coverage for permanent and total disability shall contain the
24 contract provisions specified in sections 4554 (relating to
25 entire contract and changes) through 4567 (relating to
26 conformity of provisions with state statutes) in the words in
27 which the same appear in this chapter. However, the society may,
28 at its option, substitute for one or more of such provisions
29 corresponding provisions of different wording approved by the
30 department which are in each instance not less favorable in any

1 respect to the benefit member or the beneficiary. Such
2 provisions shall be preceded individually by the caption
3 appearing in this section or, at the option of the society, by
4 such appropriate individual or group captions or subcaptions as
5 the department may approve.

6 § 4554. Entire contract and changes.

7 There shall be a provision as follows:

8 Entire Contract; Changes: This certificate, including the
9 society's bylaws, the endorsements and the attached
10 papers, if any, constitutes the entire contract of
11 insurance. No change in this certificate shall be valid
12 until approved by an executive officer of the society and
13 unless such approval be endorsed hereon or attached
14 hereto. No agent has authority to change this certificate
15 or to waive any of its provisions.

16 § 4555. Time limits on certain defenses.

17 (a) Mandatory provision.--There shall be a provision as
18 follows:

19 Time Limit on Certain Defenses: After three years from
20 the date of issue of this certificate no misstatements,
21 except fraudulent misstatements, made by the applicant in
22 the application for such certificate shall be used to
23 void the certificate or to deny a claim for loss incurred
24 or disability (as defined in the certificate) commencing
25 after the expiration of such three-year period.

26 (b) Nonapplicability.--The certificate provision does not
27 affect any legal requirement for avoidance of a certificate or
28 denial of a claim during such initial three-year period, nor
29 limit the application of sections 4554 (relating to entire
30 contract and changes) through 4557 (relating to reinstatement)

1 and section 4558(a), (b) and (c) (relating to claim procedure)
2 in the event of misstatement with respect to age or occupation
3 or other insurance.

4 (c) Optional language for weekly payment situations.--

5 (1) In a certificate where the dues, premiums or other
6 required contributions are payable weekly, the words "if such
7 application is made a part of the certificate" may be
8 inserted in the certificate provision between the word
9 "certificate" and the word "shall" immediately following.

10 (2) In certificates whereon the dues, premiums or the
11 required contributions are payable weekly, the words "or from
12 the date of any reinstatement thereof" may be inserted in the
13 certificate provision between the word "certificate" and the
14 word "shall" immediately following.

15 (d) Optional language where certificate member has power to
16 continue certificate.--A certificate which the benefit member
17 has the right to continue in force subject to its terms by the
18 timely payment of the dues, premium or other required
19 contribution until at least 50 years of age, or in the case of a
20 certificate issued after 44 years of age, for at least five
21 years from its date of issue, may contain in lieu of the
22 language in section 4558(a) (relating to claim procedure), the
23 following provision:

24 Incontestability Period: After this certificate has been
25 in force for a period of three years during the lifetime
26 of the benefit member (excluding any period during which
27 the benefit member is disabled), it shall become
28 incontestable as to the statements contained in the
29 application.

30 (e) Nondenial or reduction of certain claims.--There shall

1 be a provision as follows:

2 Nondenial or Reduction of Certain Claims: No claim for
3 loss incurred or disability (as defined in the
4 certificate) commencing after three years from the date
5 of issue of this certificate shall be reduced or denied
6 on the ground that a disease or physical condition not
7 excluded from coverage by name or specific description
8 effective on the date of loss had existed prior to the
9 effective date of coverage of this certificate.

10 § 4556. Grace periods.

11 (a) Period established.--There shall be a provision as
12 follows:

13 Grace Period: There shall be a grace period of (insert a
14 number not less than "7" for weekly dues, premium or
15 other required contribution certificates, "10" for
16 monthly dues, premium or other required contribution
17 certificates and "31" for all other certificates) days
18 will be granted for the payment of each dues, premium or
19 other required contribution falling due after the first
20 dues, premium or other required contribution during which
21 grace period the certificate shall continue in force.

22 (b) Cancellation.--A certificate which contains a
23 cancellation provision may add, at the end of the provision,
24 "subject to the right of the benefit member to cancel in
25 accordance with the cancellation provision hereof."

26 (c) Reservation of right to refuse renewal.--A certificate
27 in which the society reserves the right to refuse any renewal
28 shall have, at the beginning of the contract provision set forth
29 in subsection (a), "unless not less than 30 days prior to the
30 dues, premium or other required contribution due date the

1 society has delivered to the benefit member or has mailed to his
2 last address as shown by the records of the society written
3 notice of its intention not to renew this certificate beyond the
4 period for which the dues, premium or other required
5 contribution has been accepted."

6 § 4557. Reinstatement.

7 (a) Mandatory provision.--There shall be a provision as
8 follows:

9 Reinstatement: If any renewal dues, premium or other
10 required contribution is not paid within the time granted
11 the society for payment, a subsequent acceptance of dues,
12 premium or other required contribution by the society or
13 by any agent duly authorized by the society to accept
14 such dues, premium or other required contribution without
15 requiring in connection therewith an application for
16 reinstatement, shall reinstate the certificate: Provided,
17 however, That if the society or such agent requires an
18 application for reinstatement and issues a conditional
19 receipt for the dues, premium or other required
20 contribution tendered, the certificate will be reinstated
21 upon approval of such application by the society or,
22 lacking such approval, upon the 45th day following the
23 date of such conditional receipt unless the society has
24 previously notified the benefit member in writing of its
25 disapproval of such application. The reinstated
26 certificate shall cover only loss resulting from such
27 accidental injury as may be sustained after the date of
28 reinstatement and loss due to such sickness as may begin
29 more than ten days after such date. In all other respects
30 the benefit member and society shall have the same rights

1 thereunder as they had under the certificate immediately
2 before the due date of the defaulted dues, premium or
3 other required contribution subject to any provisions
4 endorsed hereon or attached hereto in connection with the
5 reinstatement. Any dues, premium or other required
6 contribution accepted in connection with a reinstatement
7 shall be applied to a period for which the dues, premium
8 or other required contribution has not been previously
9 paid, but not to any period more than 60 days prior to
10 the date of reinstatement.

11 (b) Payments accepted.--The last sentence of the contract
12 provision set forth in subsection (a) may be omitted:

13 (1) from any certificate which the benefit member has
14 the right to continue in force subject to its terms by the
15 timely payment of the dues, premiums or other required
16 contributions until at least 50 years of age or, in the case
17 of a certificate issued after 44 years of age, for at least
18 five years from the date of its issue; or

19 (2) from any certificate on which the dues, premiums or
20 other required contributions are payable weekly.

21 § 4558. Claim procedure.

22 (a) Notice of claim.--There shall be a provision as follows:

23 Notice of Claim: Written notice of claim must be given to
24 the society within 20 days after the occurrence or
25 commencement of any loss covered by the certificate, or
26 as soon thereafter as is reasonably possible. Notice
27 given by or on behalf of the benefit member or the
28 beneficiary to the society at (insert the location of
29 such office as the society may designate for the purpose)
30 or to any authorized agent of the society, with

1 information sufficient to identify the benefit member,
2 shall be deemed notice to the society.

3 (b) Optional language for weekly payment insurance.--In a
4 certificate whereon the dues, premiums or other required
5 contributions are payable weekly, the first sentence of the
6 contract provisions set forth in subsection (a) may read:

7 Written notice of claim must be given to the society
8 within 10 days of the commencement of any nonhospital
9 confining sickness covered by the certificate and within
10 20 days after the occurrence or commencement of any other
11 loss covered by the certificate, or as soon thereafter as
12 is reasonably possible.

13 (c) Language in loss of time benefit insurance.--In a
14 certificate providing a loss of time benefit which may be
15 payable for at least two years, a society may insert the
16 following between the first and second sentences of the
17 provision set forth in subsection (a):

18 Subject to the qualifications set forth below, if the
19 benefit member suffers loss of time on account of
20 disability for which indemnity may be payable for at
21 least two years, he shall, at least once in every six
22 months after having given notice of claim, give to the
23 society notice of continuance of said disability, except
24 in the event of legal incapacity. The period of six
25 months following any filing of proof by the benefit
26 member or any payment by the society on account of such
27 claim or any denial of liability in whole or in part by
28 the society shall be excluded in applying this provision.
29 Delay in the giving of such notice shall not impair the
30 benefit member's right to any indemnity which would

1 otherwise have accrued during the period of six months
2 preceding the date on which such notice is actually
3 given.

4 (d) Forms for claims.--There shall be a provision as
5 follows:

6 Claim Forms: The society, upon receipt of a notice claim,
7 will furnish to the claimant such forms as are usually
8 furnished by it for filing proofs of loss. If such forms
9 are not furnished within 15 days after the giving of such
10 notice, the claimant shall be deemed to have complied
11 with the requirements of this certificate as to proof of
12 loss upon submitting, within the time fixed in the
13 certificate for filing proofs of loss, written proof
14 covering the occurrence, the character and the extent of
15 the loss for which claim is made.

16 (e) Proofs of loss.--There shall be a provision as follows:

17 Proofs of Loss: Written proof of loss must be furnished
18 to the society at its office in case of claim for loss
19 for which this certificate provides any periodic payment
20 contingent upon continuing loss within 90 days after the
21 termination of the period for which the society is liable
22 and in case of claim for any other loss within 90 days
23 after the date of such loss. Failure to furnish such
24 proof within the time required shall not invalidate or
25 reduce any claim if it was not reasonably possible to
26 give proof within such time, provided such proof is
27 furnished as soon as reasonably possible and in no event,
28 except in the absence of legal capacity, later than one
29 year from the time proof is otherwise required.

30 (f) Physical examinations and autopsy.--There shall be a

1 provision as follows:

2 Physical Examinations and Autopsy: The society at its own
3 expense shall have the right and opportunity to examine
4 the person of the benefit member when and as often as it
5 may reasonably require during the pendency of a claim
6 hereunder and to make an autopsy in case of death where
7 it is not forbidden by law.

8 § 4559. Payment of claims.

9 (a) Mandatory provision.--There shall be a provision as
10 follows:

11 Payment of Claims: Indemnity for loss of life will be
12 payable in accordance with the beneficiary designation
13 and the provisions respecting such payment which may be
14 prescribed herein and effective at the time of payment.
15 If no such designation or provision is then effective,
16 such indemnity shall be payable to the estate of the
17 insured. Any other accrued indemnities unpaid at the
18 benefit member's death may, at the option of the society,
19 be paid either to such beneficiary or to such estate. All
20 other indemnities will be payable to the benefit member.

21 (b) Optional language.--The following provisions, or either
22 of them, may be included with the contract provision set forth
23 in subsection (a):

24 (1) If any indemnity of this certificate shall be
25 payable to the estate of the benefit member or to a benefit
26 member or beneficiary who is a minor or otherwise not
27 competent to give a valid release, the society may pay such
28 indemnity, up to an amount not exceeding \$ (insert an amount
29 which shall not exceed \$1,000), to any relative by blood or
30 connection by marriage of the benefit member or beneficiary

1 who is deemed by the society to be equitably entitled
2 thereto. Any payment made by the society in good faith
3 pursuant to this provision shall fully discharge the society
4 to the extent of such payment.

5 (2) Subject to any written direction of the benefit
6 member in the application or otherwise, all or a portion of
7 any indemnities provided by this certificate on account of
8 hospital, nursing, medical or surgical services may, at the
9 society's option and, unless the benefit member requests
10 otherwise in writing, not later than the time of filing
11 proofs of such loss, be paid directly to the hospital or
12 person rendering such services; but it is not required that
13 the service be rendered by a particular hospital or person.

14 (c) Time of payment of claims.--There shall be a provision
15 as follows:

16 Time of Payment of Claims: Indemnities payable under this
17 certificate for any loss other than loss for which this
18 certificate provides any periodic payment will be paid
19 immediately upon receipt of due written proof of such
20 loss. Subject to due written proof of loss, all accrued
21 indemnities for loss for which this certificate provides
22 periodic payment will be paid (insert period for payment
23 which must not be less frequently than monthly) and any
24 balance remaining unpaid upon the termination of
25 liability will be paid immediately upon receipt of due
26 written proof.

27 § 4560. Legal actions.

28 There shall be a provision as follows:

29 Legal Actions: No action at law or in equity shall be
30 brought to recover on this certificate prior to the

1 expiration of 60 days after written proof of loss has
2 been furnished in accordance with the requirements of
3 this certificate. No such action shall be brought after
4 the expiration of three years after the time written
5 proof of loss is required to be furnished.

6 § 4561. Change of beneficiary.

7 There shall be a provision as follows:

8 Change of Beneficiary: Unless the benefit member makes an
9 irrevocable designation of beneficiary, the right to
10 change of beneficiary is reserved to the benefit member
11 and the consent of the beneficiary or beneficiaries shall
12 not be requisite to surrender or assignment of this
13 certificate or to any change of beneficiary or
14 beneficiaries, or to any other changes in this
15 certificate. The first clause of this provision, relating
16 to the irrevocable designation of beneficiary, may be
17 omitted at the society's option.

18 § 4562. Change of occupation.

19 There shall be a provision as follows:

20 Change of Occupation: If the benefit member is injured or
21 contracts sickness after having changed his occupation to
22 one classified by the society as more hazardous than that
23 stated in this certificate or while doing for
24 compensation anything pertaining to an occupation so
25 classified, the society will pay only such portion of the
26 indemnities provided in this certificate as the dues,
27 premiums or other required contributions paid would have
28 purchased at the rates and within the limits fixed by the
29 society for such more hazardous occupation. If the
30 benefit member changes his occupation to one classified

1 by the society as less hazardous than that stated in this
2 certificate, the society, upon receipt of proof of such
3 change of occupation, will reduce the dues, premiums or
4 other required contributions accordingly, and will return
5 the excess pro rata unearned dues, premiums or other
6 required contributions from the date of change of
7 occupation or from the certificate anniversary date
8 immediately preceding receipt of such proof, whichever is
9 the more recent. In applying this provision, the
10 classification of occupational risk and the dues,
11 premiums or other required contributions shall be such as
12 have been last filed by the society prior to the
13 occurrence of the loss for which the society is liable or
14 prior to date of proof of change in occupation with the
15 state official having supervision of insurance in the
16 state where the benefit member resided at the time this
17 certificate was issued; but if such filing was not
18 required, then the classification of occupational risk
19 and the dues, premiums or other required contributions
20 shall be those last made effective by the society in such
21 state prior to the occurrence of the loss or prior to the
22 date of proof of change in occupation.

23 § 4563. Conduct of insured.

24 (a) Misstatement of age.--There shall be a provision as
25 follows:

26 Misstatement of Age: If the age of the benefit member has
27 been misstated, all amounts payable under this
28 certificate shall be such as the dues, premiums or other
29 required contributions paid would have purchased at the
30 correct age.

(b) Nonpayment of premiums.--There shall be a provision as follows:

Unpaid Dues, Premiums or Other Required Contributions:

Upon the payment of a claim under this certificate, any dues, premiums or other required contributions then due and unpaid or covered by any note or written order may be deducted therefrom.

(c) Illegal occupation.--There shall be a provision as follows:

Illegal Occupation: The society shall not be liable for any loss to which a contributing cause was the benefit member's commission of or attempt to commit a felony, or to which a contributing cause was the benefit member's being engaged in an illegal occupation.

(d) Intoxicants and narcotics.--There shall be a provision as follows:

Intoxicants and Narcotics: The society shall not be liable for any loss sustained or contracted in consequence of the benefit member's being intoxicated, or under the influence of any narcotic unless administered on the advice of a physician.

§ 4564. Other insurance.

(a) Other insurance in same society.--There shall be a provision as follows:

Other Insurance in This Society: If an accident or sickness or accident and sickness certificate or certificates previously issued by the society to the benefit member be in force concurrently herewith, making the aggregate indemnity for (insert type of coverage or coverages) in excess of \$ (insert maximum limit of

1 indemnity or indemnities), the excess insurance shall be
2 void and all dues, premiums or other required
3 contributions paid for such excess shall be returned to
4 the benefit member or to his estate or, in lieu thereof,
5 insurance effective at any one time on the benefit member
6 under a like certificate or certificates in this society
7 is limited to the one such certificate elected by the
8 benefit member, his beneficiary or his estate, as the
9 case may be, and the society will return all dues,
10 premiums or other required contributions paid for all
11 other such certificates.

12 (b) Insurance with other benefit members.--There shall be a
13 provision as follows:

14 Insurance with Other Benefit Members: If there is other
15 valid coverage, not with this society, providing benefits
16 for the same loss on a provision of service basis or on
17 an expense incurred basis and of which this society has
18 not been given written notice prior to the occurrence or
19 commencement of loss, the only liability under any
20 expense incurred coverage of this certificate shall be
21 for such proportion of the loss of the amount which would
22 otherwise have been payable hereunder plus the total of
23 the like amounts under all such other valid coverages for
24 the same loss of which this society had notice bears to
25 the total like amounts under all valid coverages for such
26 loss, and for the return of such portion of the dues,
27 premiums or other required contributions paid as shall
28 exceed the pro rata portion for the amount so determined.
29 For the purpose of applying this provision when other
30 coverage is on a provision of service basis, the "like

1 amount" of such other coverage shall be taken as the
2 amount which the services rendered would have cost in the
3 absence of such coverage.

4 (c) Caption change for insurance with other benefit
5 members.--If the contract provision set forth in subsection (a)
6 is included in a certificate which also contains the contract
7 provision set forth in subsection (e), there shall be added to
8 the caption of the contract provision set forth in subsection
9 (b) the phrase "... Expense Incurred Benefits."

10 (d) Definition of "other valid coverage" for insurance with
11 other benefit members.--The society may include in the contract
12 provision set forth in subsection (b) a definition of "other
13 valid coverage," approved as to form by the department, which
14 shall be limited in subject matter to coverage provided by
15 organizations subject to regulation by insurance law or by
16 insurance authorities of this Commonwealth or any other state or
17 any province of Canada, and by hospital or medical service
18 organizations, and to any other coverage the inclusion of which
19 is approved by the department. In the absence of such
20 definition, the term does not include group insurance or
21 coverage provided by hospital or medical service organizations
22 or by union welfare plans or employer or employee benefit
23 organizations. For the purpose of applying the provision set
24 forth in subsection (b) with respect to any benefit member, any
25 amount of benefit provided for the member pursuant to any
26 compulsory benefit statute, including any workmen's compensation
27 or employers' liability statute, whether provided by a
28 governmental agency or otherwise, shall be deemed "other valid
29 coverage" of which the society has had notice; in applying this
30 contract provision, in no event shall third party liability

1 coverage be included as "other valid coverage."

2 (e) Insurance with other societies.--There shall be a
3 provision as follows:

4 Insurance with Other Societies: If there is other valid
5 coverage, not with this society, providing benefits for
6 the same loss on other than an expense incurred basis and
7 of which this society has not been given written notice
8 prior to the occurrence or commencement of loss, the only
9 liability for such benefits under this certificate shall
10 be for such proportion of the indemnities otherwise
11 provided hereunder for such loss as the like indemnities
12 of which the society had notice (including the
13 indemnities under this certificate) bear to the total
14 amount of all like indemnities for such loss, and for the
15 return of such portion of the dues, premiums or other
16 required contributions paid as shall exceed the pro rata
17 portion for the indemnities thus determined.

18 (f) Caption changes for insurance with other societies.--If
19 the contract provision set forth in subsection (e) is included
20 in a certificate which also contains the provision set forth in
21 subsection (b) there shall be added to the caption of the
22 foregoing provision the phrase "... other benefits."

23 (g) Definition of "other valid coverage" for insurance with
24 other societies.--The society may include in the contract
25 provision set forth in subsection (e) a definition of "other
26 valid coverage," approved as to form by the department, which
27 shall be limited in subject matter to coverage provided by
28 organizations subject to regulation by insurance law or by
29 insurance authorities of this Commonwealth or any other state or
30 any province of Canada, and to any other coverage the inclusion

1 of which may be approved by the department. In the absence of
2 such definition, the term does not include group insurance or
3 benefits provided by union welfare plans or by employer or
4 employee benefit organizations. For the purpose of applying the
5 contract provision set forth in subsection (e) with respect to
6 any benefit member, any amount of benefit provided for the
7 insured pursuant to any compulsory benefit statute including any
8 workmen's compensation or employers' liability statute, whether
9 provided by a governmental agency or otherwise, shall be deemed
10 "other valid coverage" of which the society has had notice; in
11 applying this contract provision, in no event shall third party
12 liability coverage be included as "other valid coverage."

13 § 4565. Relation of earnings to insurance.

14 (a) Reduction of payments to rates with earnings.--If
15 permitted by subsection (b), there shall be a provision as
16 follows:

17 Relation of Earnings to Insurance: If the total monthly
18 amount of loss of time benefits promised for the same
19 loss under all valid loss of time coverage upon the
20 benefit member, whether payable on a weekly or monthly
21 basis, shall exceed the monthly earnings for the period
22 of two years immediately preceding a disability for which
23 claim is made, whichever is the greater, the society will
24 be liable only for such proportionate amount of such
25 benefits under this certificate as the amount of such
26 monthly earnings or such average monthly earnings of the
27 benefit member bears to the total amount of monthly
28 benefits for the same loss under all such coverage upon
29 the benefit member at the time such disability commences
30 and for the return of such part of the dues, premiums or

1 other required contributions paid during such two years
2 as shall exceed the pro rata amount of the dues, premiums
3 or other required contributions for the benefits actually
4 paid hereunder; but this shall not operate to reduce the
5 total monthly amount of benefits payable under all such
6 coverage upon the benefit member below the sum of \$200 or
7 the sum of the monthly benefits specified in such
8 coverages, whichever is the lesser, nor shall it operate
9 to reduce benefits other than those payable for loss of
10 time.

11 (b) Limited use of provision.--The contract provision set
12 forth in subsection (a) shall be inserted only in a certificate
13 which the benefit member has the right to continue in force
14 subject to its terms by the timely payment of dues, premiums or
15 other required contributions until at least 50 years of age or,
16 in the case of a certificate issued after 44 years of age, for
17 at least five years from its date of issue.

18 (c) Definition of "valid loss of time coverage".--The
19 society may include in the contract provision set forth in
20 subsection (a), a definition of "valid loss of time coverage,"
21 approved as to form by the department, which shall be limited in
22 subject matter to coverage provided by governmental agencies or
23 by organizations subject to regulation by insurance law or by
24 insurance authorities of this Commonwealth or any other state or
25 any province of Canada, or to any other coverage, the inclusion
26 of which may be approved by the department, or any combination
27 of such coverages. In the absence of such definition, the term
28 does not include any coverage provided for the member pursuant
29 to any compulsory benefit statute, including any workmen's
30 compensation or employers' liability statute, or benefits

1 provided by union welfare plans or by employer or employee
2 benefit organizations.

3 § 4566. Cancellation.

4 There shall be a provision as follows:

5 Cancellation: The society may cancel this certificate at
6 any time by written notice delivered to the benefit
7 member or mailed to his last address as shown by the
8 records of the society, stating when, not less than 30
9 days thereafter, such cancellation shall be effective;
10 and after the certificate has been continued beyond its
11 original term, the benefit member may cancel this
12 certificate at any time by written notice delivered or
13 mailed to the society, effective upon receipt or on such
14 later date as may be specified in such notice. In the
15 event of cancellation, the society will return promptly
16 the unearned portion of any dues, premiums or other
17 required contributions paid. If the benefit member
18 cancels, the unearned dues, premiums or other required
19 contributions shall be computed by the use of the short
20 rate table last filed with the state official having
21 supervision of insurance in the state where the benefit
22 member resided when the certificate was issued. If the
23 society cancels, the earned dues, premiums or other
24 required contributions shall be computed pro rata.
25 Cancellation shall be without prejudice to any claim
26 originating prior to the effective date of cancellation.

27 § 4567. Conformity of provisions with state statutes.

28 There shall be a provision as follows:

29 Conformity with State Statutes: Any provision of this
30 certificate which, on its effective date, is in conflict

1 with the statutes of the state in which the benefit
2 member resides on such date, is hereby amended to conform
3 to the minimum requirements of such statutes.

4 § 4568. Inapplicable provisions.

5 (a) Modification for type of coverage.--If any contract
6 provision of this chapter is in whole or in part inapplicable to
7 or inconsistent with the coverage provided by a particular form
8 of certificate, the society, with the approval of the
9 department, shall omit from the certificate any inapplicable
10 provision and shall modify any inconsistent provision in such
11 manner as to make the provision as contained in the certificate
12 consistent with the coverage provided by the certificate.

13 (b) Power of department.--Where the department deems
14 inapplicable, either in part or in their entirety, the contract
15 provisions of this chapter, it may prescribe the portions or
16 summary thereof of the contract to be printed on the certificate
17 issued to the member.

18 § 4569. Composition and construction of certificates.

19 (a) Order of provisions.--The contract provisions prescribed
20 by this chapter or any corresponding provisions which are used
21 in lieu thereof in accordance therewith shall be printed in the
22 consecutive order of the provisions therein or, at the option of
23 the society, any such provision may appear as a unit in any part
24 of the certificate, with other provisions to which it may be
25 logically related, provided the resulting certificate shall not
26 be in whole or in part unintelligible, ambiguous or misleading.

27 (b) Third-party ownership.--The term "benefit member," as
28 used in this chapter, shall not be construed as preventing a
29 person other than the benefit member with a proper insurable
30 interest from making application for and owning a certificate

1 covering the benefit member or from being entitled under such a
2 certificate to any indemnities, benefits and rights provided
3 therein.

4 SUBCHAPTER F

5 LICENSURE

6 Sec.

7 4571. Annual license for societies.

8 4572. Fees.

9 4573. Foreign or alien societies.

10 4574. Injunction, liquidation or receivership of domestic
11 societies.

12 4575. Suspension, revocation or refusal of license to foreign
13 or alien societies.

14 4576. Application for injunction.

15 4577. Licensure of fraternal insurance agents.

16 § 4571. Annual license for societies.

17 The authority of the societies shall be renewed annually, on
18 or before April 1.

19 § 4572. Fees.

20 The department shall charge and collect fees under section
21 613-A(3) of the act of April 9, 1929 (P.L.177, No.175), known as
22 The Administrative Code of 1929. All agent's license fees for
23 each domestic or foreign society, for life or accident and
24 health lines, shall be paid in full at the time of issuance of
25 the license and shall not be apportioned pro rata over the
26 initial license period. All fees collected shall be paid daily
27 into the State Treasury.

28 § 4573. Foreign or alien societies.

29 (a) License required.--A foreign or alien society shall not
30 transact business in this Commonwealth without a license issued

1 by the department. Any such society may be licensed to transact
2 business in this Commonwealth upon filing with the department:

3 (1) A certified copy of its charter or articles of
4 incorporation.

5 (2) A copy of its constitution and bylaws, certified by
6 its secretary or corresponding officer.

7 (3) A statement of its business under oath of its
8 president and secretary or corresponding officers in a form
9 prescribed by the department, duly verified by an examination
10 satisfactory to the department, made by the supervising
11 insurance official of its home state or other state, province
12 or country.

13 (4) A certificate from the proper official of its home
14 state, province or country that the society is legally
15 incorporated and licensed to transact business therein.

16 (5) Copies of its certificate forms.

17 (6) Such other information as the department believes
18 necessary.

19 (7) Proof that its assets are invested in accordance
20 with this chapter.

21 (b) Qualifications.--Any foreign or alien society desiring
22 authority to transact business in this Commonwealth shall have
23 the qualifications required of domestic societies organized
24 under this chapter.

25 § 4574. Injunction, liquidation or receivership of domestic
26 societies.

27 (a) Findings and notification.--When the department upon
28 investigation finds that a domestic society:

29 (1) has exceeded its powers;

30 (2) has failed to comply with any provision of this

chapter;

(3) is not fulfilling its contracts in good faith;

(4) has a membership of less than 400 after an existence of one year or more; or

(5) is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business;

it shall notify the society of the deficiencies. The department shall immediately issue a written notice to the society requiring that any such deficiencies be corrected. After this notice the society shall have a 30-day period in which to comply with the department's request. If the society fails to comply, the department shall notify the society of its findings of noncompliance and require the society to show cause, at a hearing on a date named, why it should not be enjoined from carrying on any business until the violation complained of has been corrected, or why an action in quo warranto should not be commenced against the society.

(b) Presentation to Attorney General.--If on the hearing date the society does not present sufficient reasons why it should not be so enjoined or why such action should not be commenced, the department may present the facts relating thereto to the Attorney General who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto. An action under this section shall not be recognized in any court unless commenced by the Attorney General upon request of the department.

(c) Hearing.--If after a full hearing, after adequate notice to the society, it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall

1 enter the necessary order.

2 (d) Prerequisites for lifting injunction.--A society so
3 enjoined shall not have the authority to do business until all
4 of the following have occurred:

5 (1) The department finds that the violation complained
6 of has been corrected.

7 (2) The costs of such action are paid by the society, if
8 the court finds that the society was in default as charged.

9 (3) The court dissolves its injunction.

10 (4) The department reinstates the certificate of
11 authority.

12 (e) Court order for liquidation.--If the court orders the
13 society liquidated, it shall be enjoined from carrying on any
14 further business. The receiver of the society shall proceed
15 immediately to take possession of the books, papers, money and
16 other assets of the society and, under the direction of the
17 court, proceed immediately to close the affairs of the society
18 and to distribute its funds to those entitled thereto. Whenever
19 a receiver is to be appointed for a domestic society, the court
20 shall appoint the department as receiver.

21 (f) Applicability to voluntary discontinuance.--The
22 provisions of this section relating to hearing by the
23 department, action by the Attorney General at the request of the
24 department, hearing by the court, injunction and receivership
25 shall apply to a society which voluntarily determines to
26 discontinue business.

27 § 4575. Suspension, revocation or refusal of license to foreign
28 or alien societies.

29 (a) Findings and notification.--When the department upon
30 investigation finds that a foreign or alien society transacting

1 or applying to transact business in this Commonwealth:

2 (1) has exceeded its powers;

3 (2) has failed to comply with any of the provisions of
4 this chapter;

5 (3) is not fulfilling its contracts in good faith; or

6 (4) is conducting its business fraudulently or in a
7 manner hazardous to its members or creditors or the public;

8 it shall notify the society of the deficiencies. The department
9 shall immediately issue a written notice to the society
10 requiring that any such deficiencies be corrected. After the
11 notice the society shall have a 30-day period in which to comply
12 with the department's request. If the society fails to comply,
13 the department shall notify the society of its findings of
14 noncompliance and require the society to show cause, at a
15 hearing on a date named, why its license should not be
16 suspended, revoked or refused. If on the hearing date the
17 society does not present good and sufficient reason why the
18 action proposed by the department should not be taken, the
19 department may suspend or refuse the license of the society to
20 do business in this Commonwealth until satisfactory evidence is
21 furnished to the department that the suspension or refusal
22 should be withdrawn or the department may revoke the authority
23 of the society to do business in this Commonwealth.

24 (b) Continuation of contracts.--This section does not
25 prevent any such society from continuing in good faith all
26 contracts made in this Commonwealth during the time the society
27 was legally authorized to transact business.

28 § 4576. Application for injunction.

29 An application or petition for injunction with respect to any
30 regulatory law administered by the department against any

1 domestic, foreign or alien society, or branch thereof, shall not
2 be recognized in any court unless made by the Attorney General
3 upon request of the department.

4 § 4577. Licensure of fraternal insurance agents.

5 (a) Licensure requirement.--Agents of societies shall be
6 licensed in accordance with this section.

7 (b) Payment of commissions.--A society doing business in
8 this Commonwealth shall not pay any commission or other
9 compensation to any person for any services in obtaining in this
10 Commonwealth any new contract of life, accident or health
11 insurance, or any new annuity contract, except to a licensed
12 fraternal insurance agent of the society.

13 (c) Issuance of license.--The department may issue a license
14 to any person who has paid the annual license fee and who has
15 complied with the requirements of this section, authorizing the
16 licensee to act as a fraternal insurance agent on behalf of any
17 society named in the license which is authorized to do business
18 in this Commonwealth.

19 (d) Supporting documents.--A fraternal insurance agent's
20 license shall not be issued until there is on file in the office
21 of the department the following documents:

22 (1) A written application by the prospective licensee,
23 in such form or forms and containing such information as the
24 department may prescribe.

25 (2) A certificate by the society to be named in the
26 license, stating that the society has satisfied itself that
27 the named applicant is trustworthy and competent to act as
28 its fraternal insurance agent and that the society will
29 appoint the applicant to act as its agent if the license is
30 issued by the department. This certificate shall be executed

1 and acknowledged by an officer or managing agent of the
2 society.

3 (e) Types of licenses.--Except as otherwise provided in this
4 section, fraternal insurance agents shall be licensed as life or
5 accident and health agents, or both, except that the examination
6 requirements of such provisions shall not apply to:

7 (1) Any fraternal insurance agent who was in the service
8 of a society on January 29, 1978.

9 (2) A fraternal insurance agent who, in the preceding
10 calendar year, has solicited and procured life insurance
11 contracts on behalf of any society in an amount of insurance
12 not in excess of \$100,000 or, in the case of any other kinds
13 of insurance which the society might write, on the persons of
14 not more than 25 individuals and who has received or will
15 receive a commission or compensation therefor.

16 (f) Denial of license.--The department may refuse to issue
17 or renew any fraternal insurance agent's license if in its
18 judgment the proposed licensee is not trustworthy and competent
19 to act as such an agent, or has given cause for revocation or
20 suspension of the license, or has failed to comply with any
21 prerequisite for the issuance or renewal of the license.

22 (g) License terms.--The term, expiration, renewal
23 procedures, termination notice requirements and the causes for
24 revocation or suspension of the license shall be as contained in
25 Chapter 11 (relating to agents and brokers) with respect to
26 licenses of life, accident and health insurance agents, except
27 as inconsistent with this section.

28 (h) Definition.--As used in this section, the term
29 "fraternal insurance agent" means any authorized or acknowledged
30 agent or representative of a society who acts as such in the

solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract.

The term does not include:

(1) Any regular salaried officer or employee of a licensed society whose services are devoted substantially to activities other than the solicitation of insurance contracts, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained.

(2) Any member of a society whose solicitation or negotiation of insurance contracts is incidental to securing new members for his society and whose only remuneration consists of prizes in the form of merchandise or payments of nominal amounts.

SUBCHAPTER G

REGULATION OF OPERATIONS

Sec.

4581. Funds.

4582. Investments.

4583. Report of financial condition.

4584. Determination of reserves.

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4587. Valuation standards.

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§ 4581. Funds.

1 (a) Assets of society.--All assets shall be held, invested
2 and disbursed for the use and benefit of the society, and a
3 member or beneficiary shall not have or acquire individual
4 rights therein or become entitled to any apportionment or the
5 surrender of any part thereof, except as provided in the
6 contract.

7 (b) Use of funds.--A society may create, maintain, invest,
8 disburse and apply any special funds necessary to carry out any
9 purpose permitted by the bylaws of the society.

10 (c) Statement of purposes and proportions of payments.--
11 Every society, the admitted assets of which are less than the
12 sum of its accrued liabilities and reserves under all of its
13 certificates when valued according to standards required for
14 life insurance companies for certificates issued after January
15 29, 1979, shall, in every provision of the bylaws of the society
16 for payments by members of the society, distinctly state the
17 purpose of the same and the proportion thereof which may be used
18 for expenses. The money collected for mortuary or disability
19 purposes or the net accretions thereto shall not be used for
20 expenses.

21 § 4582. Investments.

22 (a) General rule.--A society shall invest its funds only in
23 the investments authorized by this title for the investment of
24 assets of life insurance companies. Any foreign or alien society
25 permitted or seeking to do business in this Commonwealth which
26 invests its funds in accordance with the law of the state,
27 province or country in which it is incorporated is deemed to
28 meet the requirements of this section for the investment of
29 funds.

30 (b) Certain real estate.--In addition to the investment of

1 assets as prescribed under subsection (a), a fraternal benefit
2 society may purchase, receive, hold and convey real estate or
3 any interest therein for the purpose of maintenance or
4 construction of camps or recreational areas with necessary
5 facilities for all its members. Such assets shall be shown on
6 the annual statement at cost in the year acquired and may not
7 exceed 5% of other admitted assets of the society.

8 § 4583. Report of financial condition.

9 (a) Requirement.--Every society transacting business in this
10 Commonwealth shall annually, on or before March 1, unless for
11 cause shown the time is extended by the department, file with
12 the department a true statement of its financial condition,
13 transactions and affairs for the preceding calendar year and pay
14 the applicable fee. The statement shall be in general form and
15 content as approved by the National Association of Insurance
16 Commissioners for fraternal benefit societies and as
17 supplemented by additional information as required by the
18 department.

19 (b) Synopsis of report to members.--A synopsis of its annual
20 statement providing an explanation of the facts concerning the
21 condition of the society disclosed in the statement shall be
22 printed and mailed to each benefit member of the society not
23 later than June 1 of each year, or the synopsis may instead be
24 published in the society's official publication.

25 (c) Report of valuation of certificates.--As a part of the
26 annual statement each society shall, on or before March 1, file
27 with the department a valuation of its certificates in force at
28 the end of the preceding calendar year. The department may for
29 cause shown extend the time for filing the valuation to not
30 later than May 1. The report of valuation shall show as reserve

1 liabilities the difference between the present midyear value of
2 the promised benefits provided in the certificates of the
3 society in force and the present midyear value of the future net
4 premiums as are actually collected, not including therein any
5 value for the right to make extra assessments or any amount by
6 which the present midyear value of future net premiums exceeds
7 the present midyear value of promised benefits on individual
8 certificates. At the option of the society the valuation may
9 instead show the net tabular value. The net tabular value as to
10 certificates issued prior to January 29, 1979, shall be
11 determined in accordance with the law applicable prior to
12 January 29, 1978, and as to certificates issued on or after
13 January 29, 1979, shall not be less than the reserves determined
14 according to the departments' reserve valuation method under
15 section 4584 (relating to determination of reserves). If the
16 premium charged is less than the tabular net premium according
17 to the basis of valuation used, an additional reserve equal to
18 the present value of the deficiency in such premiums shall be
19 maintained as a liability. The reserve liabilities shall be
20 properly adjusted if the midyear or tabular values are not
21 appropriate.

22 (d) Penalty.--A society which neglects to file the annual
23 statement in the form and within the time provided by this
24 section shall forfeit \$100 for each day during which such
25 neglect continues and, upon notice by the department to that
26 effect, its authority to do business in this Commonwealth shall
27 cease while such default continues.

28 § 4584. Determination of reserves.

29 (a) Uniform life insurance and endowment benefits.--Reserves
30 according to the department's reserve valuation method for the

1 life insurance and endowment benefits of certificates providing
2 for a uniform amount of insurance and requiring the payment of
3 uniform premiums, shall be the excess, if any, of the present
4 value, at the date of valuation, of the future guaranteed
5 benefits provided for by such certificates, over the then
6 present value of any future modified net premiums therefor. The
7 modified net premiums for any such certificate shall be such a
8 uniform percentage of the respective contract premiums for such
9 benefits that the present value, at the date of issue of the
10 certificate, of all such modified net premiums shall be equal to
11 the sum of the then present value of such benefits provided for
12 by the certificate and the excess of paragraph (1) over
13 paragraph (2) as follows:

14 (1) A net level premium equal to the present value, at
15 the date of issue, of such benefits provided for after the
16 first certificate year, divided by the present value, at the
17 date of issue, of an annuity of one a year payable on the
18 first and each subsequent anniversary of such certificate on
19 which a premium falls due; provided however, that this net
20 level annual premium shall not exceed the net level annual
21 premium on the 19-year premium whole life plan for insurance
22 of the same amount at an age one year higher than the age at
23 issue of the certificate.

24 (2) A net one year term premium for such benefits
25 provided for in the first certificate year.

26 (b) Other benefits.--Reserves according to the
27 commissioners' reserve valuation method for:

28 (1) life insurance benefits for varying amounts of
29 benefits or requiring the payment of varying premiums;

30 (2) annuity and pure endowment benefits;

(3) disability and accidental death benefits in all certificates and contracts; and

(4) all other benefits except life insurance and endowment benefits;

shall be calculated by a method consistent with the principles of this section.

§ 4585. Deferred payments as liability.

The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in sections 4586 (relating to certification of valuation) and 4587 (relating to valuation standards).

§ 4586. Certification of valuation.

The valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

§ 4587. Valuation standards.

(a) Valuation for earlier certificates.--The minimum standards of valuation for certificates issued prior to January 29, 1979, shall be those provided by the law applicable immediately prior to January 29, 1978, but not lower than the standards used in the calculating of rates for such certificates.

(b) Valuation for certificates after January 29, 1979.--The minimum standard of valuation for certificates issued after January 29, 1979, shall be 3.5% interest and the following tables:

(1) For certificates of life insurance, the American Men Ultimate Table of Mortality, with Bowerman's or Davis'

1 Extension thereof, or with the consent of the department, the
2 Commissioners 1941 Standard Ordinary Mortality Table, the
3 Commissioners 1941 Standard Industrial Mortality Table or the
4 Commissioners 1958 Standard Ordinary Mortality Table, using
5 actual age of the insured for male risks and an age not more
6 than three years younger than the actual age of the insured
7 for female risks.

8 (2) For annuity and pure endowment certificates,
9 excluding any disability and accidental death benefits in
10 such certificates, the 1937 Standard Annuity Mortality Table
11 or the Annuity Mortality Table for 1949, Ultimate, or any
12 modification of either of these tables approved by the
13 department.

14 (3) For total and permanent disability benefits in or
15 supplementary to life insurance certificates, Hunter's
16 Disability Table, or the Class III Disability Table (1926)
17 modified to conform to the contractual waiting period, or the
18 tables of Period 2 disablement rates and the 1930 to 1950
19 termination rates of the 1952 Disability Study of the Society
20 of Actuaries with due regard to the type of benefit. Any such
21 table shall, for active lives, be combined with a mortality
22 table permitted for calculating the reserves for life
23 insurance certificates.

24 (4) For accidental death benefits in or supplementary to
25 life insurance certificates, the Inter-Company Double
26 Indemnity Mortality Table or the 1959 Accidental Death
27 Benefits Table. Either table shall be combined with a
28 mortality table permitted for calculating the reserves for
29 life insurance certificates.

30 (5) For noncancelable accident and health benefits, the

1 Class III Disability Table (1926) with conference
2 modifications or, with the consent of the department, tables
3 based upon the society's own experience.

4 (c) Applicability of life insurance standards.--Any society
5 may value its certificates in accordance with valuation
6 standards authorized under this table for the valuation of
7 policies issued by life insurance companies.

8 (d) Standards prescribed by department.--The department may
9 accept other standards for valuation if it finds that the
10 reserves produced thereby will not be less in the aggregate than
11 reserves computed in accordance with the minimum valuation
12 standard prescribed under subsection (a), (b) or (c). The
13 department may vary the standards of mortality applicable to all
14 certificates of insurance on substandard lives or other
15 especially hazardous lives by any society authorized to do
16 business in this Commonwealth. Whenever the mortality experience
17 under all certificates valued on the same mortality table is in
18 excess of the expected mortality according to such table for a
19 period of three consecutive years, the department may require
20 additional reserves when deemed necessary on account of such
21 certificates.

22 § 4588. Excess reserves.

23 Any society, with the consent of the department of insurance
24 of the state of domicile of the society and under any conditions
25 it imposes, may establish and maintain reserves on its
26 certificates in excess of the reserves required thereunder, but
27 the contractual rights of any insured member shall not be
28 affected thereby.

29 § 4589. Examination of societies.

30 (a) Domestic societies.--The department may visit and

1 examine into the affairs of any domestic society, and it shall
2 make such examination at least once in every four years. It
3 shall have free access to all books, papers and documents that
4 relate to the business of the society. The minutes of the
5 proceedings of the supreme legislative or governing body and of
6 the board of directors or corresponding body of a society shall
7 be in the English language. In making the examination, the
8 department may examine the officers, agents and employees or
9 other persons under oath in relation to the affairs,
10 transactions and condition of the society. A summary of the
11 report of the department, and such recommendations or statements
12 of the department as may accompany the report, shall be read at
13 the first meeting of the board of directors or corresponding
14 body of the society following the receipt thereof and, if
15 directed so to do by the department, shall also be read at the
16 first meeting of the supreme legislative or governing body of
17 the society following receipt. A copy of the report,
18 recommendations and statements of the department shall be
19 furnished by the society to each member of the board of
20 directors or other governing body. The expense of each
21 examination and of each valuation, including compensation and
22 actual expense of examiners, shall be paid by the society
23 examined or whose certificates are valued, upon statements
24 furnished by the department.

25 (b) Foreign and alien societies.--The department may examine
26 any foreign or alien society transacting or applying for
27 admission to transact business in this Commonwealth. It shall
28 have free access to all books, papers and documents that relate
29 to the business of the society. The department may accept, in
30 lieu of such examination, the examination of the insurance

1 department of the state, province or country where the society
2 is organized. The compensation and actual expenses of the
3 examiners making any examination or general or special valuation
4 shall be paid by the society examined or by the society whose
5 certificate obligations have been valued, upon statements
6 furnished by the department.

7 (c) Restrictions on publications.--The department shall not
8 make public or permit to become public any financial statement,
9 report or finding affecting the status, standing or rights of
10 any society, until a copy thereof is served upon the society at
11 its principal office and the society is afforded a reasonable
12 opportunity to comment on the material and to make such showing
13 in connection therewith as it may desire.

14 (d) Objections.--Societies which have been examined by the
15 department have the privilege of objecting to the report of
16 examination within 30 days after reception of the report. If any
17 objection is made, the department will grant a hearing to the
18 society before making the report available for public
19 inspection.

20 § 4590. Misrepresentations.

21 (a) Offense.--A person shall not cause or permit to be made,
22 issued or circulated in any form:

23 (1) Any misrepresentation or false or misleading
24 statement concerning the terms, benefits or advantages of any
25 fraternal insurance contract now issued or to be issued in
26 this Commonwealth, or the financial condition of any society.

27 (2) Any false or misleading estimate or statement
28 concerning the dividends or shares of surplus paid or to be
29 paid by any society on any insurance contract.

30 (3) Any incomplete comparison of an insurance contract

1 of one society with an insurance contract of another society
2 or insurer for the purpose of inducing the lapse, forfeiture
3 or surrender of any insurance contract. A comparison of
4 insurance contracts is incomplete if:

5 (i) it does not compare in detail:

6 (A) the gross rates, and the gross rates less
7 any dividend or other reduction allowed at the date
8 of the comparison; or

9 (B) any increase in cash values, and all the
10 benefits provided by each contract for the possible
11 duration thereof as determined by the life expectancy
12 of the insured; or

13 (ii) it omits from consideration:

14 (A) any benefit or value provided in the
15 contract;

16 (B) any differences as to amount or period of
17 rates; or

18 (C) any differences in limitations or conditions
19 or provisions which directly or indirectly affect the
20 benefits.

21 In any determination of the incompleteness or misleading
22 character of any comparison or statement, it shall be
23 presumed that the insured had no knowledge of any of the
24 contents of the contract involved.

25 (b) Penalty.--Any person who violates any provision of this
26 section or knowingly receives any compensation or commission by
27 or in consequence of such violation, commits a misdemeanor of
28 the third degree. The violator shall in addition be liable for a
29 civil penalty in the amount of three times the sum received by
30 the violator as compensation or commission, which penalty may be

1 sued for and recovered by any person or society aggrieved for
2 his or its own use and benefit.

3 § 4591. Discrimination and rebates.

4 (a) Discrimination.--A society doing business in this
5 Commonwealth shall not make or permit any unfair discrimination
6 between benefit members, spouses or dependents of the same class
7 and equal expectation of life in the premiums charged for
8 certificates of insurance, in the dividends or other benefits
9 payable thereon or in any other of the terms and conditions of
10 the contracts it makes.

11 (b) Rebates.--A society, agent or solicitor shall not
12 directly or indirectly offer, promise, allow, give, set off or
13 pay any valuable consideration or inducement to or for insurance
14 on any risk authorized to be taken by the society, which is not
15 specified in the certificate. A member shall not receive or
16 accept, directly or indirectly, any rebate, favor or advantage,
17 share in the dividends or other benefits or any valuable
18 consideration or inducement not specified in the contract of
19 insurance.

20 § 4592. Penalties.

21 (a) False statements.--A person shall not willfully make a
22 false or fraudulent statement in or relating to an application
23 for membership or for the purpose of obtaining money from or a
24 benefit in any society.

25 (b) Solicitation by unlicensed society.--Any person who
26 solicits membership for or in any manner assists in procuring
27 membership in any society not licensed to do business in this
28 Commonwealth commits a misdemeanor of the third degree.

29 (c) Other criminal penalties.--Any person guilty of a
30 willful violation of, or neglect or refusal to comply with, this

1 chapter for which a penalty is not otherwise prescribed commits
2 a summary offense.

3 (d) Civil penalties.--Upon satisfactory evidence of a
4 violation of this chapter, the department may, in lieu of
5 seeking criminal prosecution, suspend, revoke or refuse to renew
6 the license of the offending party or impose a civil penalty of
7 not more than \$1,000 for each violation.

8 CHAPTER 47

9 MUTUAL COMPANIES

10 Sec.

11 4701. Definition.

12 4702. Licensing of foreign or alien companies.

13 4703. Investment of assets.

14 4704. Investments in real estate.

15 4705. Policy provisions.

16 4706. Countersigning and delivery of policies.

17 4707. Premiums.

18 4708. Reserves.

19 4709. Assessments.

20 4710. Loans to companies.

21 4711. Surplus.

22 § 4701. Definition.

23 As used in this chapter, the term "mutual company" means a
24 mutual insurance company, other than a mutual life insurance
25 company.

26 § 4702. Licensing of foreign or alien companies.

27 Any foreign mutual company authorized to transact the
28 business of insurance on the mutual plan may, on application,
29 obtain authority to transact the kinds of insurance authorized
30 by its charter or articles of association, subject to its

1 compliance with the provisions and requirements of this title
2 applicable to mutual companies transacting such insurance. Any
3 alien mutual insurance company desiring such authority shall
4 make and maintain the deposit required of alien stock insurance
5 companies transacting the same kind of insurance. Such authority
6 shall be subject to all the provisions of law relating to
7 information to and examinations by the department, annual
8 reports, taxes and the renewal of certificates of authority
9 applicable to stock insurance companies transacting the same
10 kinds of insurance, except as otherwise provided in this
11 chapter.

12 § 4703. Investment of assets.

13 A domestic mutual company shall not invest any of its assets
14 except in accordance with this title as it relates to the
15 investment of the capital and surplus of domestic stock
16 insurance companies authorized to transact the same class or
17 classes of insurance, and in accordance with the following
18 provisions:

19 (1) A mutual company that writes assessable policies
20 shall invest its assets only in accordance with the
21 provisions of this title relating to the investment of the
22 capital of domestic stock insurance companies authorized to
23 transact the same class or classes of insurance.

24 (2) A mutual company that writes nonassessable policies
25 shall invest its assets in accordance with the provisions of
26 this title relating to the investment of the capital of
27 domestic stock insurance companies authorized to transact the
28 same class or classes of insurance, and may invest any of its
29 excess over and above an amount equal to the minimum capital
30 requirements of such stock companies in accordance with the

provisions of this title relating to the investment of the surplus of domestic stock insurance companies authorized to transact such class or classes of insurance.

§ 4704. Investments in real estate.

A domestic mutual company may purchase, receive, hold and convey only the following kinds of real estate:

(1) Real estate necessary for its accommodation in the transaction of its business.

(2) Real estate conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

(3) Real estate purchased at sales upon judgments, decrees or mortgages obtained or made for debts due the company or for debts due other persons if the company has liens or encumbrances on the same, and the purchase is believed necessary to save the company from loss.

All real estate other than that purchased and held under paragraph (1) shall be sold and disposed of within five years after the company has acquired title thereto.

§ 4705. Policy provisions.

Mutual companies may insert in any form of policy prescribed by this title any provision or condition required by its plan of insurance which is not inconsistent or in conflict with this title. The policy, in lieu of conforming to the language and form prescribed by this title, may conform thereto in substance, if the policy includes a provision or endorsement reciting that the policy shall be construed as if in the language and form prescribed by this title, and a copy of the policy and endorsements is first filed with and is not disapproved by the department.

§ 4706. Countersigning and delivery of policies.

1 A mutual company shall comply with the provisions of this
2 title applicable to stock insurance companies transacting the
3 same kind of insurance, requiring that policies be countersigned
4 and delivered through a resident agent, unless no commission is
5 paid to any local agent on the policy.

6 § 4707. Premiums.

7 (a) Maximum premium.--The maximum premium payable by any
8 member of a mutual company shall be expressed in the policy or
9 in the application for the insurance if attached to the policy.
10 The maximum premium shall be a cash premium and an additional
11 contingent premium not less than the cash premium or may be
12 solely a cash premium.

13 (b) Surplus.--A policy shall not be issued for a cash
14 premium without an additional contingent premium, unless the
15 company has and maintains a surplus which is not less in amount
16 than the minimum capital required of domestic stock insurance
17 companies authorized to transact the same class or classes of
18 insurance.

19 (c) Nonassessable policies.--Before a mutual company may
20 issue a nonassessable policy, the president and secretary shall
21 furnish the department a certified copy of the resolution of the
22 board of directors providing for the issuance of a nonassessable
23 policy, and shall certify that the company possesses a surplus
24 as required under subsection (b) and that the company is
25 otherwise qualified under its charter and bylaws. When the
26 department is satisfied that the company meets the requirements
27 as certified, it shall issue to the company a certificate of
28 authority for the issuance of nonassessable policies. Any
29 nonassessable policy issued while the certificate is in force
30 shall remain nonassessable under all conditions, including any

1 surplus deficiency and including liquidation of the company.
2 This certificate shall continue in effect until revoked under
3 this section. The president and secretary of the company shall
4 file with the department, on or before April 1 of each year, a
5 certification that the resolution of the board of directors
6 providing for the issuance of nonassessable policies has not
7 been modified or revoked and that the company has the surplus as
8 required under subsection (b). The department may, after
9 hearing, revoke the certificate of authority to issue a
10 nonassessable policy if it finds that the company does not have
11 the surplus as required under subsection (b), and shall revoke
12 the certificate upon receipt of certification by the president
13 and secretary that the company no longer qualifies to issue
14 nonassessable policies.

15 (d) Violations and penalties.--Any officer or director who
16 willfully makes a false certification that the company possesses
17 the surplus as required under subsection (b) commits a
18 misdemeanor of the third degree.

19 § 4708. Reserves.

20 A mutual company shall maintain unearned premium and other
21 reserves separately, for each kind of insurance, upon the same
22 basis as that required of domestic stock insurance companies
23 transacting the same kind of insurance, except that the
24 department may, by written order, fix a different basis of
25 reserve for losses and claim in workmen's compensation
26 insurance. Any reserve for losses or claims based upon the
27 premium income shall be computed upon the net premium income,
28 after deducting any so-called dividend or premium returned or
29 credited to the member. The provisions relating to unearned
30 premium reserve do not apply to a policy issued by a domestic

1 mutual fire insurance company under the authority of section
2 3302(b)(1) (relating to authorized classes of insurance) if the
3 policy includes or if a promissory note attached thereto
4 includes a limited or unlimited liability to assessment.

5 § 4709. Assessments.

6 (a) General rule.--A mutual company lacking assets at least
7 equal to the unearned premium reserve and other liabilities
8 shall make an assessment upon its members liable to assessment
9 to provide for the deficiency. The assessment shall be against
10 each member in proportion to the liability as expressed in his
11 policy.

12 (b) Limitations.--An assessment shall not be made without
13 the prior written approval of the department. A member shall not
14 be assessed for any loss that occurred when his policy was not
15 in effect, and an assessment shall not be made after two years
16 from the expiration or cancellation date of a policy. For each
17 year the policy is in force, the assessment shall be an amount
18 not greater than the annual or the average yearly cost or
19 premium of the policy for the period it has been in effect. The
20 assessment shall not exceed two times the average yearly cost or
21 premium of the policy for the period it has been in effect.

22 (c) Powers of department.--The department may, by written
23 order, relieve the company from an assessment or other
24 proceedings to restore its assets during the time fixed in such
25 order. Any domestic company which is deficient in providing the
26 unearned premium reserve may, notwithstanding the deficiency, be
27 authorized under this chapter on the condition that it shall
28 each year thereafter reduce the deficiency by at least 15% of
29 the original amount thereof, and in such case it may increase
30 its assessments accordingly.

1 (d) Applicability.--This section is not applicable to
2 assessments made upon the members of a company by the department
3 pursuant to its authority under Chapter 59 (relating to fire and
4 marine insurance).

5 § 4710. Loans to companies.

6 Any director, officer or member of any mutual company, or any
7 other person, may loan the company any sum of money necessary
8 for the purpose of its business or to enable it to comply with
9 any of the requirements of law. These loans and the interest
10 thereon as agreed upon, not exceeding 10% a year, shall not be a
11 liability or claim against the company or any of its assets, and
12 shall be repaid only out of the surplus earnings of the company.
13 Commission or promotion expenses shall not be paid in connection
14 with the loan and the amount thereof shall be reported in each
15 annual statement. The company shall prior to obtaining such a
16 loan provide the department with such evidence as it may by
17 regulation prescribe concerning the making of any loan or the
18 making of any payments, whether of principal or interest, on
19 account thereof.

20 § 4711. Surplus.

21 A mutual company shall not transact the class of insurance
22 mentioned in section 3302(c)(1) (relating to authorized classes
23 of insurance) until it has and maintains at all times a surplus
24 over all liabilities including unearned premiums, computed in
25 accordance with this title, of not less than \$250,000. This
26 section does not reduce the surplus required under section
27 4707(b) (relating to premiums).

28 PART IV

29 SPECIAL PROVISIONS RELATING TO

30 PARTICULAR CLASSES OF RISK

1 Chapter

2 51. General Provisions (Reserved)

3 53. Life Insurance

4 55. Property and Casualty Insurance

5 57. Pennsylvania Fair Plan

6 59. Fire and Marine Insurance

7 61. Eligibility for Motor Vehicle Insurance

8 63. Motor Vehicle Financial Responsibility

9 65. Credit Insurance

10 67. Title Insurance

11 69. Health and Accident Insurance

12 71. Health Care Services Malpractice

13 73. Health Maintenance Organizations

14 74. Continuing Care Providers

15 75. Hospital Plan Corporations

16 77. Professional Health Services Plan Corporations

17 79. Surety Companies

18 81. Property and Casualty Insurance Guaranty Association

19 83. Life and health Insurance Guaranty Association

20 85. Insurance Premium Finance Companies

21 CHAPTER 51

22 GENERAL PROVISIONS

23 (Reserved)

24 CHAPTER 53

25 LIFE INSURANCE

26 Subchapter

27 A. Investments and Corporate Operations

28 B. Conduct of Business

29 C. Conversion of Stock Companies into Mutual Companies

30 D. Mutual Life Insurance Companies

- 1 E. Group Insurance
- 2 F. Industrial Insurance
- 3 G. Limited Life Insurance Companies

4 SUBCHAPTER A

5 INVESTMENTS AND CORPORATE OPERATIONS

6 Sec.

7 5301. General investment provisions.

8 5302. Permitted investments.

9 5303. Valuation.

10 5304. Additional investment authority for subsidiaries.

11 5305. Authorized holdings of real estate.

12 5306. Capital of foreign and alien stock companies.

13 5307. Separate accounts.

14 5308. Impairment of reserve liability.

15 5309. Penalty.

16 5310. Corporations operating under prior statutes.

17 5311. Dividends.

18 5312. (Reserved).

19 5313. Vouchers for payment.

20 § 5301. General investment provisions.

21 Investment pursuant to section 5302 (relating to permitted
22 investments) and holdings of real estate pursuant to section
23 5305 (relating to authorized holdings of real estate) by any
24 domestic life insurance company shall be subject to the
25 following provisions:

26 (1) The department may permit the company to invest
27 sufficient assets exclusive of the amounts permitted under
28 section 5302(3) in the securities of a foreign government in
29 order to comply with the law of the foreign government and
30 transact business in the foreign country.

1 (2) An investment under section 5302 or 5305 shall not
2 be made in the equity interest, as defined in section
3 5302(10), of any unincorporated business or enterprise other
4 than a business trust, joint-stock company or limited
5 partnership in which a life insurance company acts as a
6 limited partner. A subsidiary of a life insurance company may
7 act as a general partner.

8 (3) An investment shall not be made in any loan solely
9 upon personal security of an individual or individuals, but
10 this paragraph does not forbid the taking of a bona fide
11 obligation with legal interest in payment of any premium or a
12 loan for defraying THE expenses ~~of the transfer~~ of an <—
13 employee TRANSFERRED OR ABOUT TO BE TRANSFERRED to a new <—
14 place of employment with the company.

15 (4) An investment shall not be made by any life
16 insurance company in any loan upon the stock, shares or
17 obligations of the company or any other insurance company
18 transacting like classes of business, but any stock life
19 insurance company may, with the approval of its board of
20 directors, acquire, retain, cancel or dispose of shares of
21 its own capital stock. The company shall not acquire such
22 stock without the prior approval of the department, or
23 directly or indirectly vote shares of its own stock held by
24 it.

25 (5) With the approval of the department, the company may
26 enter into agreements with one or more authorized insurance
27 companies whereby the companies shall participate in
28 ownership, management and control of real estate held or to
29 be acquired by the company or companies under section 5305(6)
30 or held by a corporation whose stock is held or to be

1 acquired by such company or companies.

2 ~~(6) Sections 5302 and 5305 and this section do~~ THIS <—
3 CHAPTER DOES not prevent the company from investing any of
4 its assets or from holding any of such funds in cash or
5 deposits in banks or trust companies or from acquiring or
6 holding property taken in reorganization or foreclosure
7 proceedings or which may be obtained IN SATISFACTION OF OR on <—
8 account of any debt previously contracted.

9 (7) Any such company may continue its investment of any
10 of its assets in any corporate bonds, notes or obligations
11 held by it on May 9, 1947, under authority of section 404 of
12 the former act of May 17, 1921 (P.L.682, No.284), known as
13 The Insurance Company Law of 1921, as amended by the act of
14 May 12, 1939 (P.L.131, No.63), in corporations which have
15 earned, in each of its three fiscal years next preceding the
16 investment, an amount equal to one and one-half times the
17 total interest on its debt.

18 (8) If any investment is made in a manner not authorized
19 by this chapter, the officers, directors and trustees making
20 or authorizing the investment shall be personally liable for
21 any loss resulting therefrom.

22 (9) Notwithstanding the provisions of this chapter, the
23 department may, after notice and hearing, order a company to
24 limit or withdraw from certain investments, or discontinue
25 certain investment practices, to the extent that the
26 department finds that such investments or investment
27 practices endanger the solvency of the company.

28 (10) No investment or loan, except loans on life
29 policies, or investment practice shall be made or engaged in
30 by any domestic life insurance company unless it has been

1 authorized or ratified by the board of directors or by a
2 committee thereof charged with the duty of supervising
3 investments and loans. No such company shall subscribe to or
4 participate in any underwriting of the purchase or sale of
5 securities or property or enter into any agreement to
6 withhold from sale any of its property, but the disposition
7 of its property shall be at all times within the control of
8 the board of directors. Any agreement or contract providing
9 for the lawful disposition of property in which the
10 disposition may be determined at the option of a third person
11 at some specified future price or condition or specified time
12 or upon demand shall be construed to be within the control of
13 the board of directors. This section does not prevent the
14 board of directors of any such company from depositing any of
15 its securities with a committee appointed for the purpose of
16 protecting the interest of security holders or with
17 authorities of any state or country where it is necessary to
18 do so in order to secure permission to transact its
19 appropriate business therein; nor does this section prevent
20 the board of directors of the company from depositing
21 securities as collateral for the securing of any bond
22 required for the business of the company.

23 (11) As used in this ~~section~~ SUBCHAPTER, the term "date
24 of investment" means the date of commitment in the case of a
25 commitment to invest. <—

26 § 5302. Permitted investments.

27 Subject to sections 5301 (relating to general investment
28 provisions) and 5304 (relating to additional investment
29 authority for subsidiaries), the assets of any domestic life
30 insurance company shall be invested in the following classes of

1 investment, provided the value of which, as determined for
2 annual statement purposes, but in no event in excess of cost,
3 shall not exceed the specified percentage of the company's
4 assets as of December 31 next preceding the date of investment:

5 (1) Bonds, notes or obligations issued, assumed or
6 guaranteed by the United States or by any state, or by any
7 county, city, town, village, municipality or district therein
8 or by any political subdivision thereof or by a public
9 instrumentality of one or more of the foregoing, if, by
10 statutory or other legal requirements applicable thereto, the
11 obligations are payable, as to both principal and interest,
12 from taxes levied or required to be levied upon all taxable
13 property or all taxable income within the jurisdiction of the
14 governmental unit, or from adequate special revenues pledged
15 or otherwise appropriated or by law required to be provided
16 for the purpose of such payment, but not including any
17 obligation payable solely out of special assessments on
18 properties benefited by local improvements, unless adequate
19 security is evidenced by the ratio of assessment to the value
20 of the property or the obligation additionally secured by an
21 adequate guaranty fund required by law.

22 (2) Bonds, notes, obligations and stock where stated,
23 issued, assumed or guaranteed by the following Federal
24 agencies, or in which the Federal Government is a
25 participant, whether or not the obligations are guaranteed by
26 the Federal Government:

27 (i) Farm Loan Bank.

28 (ii) Commodity Credit Corporation.

29 (iii) Federal intermediate credit banks.

30 (iv) Federal land banks.

1 (v) Central Bank for Cooperatives.

2 (vi) Federal home loan banks and stock thereof.

3 (vii) Federal National Mortgage Association and
4 stock thereof.

5 (viii) International Bank for Reconstruction and
6 Development.

7 (ix) Inter-American Development Bank.

8 (x) Asian Development Bank.

9 (xi) African Development Bank.

10 (xii) Any other similar agency of, or participated
11 in by, the Federal Government and of similar financial
12 quality, if the department has determined that investment
13 therein is of similar financial quality.

14 (3) Bonds, notes, obligations or other investments of or
15 in any business or governmental unit in or of any foreign
16 country which are of the same kinds, classes and investment
17 grades as those eligible for investment under this section.
18 Investments under this paragraph in the Dominion of Canada
19 shall not exceed 10% of the company's admitted assets.
20 Investments under this paragraph in all other foreign
21 countries shall not exceed 10% of the admitted assets of the
22 company except as provided in section 5301(1).

23 (4) Business obligations:

24 (i) Bonds, notes or obligations issued, assumed,
25 guaranteed or accepted by any corporation, joint-stock
26 association, business trusts, business partnerships and
27 business joint ventures, incorporated or existing under
28 the law of the United States or of any state.

29 (ii) Preferred stock of any person described in
30 subparagraph (i). Investments permitted under this

1 subparagraph shall be limited to an aggregate of 5% of
2 the admitted assets of the company.

3 (iii) Interest-bearing deposits or certificates of
4 deposit in banks, bank and trust companies, savings
5 banks, savings associations, savings and loan
6 associations or national banking associations,
7 incorporated or existing under the law of the United
8 States or any state and branches of foreign banking
9 institutions located in the United States or any state.

10 (iv) Obligations which are not issued, assumed,
11 guaranteed or accepted by any person described in
12 subparagraph (i) but are secured by an assignment of a
13 right to receive rent, purchase or other payment or
14 revenues for the use or purchase of real or personal
15 property sufficient to repay the investment and payable
16 or guaranteed by any one or more persons or entities
17 whose bonds, notes or obligations would qualify for
18 investment under this section or a mortgage, interest in
19 mortgage pool or mortgage participation, or lien or
20 security interest in real or personal property or any
21 interest therein.

22 (5) Trustees', receivers' or equipment trust
23 obligations:

24 (i) Certificates, notes or obligations issued by
25 trustees or receivers of any corporation or business
26 trust created or existing under the law of the United
27 States or of any state, which, or the assets of which,
28 are being administered under the direction of any court
29 having jurisdiction, if the obligation is adequately
30 secured as to principal and interest.

1 (ii) Equipment trust obligations or certificates,
2 which are adequately secured, or other adequately secured
3 instruments, evidencing an interest in transportation
4 equipment, wholly or in part within the United States,
5 and a right to receive determined portions of rental,
6 purchase or other fixed obligatory payments for the use
7 or purchase of such transportation equipment.

8 (6) Obligations secured by real property or any
9 interests therein, obligations or participations therein,
10 secured by liens on real property, or interests therein,
11 located within the United States or any state. The value of
12 such real property or interest, together with such other
13 security as shall secure the obligation, shall be adequate to
14 secure the investment as well as any lien senior to the lien
15 created by the investment in the real property made pursuant
16 to this paragraph. No investment in a single transaction
17 shall exceed 5% of the admitted assets of the company.

18 (7) Loans upon the security of its own policies not
19 exceeding the net value of the policy at the time of making
20 the loan.

21 (8) Such real estate or interests therein located within
22 the United States or any state as such company is authorized
23 to hold under this part.

24 (9) Subsidiaries as permitted under this part.

25 (10) Equity interests:

26 (i) Investments, other than investments under
27 paragraphs (11) and ~~(13)~~ (14) and sections 5304(b) <—
28 (relating to additional investment authority for
29 subsidiaries) and 5305 (relating to authorized holdings
30 of real estate), in common stocks, limited partnership

1 interests, trust certificates, except equipment trust
2 certificates described in paragraph (5), or other equity
3 interests, other than preferred stock, of corporations,
4 joint-stock associations, business trusts, business
5 partnerships and business joint ventures incorporated,
6 organized or existing under the law of the United States
7 or of any state.

8 (ii) Stocks or shares of any regulated investment
9 company which is registered as an investment company
10 under the Investment Company Act of 1940 (54 Stat. 789,
11 15 U.S.C. §§ 80a-1 through 80a-52) and which has no
12 preferred stock, bonds, loans or any other outstanding
13 securities having preference or priority as to the assets
14 or earnings over its common stock at the date of
15 purchase.

16 (iii) Investments under this paragraph shall not
17 exceed 25% of the admitted assets of the company, and no
18 investment in any single corporation or entity under this
19 paragraph shall exceed 5% of such admitted assets.

20 (11) Investments in or investments in interests in
21 machinery, equipment, facilities, furnishings, fixtures or
22 other tangible personal property used for, in or as part of
23 or connected with any commercial, industrial, manufacturing,
24 processing or financial, business activity or operation and
25 which may be subject to contractual or other similar
26 arrangements for the purchase, sale or use thereof.
27 Investments under this paragraph shall not exceed 15% of the
28 admitted assets of the company.

29 (12) The investment practice of put options and call
30 options issued under terms and conditions regulated by, or

1 substantially similar to those terms and conditions required
2 by, a national securities exchange registered under the
3 Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. §
4 78a et seq.), or any board of trade designated as a contract
5 market by the Commodity Futures Trading Commission (CFTC)
6 under the Commodity Exchange Act (49 Stat. 1491, 7 U.S.C. § 1
7 et seq.), is authorized on the following conditions:

8 (i) A company shall not sell a call option on
9 securities it does not own, or in an amount greater than
10 securities which it presently owns. However, in the case
11 of financial futures contracts and stock or bond index
12 contracts where it is not feasible to own the underlying
13 security, a company may sell a call option only in
14 connection with a hedging transaction.

15 (ii) A company shall not sell a put option unless
16 its obligations under the put option are fully secured by
17 a deposit by the company with a bank or other custodian
18 of cash or cash equivalents.

19 (iii) A company shall not purchase as opening
20 transactions under this paragraph more than 10% of the
21 excess of its capital and surplus over the minimum
22 requirements of a new stock or mutual company to qualify
23 for a certificate of authority to write the kind of
24 insurance which the company is authorized to write.

25 The department may promulgate reasonable regulations for
26 transactions under this paragraph, including, but not limited
27 to, regulations which impose financial solvency standards,
28 valuation standards and reporting requirements.

29 (13) The investment practice of financial futures
30 contracts issued under terms and conditions regulated by a

1 Federal regulatory agency is authorized on the following
2 conditions:

3 (i) The company shall not enter into financial
4 future contracts except as a hedging transaction as that
5 term is defined by regulation of the department.

6 (ii) The company shall not have initial or
7 maintenance margin outstanding under this section of more
8 than 10% of the excess of its capital and surplus over
9 the minimum requirements of a new stock or mutual company
10 to qualify for a certificate of authority to write the
11 kind of insurance which the company is authorized to
12 write.

13 The department may promulgate reasonable regulations for
14 transactions under this paragraph, including, but not limited
15 to, regulations imposing financial solvency standards,
16 valuation standards and reporting requirements.

17 (14) Investment in properties and facilities for the
18 exploration, development, production and distribution of
19 energy-producing substances. These investments may include
20 ownership and control of such properties and facilities or
21 interest therein, including royalty interests and production
22 payments from such activities or investments in limited
23 partnerships engaged in such activities. Investments under
24 this paragraph shall not exceed 5% of the admitted assets of
25 the company. The investments in activities producing royalty
26 interests and production payments shall not exceed an
27 additional 10% of those admitted assets. An additional 1% of
28 those admitted assets may be invested in properties,
29 facilities, royalty interests or production payments under
30 this paragraph if the properties and facilities are located

1 in or operated principally in this Commonwealth.

2 (15) Lending of securities, repurchase agreements and
3 reverse repurchase agreements:

4 (i) Lending of securities, repurchase agreements and
5 reverse repurchase agreements transactions are authorized
6 on the following conditions:

7 (A) The agreement for each transaction or the
8 master agreement for a series of transactions shall
9 be reduced to writing.

10 (B) Securities acquired by a company and owned
11 subject to reacquisition pursuant to an outstanding
12 repurchase agreement shall not be sold pursuant to a
13 reverse repurchase agreement nor lent pursuant to a
14 lending of securities agreement. Consideration or
15 collateral received from a reverse repurchase
16 agreement or lending of securities agreement may be
17 used to acquire securities which are equivalent or
18 similar to the securities transferred pursuant to the
19 repurchase agreement or lending of securities
20 agreement. However, such acquired securities shall
21 not be sold pursuant to a reverse repurchase
22 agreement or lent pursuant to a lending of securities
23 agreement.

24 (C) No more than 2% of the admitted assets of a
25 company shall be subject to lending of securities,
26 repurchase or reverse repurchase agreements
27 transactions outstanding with any one business entity
28 under this paragraph.

29 (D) A company may engage in lending its
30 securities or repurchase or reverse repurchase

1 agreements up to 40% of its admitted assets if the
2 transactions are fully collateralized.

3 (ii) The department may promulgate reasonable
4 regulations for investments and transactions under this
5 paragraph, including, but not limited to, regulations
6 which impose financial solvency standards, valuation
7 standards and reporting requirements.

8 (iii) As used in this paragraph, the following words
9 and phrases shall have the meanings given to them in this
10 subparagraph:

11 "Lending of securities." An investment other than a
12 repurchase agreement, whereby an agreement is entered
13 into which transfers ownership rights and possession of
14 securities to the borrower of the securities with the
15 agreement providing for a return of ownership rights and
16 possession of the securities to the lender at a specified
17 date or upon demand.

18 "Repurchase agreement." A bilateral agreement
19 whereby a company purchases securities with a related
20 agreement that the seller will purchase or repurchase at
21 a specified price the equivalent or similar securities
22 within a specified period of time or on demand.

23 "Reverse repurchase agreement." A bilateral
24 agreement whereby a company:

25 (A) sells securities with a related agreement to
26 purchase or repurchase at a specified price the
27 equivalent or similar securities within a specified
28 period of time or upon demand; or

29 (B) borrows funds and transfers securities to
30 the lender with a related agreement that equivalent

1 or similar securities will be returned to the company
2 upon repayment of the loan within a specified period
3 of time or on demand.

4 (16) Other loans and investments:

5 (i) Loans or investments not otherwise authorized
6 under this section, to an amount not exceeding the
7 aggregate of 20% of the admitted assets of the company.
8 However, this limitation shall be increased in the same
9 amount that investments approved by the department are
10 made in the following categories of investments in
11 persons described as follows whose PRINCIPAL operations <—
12 or places of business are located in this Commonwealth,
13 up to a maximum of 25% of the admitted assets:

14 (A) Investments in venture capital limited
15 partnerships or in new and young small businesses
16 which are making an initial public offering of
17 securities or utilizing a limited private placement.

18 (B) Investments in minority-owned and operated
19 businesses domiciled in Pennsylvania as provided in
20 the act of July 22, 1974 (P.L.598, No.206), known as
21 the Pennsylvania Minority Business Development
22 Authority Act.

23 (C) Investments in businesses located in
24 enterprise zones designated by the Department of
25 Community Affairs.

26 (D) Investments in housing for families and
27 persons of low income or in housing in enterprise
28 zones designated by the Department of Community
29 Affairs.

30 (E) Investments in seed capital funds

1 established under the act of July 2, 1984 (P.L.555,
2 No.111), known as the Small Business Incubators Act.

3 (F) Investments in business development credit
4 corporations established under the act of December 1,
5 1959 (P.L.1647, No.606), known as the Business
6 Development Credit Corporation Law.

7 (G) Investments in small business investment
8 corporations and minority enterprise small business
9 investment companies certified pursuant to applicable
10 Federal law.

11 (H) Investments in and direct management of or
12 participation in private placement accounts,
13 including investments by private and public employee
14 pension funds, and investments in and direct
15 management of or participation in long and
16 intermediate loans to corporations for purposes such
17 as plant construction, equipment purchases and
18 working capital.

19 (I) Investments in and financial assistance to
20 employee-owned enterprises, as defined and described
21 by the Internal Revenue Code of ~~1954~~ 1986 (68A Stat. <—
22 3, 26 U.S.C. § 1 et seq.), including worker
23 cooperatives, employee stock ownership plans and
24 businesses in which a majority of the voting rights
25 are held or controlled by employees or held in trust
26 for and passed through to employees.

27 (J) Investments in, and financial assistance to,
28 employee-ownership groups, including corporations,
29 labor unions or other entities formed by or on behalf
30 of the current or former employees of an industrial

1 or commercial firm or facility for the purpose of
2 assuming ownership or control of the firm or facility
3 and operating it as an employee-owned enterprise.

4 (K) Investments in construction loans to
5 builders and developers of low-income to moderate-
6 income housing in Pennsylvania involved in the new
7 construction or rehabilitation of single-family or
8 multifamily housing in census tracts or
9 neighborhoods, in urban and rural communities,
10 designated by State or Federal law as economically
11 deprived or financially underserved, and mortgage
12 loans and other credit to individuals seeking to
13 purchase such housing.

14 (ii) For each 0.5% of the admitted assets of the
15 company invested pursuant to subparagraph (i)(A) through
16 ~~(G)~~ (K), investments under other paragraphs of this <—
17 section may exceed the limitations set forth in the other
18 paragraphs by an aggregate of 2.5% of the admitted assets
19 of the company, but such excess investments shall not
20 exceed 5% of the admitted assets. However, such excess
21 investments shall be charged against the limitation under
22 subparagraph (i).

23 § 5303. Valuation.

24 (a) General rule.--Investments under section 5302 (relating
25 to permitted investments) shall be valued in accordance with the
26 published valuation standards of the National Association of
27 Insurance Commissioners. Securities investments as to which the
28 National Association of Insurance Commissioners has not
29 published valuation standards in its valuation of securities
30 manual or its successor publication shall be valued as follows:

1 (1) Any investment by any insurer that is not valued by
2 standards published by the National Association of Insurance
3 Commissioners shall, at the time of acquisition, be submitted
4 to the National Association of Insurance Commissioners for
5 valuation.

6 (2) Other securities investments shall be valued in
7 accordance with regulations promulgated by the department
8 under subsection (d).

9 (b) Other investments.--Other investments, including real
10 property, shall be valued in accordance with regulations
11 promulgated by the department under subsection (d), but such
12 other investments shall not be valued at more than their
13 purchase price. For the purposes of this section, the purchase
14 price for real property includes capitalized permanent
15 improvements, less depreciation spread evenly over the life of
16 the property or, at the option of the company, less depreciation
17 computed on any basis permitted under the Internal Revenue Code
18 of ~~1954~~ 1986 (68A Stat. 3, 26 U.S.C. § 1 et seq.). Such
19 investments that have been affected by permanent declines in
20 value shall be valued at not more than their market value.

21 (c) Property not acquired by purchase.--Any investment,
22 including real property, not purchased by a company but acquired
23 in satisfaction of a debt or otherwise shall be valued in
24 accordance with the applicable procedures for that type of
25 investment contained in this section. For the purposes of
26 applying the valuation procedures, the purchase price shall be
27 deemed to be the market value at the time the investment is
28 acquired or, in the case of any investment acquired in
29 satisfaction of debt, the amount of the debt, including
30 interest, taxes and expenses, whichever amount is less.

<—

(d) Regulations.--The department may promulgate regulations for determining and calculating values to be used in financial statements submitted to the department for investments not subject to published valuation standards of the National Association of Insurance Commissioners.

§ 5304. Additional investment authority for subsidiaries.

(a) General rule.--Any domestic life insurance company, either by itself or in cooperation with one or more persons, may, in addition to any authority to acquire or hold securities in corporations provided for elsewhere in this title, organize or acquire one or more subsidiaries. Such subsidiaries may conduct any kind of business or businesses and their authority to do so shall not be limited by reason of the fact that they are subsidiaries of a domestic life insurance company. No domestic life insurance company may participate in or form a general partnership with any other person.

(b) Limitations and exemptions.--

(1) A domestic life insurance company shall not make an investment in any subsidiary which will bring the aggregate value of its investments, as determined for annual statement purposes but not in excess of cost, in all subsidiaries under this subsection to an amount in excess of 10% of the total admitted assets of the company as of the immediately preceding December 31. In determining the amount of investments of any domestic life insurance company in subsidiaries for the purposes of this subsection, there shall be included investments made directly by the insurance company and if such investment is made by another subsidiary, then to the extent that funds for such investments are provided by the insurance company for that purpose.

1 (2) The limitations set forth in paragraph (1) do not
2 apply to investments in any subsidiary which is:

3 (i) An insurance company.

4 (ii) A holding company to the extent its business
5 consists of the holding of the stock of, or otherwise
6 controlling, its own subsidiaries.

7 (iii) A corporation whose business primarily
8 consists of direct or indirect ownership, operation or
9 management of assets authorized as investments pursuant
10 to sections 5302 (relating to permitted investments) and
11 5305 (relating to authorized holdings of real estate).

12 (iv) A company engaged in any combination of the
13 activities described in subparagraphs (i) through (iii).

14 (3) Investments made pursuant to paragraph (2)(i) shall
15 not be restricted in amount if, after such investment, as
16 calculated for NAIC annual statement purposes, the surplus of
17 the insurer will be reasonable in relation to the insurer's
18 outstanding liabilities and adequate to its financial needs.
19 Investments made pursuant to paragraph (2)(ii) or, to the
20 extent applicable, (2)(iv) shall, in addition, not be subject
21 to any limitations otherwise applicable under this title on
22 the amount of a domestic life insurance company's assets.
23 However, the life insurance company's investments, to the
24 extent that the life insurance company provided the funds
25 therefor, in each of the subsidiaries of such holding company
26 shall be subject to any limitations applicable to the
27 investment as if the holding company's interest in each such
28 subsidiary were instead owned directly by the life insurance
29 company. Investments made pursuant to paragraph (2)(iii) or,
30 to the extent applicable, (2)(iv) shall be counted in

determining the limitations contained in applicable subsections of sections 5302 and 5305. However, the value as calculated for annual statement purposes but not in excess of the cost thereof, of such investment, shall include only funds provided by the insurance company therefor. Investments made in other subsidiaries of such life insurance company by any subsidiary described in paragraph (2) or by a person whose business primarily consists of direct or indirect ownership, operation or management of real property and interest therein under section 5305, shall be deemed investments made by the insurance company only to the extent the funds for the investment were provided by the insurance company.

(4) No restrictions, prohibitions or limitations contained in this title otherwise applicable to investments of domestic life insurers shall be applicable to investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to this subsection, nor shall the additional investment authority granted by this subsection have the effect of restricting, prohibiting or limiting the rights of a domestic life insurer to make investments permitted under any other section of this title.

(c) Determination of compliance.--Whether any investment made pursuant to subsection (b) meets at any time thereafter the applicable requirements thereof is to be determined when the investment is made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value, but not in excess of the cost thereof, of all previous investments in equity securities as calculated for annual statement purposes. In calculating the

amount of such investments, there shall be included the following, as determined for NAIC annual statement purposes:

(1) Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities.

(2) All amounts expended by the domestic life insurance company in acquiring additional common stock, preferred stock, debt obligations and other securities, and all contributions to the capital or surplus, or a subsidiary subsequent to its acquisition or formation.

(d) Disposal of certain investments.--If a domestic life insurer ceases to own, directly or indirectly through one or more intermediaries, a majority of the voting securities of a subsidiary held pursuant to subsection (b), it shall dispose of any investment therein made pursuant to such subsection within five years from the time of the cessation of control or within such further time as the department may prescribe, unless, at any time after the investment has been made, the investment meets the requirements for investment under any other section of this title.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"INSURANCE COMPANY" OR "INSURER." INCLUDES ANY ENTITY AUTHORIZED TO CONDUCT AN INSURANCE BUSINESS IN THE JURISDICTION OF ITS DOMICILE.

"NAIC." The National Association of Insurance Commissioners.

1 "Owner" or "holder." With respect to securities of a
2 specified person, one who owns any security of the person,
3 including common stock, preferred stock, debt obligations and
4 any other security convertible into or evidencing the right to
5 acquire any of the foregoing.

6 "Person." Includes any joint-stock company, business trust,
7 unincorporated organization, any similar entity or any
8 combination of persons acting in concert.

9 "Subsidiary." A corporation in which another person owns or
10 holds with the power to vote directly, or through one or more
11 intermediaries, a majority of the outstanding voting securities.
12 A person whose business consists primarily of real property and
13 interests therein or a corporation which is held in a separate
14 account pursuant to section 5307 (relating to separate accounts)
15 shall not be deemed a subsidiary for the purposes of determining
16 the volume limitations set forth in subsection (b)(1). A person
17 which is controlled by another person solely as a result of the
18 temporary assumption of control by the owner of securities upon
19 the happening of a prescribed event of default shall not be
20 deemed a subsidiary or affiliate for the purposes of this
21 section, if such securities are disposed of within five years
22 from the date of acquisition, unless such period is extended by
23 the department to enable the owner to dispose of such securities
24 in a reasonable and orderly manner.

25 "Voting security." Stock of any class or any ownership
26 interest having the power to elect the directors, trustees or
27 management of a person, other than securities having such power
28 only by reason of the happening of a contingency.

29 § 5305. Authorized holdings of real estate.

30 Subject to section 5301 (relating to general investment

1 provisions), any domestic life insurance company may, directly
2 or indirectly, alone or together with one or more persons or
3 entities of any nature, purchase, receive, hold and convey real
4 estate or any interest therein if the real estate is:

5 (1) required for its convenient accommodation in the
6 transaction of its business with reasonable regard to future
7 needs;

8 (2) residential real estate purchased from employees
9 transferred or about to be transferred to new places of
10 employment with the company;

11 (3) acquired in satisfaction or on account of loans,
12 mortgages, liens, judgments or decrees previously owing to it
13 in the course of its business;

14 (4) acquired in part payment of the consideration of the
15 sale of real property owned by it if the transaction will
16 result in a net reduction in the company's investment in real
17 estate;

18 (5) reasonably necessary for the purpose of maintaining
19 or enhancing the sale value ~~of~~ OF real property previously <—
20 acquired or held by it under paragraph (1), (2), (3) or (4);

21 (6) purchased, leased or owned for residential,
22 business, commercial or industrial use, or for development,
23 improvement, maintenance or construction and maintenance.
24 Investments under this paragraph, including investments in
25 limited partnership interests or other entities of any nature
26 where the entities are engaged primarily in holding real
27 estate or interests therein under this paragraph and
28 corporations which are engaged primarily in holding real
29 estate or interests therein as described in this paragraph
30 and the majority of whose voting securities are owned

1 directly or indirectly through one or more intermediaries,
2 shall not exceed 25% of the admitted assets of the company.

3 § 5306. Capital of foreign and alien stock companies.

4 Foreign and alien stock life insurance companies, in order to
5 be licensed to do business in this Commonwealth, shall have a
6 paid-up and safely invested capital, if a foreign company, or a
7 deposit in the United States, if an alien company, of not less
8 than the capital required under section 3306 (relating to
9 minimum capital stock and financial requirements) for domestic
10 stock life insurance companies.

11 § 5307. Separate accounts.

12 (a) General requirements.--Any domestic life insurance
13 company may establish one or more separate accounts and may
14 allocate thereto any amounts, including proceeds applied under
15 optional modes of settlement or under dividend options, to
16 provide for life insurance or annuities and benefits incidental
17 thereto, payable in fixed or variable amounts or both, and for
18 any other investment purpose consistent with the investment
19 powers of the company under sections 5301 (relating to general
20 investment provisions) ~~and~~, 5302 (relating to permitted
21 investments) AND 5305 (RELATING TO AUTHORIZED HOLDINGS OF REAL
22 ESTATE) or this ~~section~~ SUBSECTION in connection with any
23 product permissible to the company under this title and subject
24 to the following:

25 (1) The income, gains and losses, realized or
26 unrealized, from assets allocated to a separate account
27 shall, in accordance with applicable contracts, be credited
28 to or charged against the account, without regard to other
29 income, gains or losses of the company. Companies may
30 maintain one or more separate accounts subject to reasonable

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1 regulations promulgated by the department with respect to:

2 (i) Separate accounts with all or any portion of the
3 benefits guaranteed as to dollar amounts and duration.

4 (ii) Separate accounts with all or any portion of
5 the funds guaranteed as to the principal amount or stated
6 rate of interest.

7 (2) Except as provided in this section, the amounts
8 allocated to each separate account established by the insurer
9 pursuant to this section, together with any accumulations
10 thereon, may be invested and reinvested in any class of
11 investments which may be authorized in the written contract
12 or agreement without regard to any investment limitations
13 otherwise applicable to the investment of life insurance
14 companies. The investments in such separate account or
15 accounts shall not be taken into account in the investment
16 limitations applicable to the insurance company under this
17 chapter.

18 (3) Assets allocated to a separate account shall be
19 valued at their market value on the date of valuation, or at
20 amortized cost if it approximates market value. If there is
21 no readily available market, then as provided under the terms
22 of the contract or the rules or other written agreement
23 applicable to the separate account or by regulation
24 promulgated by the department.

25 (4) Amounts allocated to a separate account shall be
26 owned by the company, and the company shall not be, nor hold
27 itself out to be, a trustee with respect to these amounts. To
28 the extent so provided under the applicable contracts, that
29 portion of the assets of any such separate account equal to
30 the reserves and other contract liabilities with respect to

1 the account shall not be chargeable with liabilities arising
2 out of any other business conducted by the company. Sales,
3 exchanges or other transfers of assets may be made by a
4 company at any time between any of its separate accounts or
5 between any other investment account and one or more of its
6 separate accounts if the transfer into or from a separate
7 account is made by:

8 (i) a transfer of cash;

9 (ii) a transfer of assets having a valuation which
10 could be readily determined in the marketplace; or

11 (iii) such other method of transfer as the
12 department may approve.

13 (5) If pursuant to the terms of the applicable contracts
14 amounts allocated to a separate account are to be invested in
15 shares of a specified investment company registered under the
16 Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §
17 80a-1 et seq.), which shares are to be held for the exclusive
18 benefit of the applicable contracts, such shares shall, to
19 the extent provided in the applicable contracts, be deemed to
20 be a separate account under this section.

21 (6) To the extent the company deems it necessary to
22 comply with Federal or State law, the company, with respect
23 to any separate account, including any separate account which
24 is a management investment company or a unit investment
25 trust, may provide for persons having an interest therein
26 appropriate voting and other rights and special procedures
27 for the conduct of the business of the account, including
28 special rights and procedures relating to investment policy,
29 investment advisory services, selection of independent public
30 accountants and the selection of a committee, whose members

1 need not be otherwise affiliated with the company, to manage
2 the business of the account.

3 (b) Disclosure.--Any contract providing benefits for life
4 insurance or annuities payable in variable amounts delivered or
5 issued for delivery in this Commonwealth shall contain a
6 statement of the essential features of the procedures to be
7 followed by the insurance company in determining the amount of
8 such variable benefits. Any such contract under which the
9 benefits vary to reflect investment experience, including a
10 group contract and any certificate in evidence of variable
11 benefits issued under the contract, shall state that the amount
12 will so vary and shall contain on its first page a statement to
13 the effect that the benefits are on a variable basis.

14 (c) Authorization.--A company shall not deliver or issue for
15 delivery in this Commonwealth variable contracts unless it is
16 licensed or organized to do a life insurance business in this
17 Commonwealth, and the department is satisfied that the company's
18 condition or method of operation, including investment policy,
19 in connection with the issuance of such contracts will not
20 render its operation hazardous to the public or its
21 policyholders in this Commonwealth. In this connection, the
22 department shall consider all relevant circumstances, including
23 the following:

24 (1) The history and financial condition of the company.

25 (2) The character, responsibility and general fitness of
26 the officers and directors or trustees of the company, and
27 whether these individuals command the public confidence and
28 warrant the belief that the business of the company will be
29 lawfully, honestly and efficiently conducted.

30 (3) The law and regulation under which the company is

1 authorized in the state of domicile to issue variable
2 contracts. The state of entry of an alien company shall be
3 deemed its place of domicile for this purpose.

4 If the company is a subsidiary of an admitted life insurance
5 company, or affiliated with such a company through common
6 management or ownership, it may be deemed by the department to
7 have met the requirements of this subsection if either it, the
8 parent or the affiliated company meets such requirements.

9 (d) Regulation by department.--The department shall have
10 sole authority to regulate the issuance and sale of variable
11 contracts, including the approval or disapproval of provisions
12 of the contracts under section 3515 (relating to approval of
13 contracts by department) and the annual statements furnished to
14 contract holders. The department shall promulgate such
15 reasonable regulations as are appropriate to implement this
16 section including regulations to insure that the premiums
17 charged are not excessive, inadequate or unfairly discriminatory
18 and to prevent excessive management, administrative and sales
19 charges. The reserve liability for variable contracts shall be
20 established in accordance with actuarial procedures acceptable
21 to the department that recognize the variable nature of the
22 benefits provided and any mortality guarantees.

23 (e) Applicability of other provisions.--Except for sections
24 5321(a)(2), (3), (8), (9), (10) and (11) (relating to uniform
25 policy provisions), 5322 (relating to standard nonforfeiture law
26 for life insurance), 5325 (relating to notice of right to
27 examine policies) and 5367(c)(1) (relating to standard policy
28 provisions), in the case of a variable life insurance contract,
29 and sections 5323(a)(1), (6) and (7) and (b)(3) (relating to
30 annuity and endowment contracts) and 5325, in the case of a

1 variable annuity contract, and except as otherwise provided in
2 this section, this title shall apply to separate accounts and
3 contracts relating thereto. Any individual variable life
4 insurance or variable annuity contract delivered or issued for
5 delivery in this Commonwealth shall contain grace,
6 reinstatement, incontestability, nonforfeiture and right-to-
7 review provisions as shall be provided in regulations
8 promulgated by the department appropriate to such contract. Any
9 group variable life insurance contract delivered or issued for
10 delivery in this Commonwealth shall contain a grace provision as
11 shall be provided in regulations promulgated by the department
12 appropriate for such contract. Variable contracts, and agents or
13 other persons who sell variable contracts, shall not be subject
14 to the act of December 5, 1972 (P.L.1280, No.284), known as the
15 Pennsylvania Securities Act of 1972, or to regulation by the
16 Pennsylvania Securities Commission.

17 § 5308. Impairment of reserve liability.

18 A stock or mutual life insurance company, after receiving
19 notice from the department that its reserve liability has been
20 impaired and after all other debts and claims against the
21 reserve liability, including 50% of its capital, have been
22 deducted, shall not issue new policies under its authority to do
23 business in this Commonwealth until the department finds that
24 its funds have become equal to its liabilities and it obtains
25 from the department a certificate of authority to resume
26 business. When a domestic life insurance company has been
27 notified to cease doing new business, the department may, if no
28 fraud, gross incompetence or recklessness is shown to exist in
29 the management, permit the officers of the company to continue
30 in charge of its business for one year. The department may renew

1 this permission, if the company is likely to retrieve its
2 affairs, or it may institute proceedings to determine what
3 further shall be done.

4 § 5309. Penalty.

5 Subject to sections 5301(3) (relating to general investment
6 provisions) and 5305~~(1)~~~~and~~ (2) (relating to authorized holdings <—
7 of real estate), a director, trustee or officer of any domestic
8 stock or mutual life insurance company shall not receive any
9 money or valuable thing for negotiating, procuring, recommending
10 or aiding in any purchase by or sale to the company of any
11 property or any loan from the company, nor be directly or
12 indirectly pecuniarily interested, either as principal, agent or
13 beneficiary, in any such purchase, sale or transaction. Any
14 person violating this section commits a summary offense.

15 § 5310. Corporations operating under prior statutes.

16 (a) Applicability.--For the purposes of this section the
17 term "the prior statutes" means the following:

18 (1) The act of April 28, 1903 (P.L.329, No.259),
19 relating to incorporation and regulation of corporations for
20 the purpose of transacting certain types of insurance.

21 (2) The act of April 20, 1927 (P.L.317, No.190),
22 relating to reincorporation of beneficial or protective
23 societies for the purpose of transacting certain types of
24 insurance.

25 (3) The act of June 24, 1939 (P.L.686, No.320), relating
26 to reincorporation of beneficial or protective societies as
27 limited life insurance companies for the purpose of
28 transacting certain types of insurance.

29 (4) The act of July 15, 1957 (P.L.929, No.400), relating
30 to incorporation of limited life insurance companies for the

1 purpose of transacting certain types of insurance.

2 (b) Authorization.--In the case of any company incorporated
3 or reincorporated under the prior statutes:

4 (1) if it is a stock company having capital of not less
5 than \$300,000 and a surplus at least equal to 50% of the
6 capital; or

7 (2) if it is a mutual company having insurance in force
8 in an aggregate amount of not less than \$1,000,000, or not
9 less than 400 persons and a surplus of not less than
10 \$200,000;

11 the company may, notwithstanding any limitation to the contrary
12 under any statute or under its charter, transact any insurance
13 described in section 3302(a)(1) (relating to authorized classes
14 of insurance).

15 (c) Issuance of stock.--The capital stock of every stock
16 company incorporated or reincorporated under the prior statutes
17 or of every company incorporated or reincorporated under any
18 statute enacted after July 15, 1957, authorizing existing
19 incorporated beneficial or protective societies to reincorporate
20 or new companies to incorporate under the provisions thereof as
21 limited life insurance companies having in the case of a stock
22 company capital stock divided into shares with a par value not
23 less than the amounts stated in those statutes, respectively,
24 shall be divided into shares with a par value of not less than
25 \$1 per share, any provision in any of those statutes to the
26 contrary notwithstanding. The charter or articles of agreement
27 of the corporation shall be amended to authorize stock having
28 such par value in the manner provided by section 3552 (relating
29 to amendment of charter).

30 § 5311. Dividends.

1 A stock life insurance company shall not make any dividend on
2 its capital except from the profits arising from its business.
3 In estimating such profits, there shall be first charged as a
4 liability all of the following:

5 (1) The capital stock of the company.

6 (2) The amount of paid-in surplus required under the
7 provisions of section 3306(a) (relating to minimum capital
8 stock and financial requirements).

9 (3) All unpaid losses or other claims.

10 (4) All liabilities for reserves as required by law.

11 (5) All sums due the company on bonds and mortgages,
12 stocks and book accounts, of which none of the principal or
13 interest thereon has been paid during the last calendar year,
14 and for which the foreclosure or other collection proceedings
15 have not been commenced, or which, after judgment obtained
16 thereon, have remained more than two years unsatisfied, and
17 on which interest has not been paid.

18 (6) All interest due or accrued and remaining unpaid.

19 (7) All other debts or obligations of the company.

20 § 5312. (Reserved).

21 § 5313. Vouchers for payment.

22 A domestic stock or mutual life insurance company shall not
23 make any disbursement of \$500 or more unless evidenced by a
24 voucher signed by or on behalf of the person receiving the money
25 and describing the consideration for the payment. If the
26 expenditure is for both services and disbursements, the voucher
27 shall set forth the services rendered and an itemized statement
28 of the disbursements made. If the expenditure is in connection
29 with any matter pending before any government unit of this
30 Commonwealth or any state, the voucher shall also describe the

1 nature of the matter and of the interest of the company therein.
2 When a voucher cannot be obtained, the expenditure shall be
3 evidenced by an affidavit describing the character and object of
4 the expenditure and stating the reason for not obtaining the
5 voucher.

6 SUBCHAPTER B

7 CONDUCT OF BUSINESS

8 Sec.

- 9 5321. Uniform policy provisions.
10 5322. Standard nonforfeiture law for life insurance.
11 5323. Annuity and endowment contracts.
12 5324. Standard nonforfeiture law for individual deferred
13 annuities.
14 5325. Notice of right to examine policies.
15 5326. Policy loan interest rates.
16 5327. Prohibited policy provisions.
17 5328. Medical examinations.
18 5329. Insurance on the life of another person.
19 5330. Statements by prospective insured.
20 5331. Insurance proceeds.
21 5332. (Reserved).
22 5333. Certain life, health and accident companies.
23 5334. Exchange, alteration and conversion of policies.
24 5335. Penalty for misrepresentation.

25 § 5321. Uniform policy provisions.

26 (a) Specific provisions.--A policy of life or endowment
27 insurance, except policies of industrial insurance where the
28 premiums are payable monthly or more often, shall not be
29 delivered in this Commonwealth unless it contains, in substance,
30 the following provisions or provisions which, in the opinion of

1 the department, are more favorable to the policyholder:

2 (1) A provision that all premiums shall be payable in
3 advance.

4 (2) A provision that the insured is entitled to a grace
5 period, either of 30 days or one month, within which the
6 payment of any premium after the first year may be made,
7 subject, at the option of the company, to an interest charge
8 not in excess of 8% per year for the grace period elapsing
9 before the payment of the premium. During this grace period
10 the policy shall continue in full force; but if the policy
11 becomes a claim during the grace period, before the overdue
12 premium or the deferred premiums of the current policy year
13 are paid, the amount of the premiums, with interest on any
14 overdue premiums, may be deducted in any settlement under the
15 policy.

16 (3) A provision that the policy shall be incontestable
17 after it has been in force, during the lifetime of the
18 insured, two years from its date of issue, except for
19 nonpayment of premiums, and that, at the option of the
20 company, provisions relating to disability benefits and those
21 granting additional insurance specifically against death by
22 accident or accidental means, may also be excepted. A clause
23 in any policy of life insurance providing that the policy
24 shall be incontestable after a specified period shall
25 preclude only a contest of the validity of the policy and
26 shall not preclude the assertion, at any time, of defenses
27 based upon provisions in the policy which exclude or restrict
28 coverage, whether or not such restrictions or exclusions are
29 excepted in that clause.

30 (4) A provision that the policy constitutes the entire

1 contract between the parties. If the company desires to make
2 the application a part of the contract, it may do so, if a
3 copy of the application is endorsed upon or attached to the
4 policy when issued; in this case the policy shall contain a
5 provision that the policy and the application constitute the
6 entire contract between the parties.

7 (5) A provision that, if the age of the insured or of
8 any other person whose age is considered in determining the
9 premium has been misstated, the amount payable or benefit
10 accruing under the policy shall be that which the premium
11 would have purchased at the correct age.

12 (6) (i) A provision that the policy shall participate
13 in the surplus of the company; that, beginning not later
14 than the end of the third policy year, the company shall
15 annually determine the portion of the divisible surplus
16 accruing on the policy; and that the party entitled to
17 elect this option may have the dividend arising from such
18 participation paid in cash or applied in accordance with
19 any one of such other dividend options as may be provided
20 by the policy. If any such other dividend options are
21 provided, the policy shall further state which option
22 shall be automatically effective, if the party has not
23 elected some other option.

24 (ii) In lieu of the provision set forth in
25 subparagraph (i), the policy may contain a provision that
26 the policy shall participate in the surplus of the
27 company; that, beginning not later than the end of the
28 fifth policy year, the company shall determine the
29 portion of the divisible surplus accruing on the policy;
30 that the party entitled thereto may have the current

1 dividend arising from such participation paid in cash;
2 and that, at periods of not more than five years
3 thereafter, such apportionment and payment, at the option
4 of that party, shall be made.

5 (iii) A renewable term policy of ten years or less
6 may provide that the surplus accruing to the policy shall
7 be determined and apportioned each year after the second
8 policy year, and accumulated during each renewal period;
9 and that at the end of any renewal period, or upon
10 renewal of the policy by the insured, the company shall
11 apply the accumulated surplus as an annuity for the next
12 succeeding renewal term in the reduction of premiums.

13 (7) A provision specifying the options, if any, to which
14 the policyholder is entitled in the event of default in a
15 premium payment.

16 (8) Except for term insurance, a provision for a loan
17 value at any time after the premiums have been paid for three
18 full years and while no premium is in default beyond the
19 grace period of payment.

20 (i) In the case of any policy issued prior to the
21 operative date of section 5322 (relating to the standard
22 nonforfeiture law for life insurance), it shall be
23 provided that the company will advance, on proper
24 assignment or pledge of the policy, and on the sole
25 security thereof, at a specified rate of interest, a sum
26 equal to, or at the option of the owner of the policy,
27 less than, the reserve at the end of the current policy
28 year on the policy, and on any dividend additions
29 thereto. A deduction shall be made from the loan value of
30 an amount in accordance with one of the following

1 alternative policy provisions:

2 (A) Not more than 2.5% of the amount insured by
3 the policy and any dividend additions thereto.

4 (B) One-fifth of the entire reserve on the
5 policy.

6 (C) 2.5% of the amount insured by the policy and
7 any dividend additions thereto, or one-fifth of the
8 entire reserve of the policy, at the option of the
9 company.

10 It shall further be provided that the company will deduct
11 from the loan value any existing indebtedness on the
12 policy, and any unpaid balance of the premium for the
13 current policy year, and may collect interest in advance
14 on the loan to the end of the current policy year. The
15 policy may further provide that the loan may be deferred
16 for not more than six months after the application
17 therefor is made.

18 (ii) In the case of any policy issued on or after
19 the operative date of section 5322, the loan provision
20 shall provide that the company will advance, on proper
21 assignment or pledge of the policy, and on the sole
22 security thereof, at a specified rate of interest not
23 exceeding 8% per year for policies issued prior to April
24 8, 1982, a sum equal to, or, at the option of the party
25 entitled thereto, less than, the cash surrender value at
26 the end of the current policy year as required by section
27 5322, and that the company may deduct from such loan
28 value, in addition to any indebtedness deducted in
29 determining such value, any unpaid balance of the premium
30 for the current policy year, and may collect interest in

1 advance on the loan to the end of the current policy
2 year. The company shall reserve the right to defer the
3 loan, except any made to pay premiums to the company, for
4 six months after application for the loan is made.

5 (9) A provision for a nonforfeiture and cash surrender
6 value.

7 (i) In the case of any policy issued prior to the
8 operative date of section 5322, a nonforfeiture benefit
9 shall be provided in event of default in premium payments
10 after premiums have been paid for three years, which
11 shall secure to the owner of the policy a stipulated form
12 of insurance. The net value of this benefit shall be at
13 least equal to the reserve at the date of default on the
14 policy and on any dividend additions thereto, specifying
15 the mortality table and rate of interest adopted for
16 computing the reserves, less a sum not more than 2.5% of
17 the amount insured by the policy and of any existing
18 dividend additions thereto, and less any existing
19 indebtedness to the company on the policy. This provision
20 shall stipulate that the policy may be surrendered to the
21 company at its home office within one month from date of
22 default for a specified cash value at least equal to the
23 sum which would otherwise be available for the purchase
24 of insurance. The provision may stipulate that the
25 company may defer payment for not more than six months
26 after the application therefor is made. This provision
27 shall not be required in term insurance of 20 years or
28 less.

29 (ii) In the case of any policy issued on or after
30 the operative date of section 5322, a nonforfeiture

benefit and cash surrender value shall be provided in
accordance with section 5322.

(10) A table showing in figures the loan value and the
options, if any, available under the policy each year, upon
default in premium payments, during at least the first 20
years of the policy. If the proceeds of the policy are
payable in installments which are determinable prior to
maturity of the policy, the policy shall include a table
showing the amount of the guaranteed installments.

(11) A provision that the holder of a policy may have
the policy reinstated, upon written application, at any time
within three years from the date of default in premium
payments, unless the policy has been duly surrendered or the
extension period expired, upon the production of evidence of
insurability satisfactory to the company, and the payment of
all overdue premiums with interest at a rate to be specified
in the policy but not exceeding 8% per year, and the payment
of any other indebtedness to the company upon the policy with
interest determined under section 5326 (relating to policy
loan interest rates), compounded annually.

(12) A provision that when a policy becomes a claim by
the death of the insured settlement shall be made upon
receipt of due proof of death.

(b) Exceptions.--Any of the provisions set forth in
subsection (a), or parts thereof, which are inapplicable to
single premium or nonparticipating policies, shall to that
extent not be incorporated therein. The policies of an alien or
foreign insurance company may contain, when delivered in this
Commonwealth, any provision prescribed by the law of the state
or government under which the company is organized. The policies

1 of a domestic life insurance company may, when delivered in any
2 other state or a foreign country, contain any provision required
3 by the laws of that state or foreign country to be contained in
4 policies delivered therein.

5 § 5322. Standard nonforfeiture law for life insurance.

6 (a) Short title of section.--This section shall be known and
7 may be cited as the Standard Nonforfeiture Law for Life
8 Insurance.

9 (b) General rule.--In the case of policies issued on or
10 after the operative date of this section, as defined in
11 subsection (m), and except as stated in subsection (l) or where
12 this section is not applicable because of the plan of insurance,
13 a life insurance policy shall not be delivered or issued for
14 delivery in this Commonwealth unless it contains in substance
15 the following provisions, or corresponding provisions which the
16 department determines are at least as favorable to the
17 defaulting or surrendering policyholder as the requirements
18 specified in this subsection and are essentially in compliance
19 with subsection (i):

20 (1) That, in the event of default in any premium
21 payment, the company will grant, upon proper request not
22 later than 60 days after the due date of the premium in
23 default, a paid-up nonforfeiture benefit on a plan stipulated
24 in the policy, effective as of the due date, of an amount as
25 provided in this section. In lieu of such a benefit, the
26 company may substitute, upon proper request not later than 60
27 days after the due date of the premium in default, an
28 actuarially equivalent alternative paid-up nonforfeiture
29 benefit which provides a greater amount or longer period of
30 death benefits or, if applicable, a greater amount or earlier

1 payment of endowment benefits.

2 (2) That, upon surrender of the policy within 60 days
3 after the due date of any premium payment in default after
4 premiums have been paid for at least three full years in the
5 case of ordinary insurance or five full years in the case of
6 industrial insurance, the company will pay, in lieu of any
7 paid-up nonforfeiture benefit, a cash surrender value of an
8 amount as provided in this section.

9 (3) That a specified paid-up nonforfeiture benefit shall
10 become effective as specified in the policy unless the person
11 entitled to make such election elects another available
12 option not later than 60 days after the due date of the
13 premium in default.

14 (4) That, if the policy becomes paid-up by completion of
15 all premium payments or if it is continued under any paid-up
16 nonforfeiture benefit which became effective on or after the
17 third policy anniversary in the case of ordinary insurance or
18 the fifth policy anniversary in the case of industrial
19 insurance, the company will pay, upon surrender of the policy
20 within 30 days after any policy anniversary, a cash surrender
21 value of such amount as provided in this section.

22 (5) In the case of policies which cause on a basis
23 guaranteed in the policy unscheduled changes in benefits or
24 premiums, or which provide an option for changes in benefits
25 or premiums other than a change to a new policy, a statement
26 of the mortality table, interest rate and method used in
27 calculating cash surrender values and the paid-up
28 nonforfeiture benefits available under the policy. In the
29 case of all other policies, a statement of the mortality
30 table and interest rate used in calculating the cash

1 surrender values and the paid-up nonforfeiture benefits
2 available under the policy, together with a table showing any
3 cash surrender value and paid-up nonforfeiture benefit
4 available under the policy on each policy anniversary either
5 during the first 20 policy years or during the term of the
6 policy, whichever is shorter. These values and benefits shall
7 be calculated upon the assumption that there are no dividends
8 or paid-up additions credited to the policy and that there is
9 no indebtedness to the company on the policy.

10 (6) That the cash surrender values and the paid-up
11 nonforfeiture benefits available under the policy are not
12 less than the minimum values and benefits required under any
13 statute of the state in which the policy is delivered; an
14 explanation of the manner in which the cash surrender values
15 and the paid-up nonforfeiture benefits are altered by the
16 existence of any paid-up additions credited to the policy or
17 any indebtedness to the company on the policy; if a detailed
18 statement of the method of computation of the values and
19 benefits shown in the policy is not stated therein, a
20 statement that the method of computation has been filed with
21 the insurance supervisory official of the state in which the
22 policy is delivered; and a statement of the method to be used
23 in calculating the cash surrender value and paid-up
24 nonforfeiture benefit available under the policy on any
25 policy anniversary beyond the last anniversary for which such
26 values and benefits are consecutively shown in the policy.

27 (7) That the company shall reserve the right to defer
28 the payment of any cash surrender value for a period of six
29 months after demand therefor with surrender of the policy.

30 (c) Calculation of cash surrender values.--

1 (1) Any cash surrender value available under the policy
2 in the event of default in a premium payment due on any
3 policy anniversary, whether or not required by subsection
4 (b), shall be an amount not less than the excess of the
5 present value, on that anniversary, of the future guaranteed
6 benefits which would have been provided for by the policy,
7 including any existing paid-up additions, if there had been
8 no default, over the sum of:

9 (i) the then present value of the adjusted premiums,
10 as defined in subsections (e) and (f), corresponding to
11 premiums which would have fallen due on and after the
12 anniversary; and

13 (ii) the amount of any indebtedness to the company
14 on the policy.

15 (2) For any policy issued on or after the operative date
16 of subsection (f) which provides supplemental life insurance
17 or annuity benefits at the option of the insured and for an
18 identifiable additional premium by rider or supplemental
19 policy provision, the cash surrender value shall be an amount
20 not less than the sum of:

21 (i) the cash surrender value under paragraph (1) for
22 an otherwise similar policy issued at the same age
23 without the rider or supplemental policy provision; and

24 (ii) the cash surrender value under paragraph (1)
25 for a policy which provides only the benefits otherwise
26 provided by the rider or supplemental policy provision.

27 (3) For any family policy issued on or after the
28 operative date of subsection (f) which defines a primary
29 insured and provides term insurance on the life of the spouse
30 of the primary insured expiring before the spouse reaches 71

1 years of age, the cash surrender value shall be an amount not
2 less than the sum of:

3 (i) the cash surrender value under paragraph (1) for
4 an otherwise similar policy issued at the same age
5 without term insurance on the life of the spouse; and

6 (ii) the cash surrender value under paragraph (1)
7 for a policy which provides only the benefits otherwise
8 provided by the term insurance on the life of the spouse.

9 (4) Any cash surrender value available within 30 days
10 after any policy anniversary under any policy paid-up by
11 completion of all premium payments or any policy continued
12 under any paid-up nonforfeiture benefit, whether or not
13 required by subsection (b), shall be an amount not less than
14 the present value on the anniversary of the future guaranteed
15 benefits provided for by the policy, including any existing
16 paid-up additions, decreased by any indebtedness to the
17 company on the policy.

18 (d) Paid-up nonforfeiture benefits.--Any paid-up
19 nonforfeiture benefit available under the policy in the event of
20 default in a premium payment due on any policy anniversary shall
21 be such that its present value as of the anniversary shall be at
22 least equal to the cash surrender value then provided for by the
23 policy or, if none is provided for, the cash surrender value
24 which would have been required by this section in the absence of
25 the condition that premiums shall have been paid for at least a
26 specified period.

27 (e) Adjusted premiums for prior policies.--

28 (1) (i) This paragraph does not apply to policies
29 issued on or after the operative date of subsection (f).

30 Except as provided in subparagraph (iii), the adjusted

1 premiums for any policy shall be calculated on an annual
2 basis and shall be such uniform percentage of the
3 respective premiums specified in the policy for each
4 policy year, excluding any extra premiums charged because
5 of impairments or special hazards, that the present
6 value, at the date of issue of the policy, of all
7 adjusted premiums shall be equal to the sum of:

8 (A) the then present value of the future
9 guaranteed benefits provided for by the policy;

10 (B) two percent of the amount of insurance, if
11 the insurance is uniform in amount, or of the
12 equivalent uniform amount, as defined in subparagraph
13 (ii), if the amount of insurance varies with duration
14 of the policy;

15 (C) forty percent of the adjusted premium for
16 the first policy year; and

17 (D) twenty-five percent of either the adjusted
18 premium for the first policy year or the adjusted
19 premium for a whole life policy of the same uniform
20 or equivalent uniform amount with uniform premiums
21 for the whole of life issued at the same age for the
22 same amount of insurance, whichever is less.

23 In applying the percentages specified in clauses (C) and
24 (D), no adjusted premium shall be deemed to exceed 4% of
25 the amount of insurance or uniform amount equivalent
26 thereto. The date of issue of a policy for the purpose of
27 this subsection shall be the date as of which the rated
28 age of the insured is determined.

29 (ii) In the case of a policy providing an amount of
30 insurance varying with the duration of the policy, the

1 equivalent uniform amount for the purpose of this
2 subsection shall be the uniform amount of insurance
3 provided by an otherwise similar policy, containing the
4 same endowment benefits issued at the same age and for
5 the same term, the amount of which does not vary with
6 duration and the benefits under which have the same
7 present value at the date of issue as the benefits under
8 the policy. In the case of a policy providing a varying
9 amount of insurance issued on the life of a child under
10 ten years of age, the equivalent uniform amount may be
11 computed as if the amount of insurance provided by the
12 policy prior to the attainment of ten years of age was
13 the amount provided by the policy at ten years of age.

14 (iii) The adjusted premiums for any policy providing
15 term insurance benefits by rider or supplemental policy
16 provision shall be equal to:

17 (A) the adjusted premiums for an otherwise
18 similar policy issued at the same age without such
19 term insurance benefits, increased, during the period
20 for which premiums for such term insurance benefits
21 are payable, by;

22 (B) the adjusted premiums for such term
23 insurance.

24 The amounts stated in clauses (A) and (B) shall be
25 calculated separately and as specified in subparagraphs
26 (i) and (ii), except that for the purposes of
27 subparagraph (i)(B), (C) and (D), the amount of insurance
28 or equivalent uniform amount of insurance used in the
29 calculation of the adjusted premiums referred to in
30 clause (B) of this subparagraph shall be equal to the

1 excess of the corresponding amount determined for the
2 entire policy over the amount used in the calculation of
3 the adjusted premiums in clause (A) of this subparagraph.

4 (iv) Except as otherwise provided in paragraphs (2)
5 and (3), all adjusted premiums and present values
6 referred to in this section shall, for all policies of
7 ordinary insurance, be calculated on the basis of the
8 Commissioners 1941 Standard Ordinary Mortality Table. For
9 any category of ordinary insurance issued on female
10 risks, adjusted premiums and present values may be
11 calculated according to an age not more than three years
12 younger than the actual age of the insured. Such
13 calculations for all policies of industrial insurance
14 shall be made on the basis of the 1941 Standard
15 Industrial Mortality Table. All calculations shall be
16 made using the rate of interest not exceeding 3.5% a
17 year, specified in the policy for calculating cash
18 surrender values and paid-up nonforfeiture benefits. In
19 calculating the present value of any paid-up term
20 insurance with any accompanying pure endowment offered as
21 a nonforfeiture benefit, the rates of mortality assumed
22 may be not more than 130% of the rates of mortality
23 according to the applicable table. For insurance issued
24 on a substandard basis, the calculation of any adjusted
25 premiums and present values may be based on such other
26 table of mortality as may be specified by the company and
27 approved by the department.

28 (2) This paragraph does not apply to ordinary policies
29 issued on or after the operative date of subsection (f). In
30 the case of ordinary policies issued on or after the

operative date of this paragraph, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. This rate of interest shall not exceed 3.5% a year except that a rate of interest not exceeding 4% a year may be used for policies issued on or after June 23, 1976, and prior to July 3, 1980. A rate of interest not exceeding 5.5% a year or such higher rate of interest as may be approved by the department may be used for policies issued on or after July 3, 1980. For any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. In calculating the present value of any paid-up term insurance with any accompanying pure endowment offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as specified by the company and approved by the department. The operative date of this paragraph is the operative date of former section 410A(d)(2) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, and is not later than January 1, 1966.

(3) This paragraph does not apply to industrial policies issued on or after the operative date of subsection (f). In the case of industrial policies issued on or after the

operative date of this paragraph, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. This rate of interest shall not exceed 3.5% a year except that a rate of interest not exceeding 4% a year may be used for policies issued on or after June 23, 1976, and prior to July 3, 1980. A rate of interest not exceeding 5.5% a year or such higher rate of interest as may be approved by the department may be used for policies issued on or after July 3, 1980. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as specified by the company and approved by the department. The operative date of this paragraph is the operative date of former section 410A(d)(3) of The Insurance Company Law of 1921 and is not later than January 1, 1970.

(f) Adjusted premiums for recent policies.--

(1) This subsection applies to all policies issued on or after the operative date of this subsection as defined in paragraph (11). Except as provided in subsection (c)(2) and in paragraph (7) of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be a uniform percentage of the respective premiums

1 specified in the policy for each policy year, excluding any
2 extra premiums charged because of impairments or special
3 hazards and also excluding any uniform annual contract charge
4 or policy fee specified in the policy in a statement of the
5 method to be used in calculating the cash surrender values
6 and paid-up nonforfeiture benefits. The present value, at the
7 date of issue of the policy, of all adjusted premiums shall
8 be equal to the sum of:

9 (i) the then present value of the future guaranteed
10 benefits provided for by the policy;

11 (ii) one percent of either the amount of insurance,
12 if the insurance be uniform in amount, or the average
13 amount of insurance at the beginning of each of the first
14 ten policy years; and

15 (iii) one hundred twenty-five percent of the
16 nonforfeiture net level premium as defined in paragraph
17 (2).

18 However, in applying the percentage specified in subparagraph
19 (iii) no nonforfeiture net level premium shall be deemed to
20 exceed 4% of either the amount of insurance, if the insurance
21 is uniform in amount, or the average amount of insurance at
22 the beginning of each of the first ten policy years. The date
23 of issue of a policy for the purpose of this subsection shall
24 be the date as of which the rated age of the insured is
25 determined.

26 (2) The nonforfeiture net level premium shall be equal
27 to the present value, at the date of issue of the policy, of
28 the guaranteed benefits provided for by the policy divided by
29 the present value, at the date of issue of the policy, of an
30 annuity of one per year payable on the date of issue of the

1 policy and on each anniversary of the policy on which a
2 premium falls due.

3 (3) In the case of policies which cause on a basis
4 guaranteed in the policy unscheduled changes in benefits or
5 premiums, or which provide an option for changes in benefits
6 or premiums other than a change to a new policy, the adjusted
7 premiums and present values shall initially be calculated on
8 the assumption that future benefits and premiums do not
9 change from those stipulated at the date of issue of the
10 policy. At the time of any such change in the benefits or
11 premiums the future adjusted premiums, nonforfeiture net
12 level premiums and present values shall be recalculated on
13 the assumption that future benefits and premiums do not
14 change from those stipulated by the policy immediately after
15 the change.

16 (4) Except as otherwise provided in paragraph (7), the
17 recalculated future adjusted premiums for the policy shall be
18 such uniform percentage of the respective future premiums
19 specified in the policy for each policy year, excluding
20 amounts payable as extra premiums to cover impairments and
21 special hazards and also excluding any uniform annual
22 contract charge or policy fee specified in the policy in a
23 statement of the method to be used in calculating the cash
24 surrender values and paid-up nonforfeiture benefits, that the
25 present value, at the time of change to the newly defined
26 benefits or premiums, of all such future adjusted premiums
27 shall be equal to the excess of:

28 (i) the sum of the then present value of the then
29 future guaranteed benefits provided for by the policy and
30 any additional expense allowance; over

1 (ii) the then cash surrender value, if any, or
2 present value of any paid-up nonforfeiture benefit under
3 the policy.

4 (5) The additional expense allowance, at the time of the
5 change to the newly defined benefits or premiums, shall be
6 the sum of:

7 (i) one percent of the excess, if positive, of the
8 average amount of insurance at the beginning of each of
9 the first ten policy years subsequent to the change over
10 the average amount of insurance prior to the change at
11 the beginning of each of the first ten policy years
12 subsequent to the time of the most recent previous change
13 or, if there has been no previous change, the date of
14 issue of the policy; and

15 (ii) one hundred twenty-five percent of the
16 increase, if positive, in the nonforfeiture net level
17 premium.

18 (6) The recalculated nonforfeiture net level premium
19 shall be equal to the sum of:

20 (i) the nonforfeiture net level premium applicable
21 prior to the change times the present value of an annuity
22 of one per year payable on each anniversary of the policy
23 on or subsequent to the date of the change on which a
24 premium would have fallen due had the change not
25 occurred; and

26 (ii) the present value of the increase in future
27 guaranteed benefits provided for by the policy;
28 divided by the present value of an annuity of one a year
29 payable on each anniversary of the policy on or subsequent to
30 the date of change on which a premium falls due.

1 (7) Notwithstanding any other provisions of this
2 subsection, in the case of a policy issued on a substandard
3 basis which provides reduced graded amounts of insurance so
4 that, in each policy year, the policy has the same tabular
5 mortality cost as an otherwise similar policy issued on the
6 standard basis which provides higher uniform amounts of
7 insurance, adjusted premiums and present values for the
8 policy may be calculated as if it were issued to provide such
9 higher uniform amounts of insurance on the standard basis.

10 (8) The adjusted premiums and present values referred to
11 in this subsection for policies of ordinary insurance shall
12 be calculated on the basis of the Commissioners 1980 Standard
13 Ordinary Mortality Table or, at the election of the company
14 for any one or more specified plans of life insurance, the
15 Commissioners 1980 Standard Ordinary Mortality Table with
16 Ten-Year Select Mortality Factors. The adjusted premiums and
17 present values for policies of industrial insurance shall be
18 calculated on the basis of the Commissioners 1961 Standard
19 Industrial Mortality Table, and for policies issued in a
20 particular calendar year shall be calculated on the basis of
21 a rate of interest not exceeding the nonforfeiture interest
22 rate under paragraph (9) for policies issued in that calendar
23 year. These provisions are subject to the following:

24 (i) At the option of the company, calculations for
25 all policies issued in a particular calendar year may be
26 made on the basis of a rate of interest not exceeding the
27 nonforfeiture interest rate under paragraph (9) for
28 policies issued in the immediately preceding calendar
29 year.

30 (ii) Under any paid-up nonforfeiture benefit,

1 including any paid-up dividend additions, any cash
2 surrender value available, whether or not required by
3 subsection (b), shall be calculated on the basis of the
4 mortality table and rate of interest used in determining
5 the amount of the paid-up nonforfeiture benefit and any
6 paid-up dividend additions.

7 (iii) A company may calculate the amount of any
8 guaranteed paid-up nonforfeiture benefit including any
9 paid-up additions under the policy on the basis of an
10 interest rate no lower than that specified in the policy
11 for calculating cash surrender values.

12 (iv) In calculating the present value of any paid-up
13 term insurance with any accompanying pure endowment
14 offered as a nonforfeiture benefit, the rates of
15 mortality assumed may be not more than those in the
16 Commissioners 1980 Extended Term Insurance Table for
17 policies of ordinary insurance or in the Commissioners
18 1961 Industrial Extended Term Insurance Table for
19 policies of industrial insurance.

20 (v) For insurance issued on a substandard basis, the
21 calculation of adjusted premiums and present values may
22 be based on appropriate modifications of the tables
23 mentioned in this paragraph.

24 (vi) Any ordinary mortality tables adopted after
25 1980 by the National Association of Insurance
26 Commissioners and approved by regulation promulgated by
27 the department for use in determining the minimum
28 nonforfeiture standard, may be substituted for the
29 Commissioners 1980 Standard Ordinary Mortality Table with
30 or without Ten-Year Select Mortality Factors or for the

Commissioners 1980 Extended Term Insurance Table.

(vii) Any industrial mortality tables adopted after 1980 by the National Association of Insurance Commissioners and approved by regulation promulgated by the department for use in determining the minimum nonforfeiture standard, may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

(9) The nonforfeiture interest rate per year for any policy issued in a particular calendar year shall be equal to 125% of the calendar year statutory valuation interest rate for the policy under section 703(c) (relating to computation of reserves on recent policies), rounded to the nearest 0.25%.

(10) Notwithstanding any other provision in this title to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(11) Any company may file with the department a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for the company. If a company makes no such election, the operative date of this subsection for the company shall be January 1, 1989.

(g) Special approved methods of determination.--In the case

1 of any plan of life insurance which provides for future premium
2 determination, the amounts of which are to be determined by the
3 insurance company based on then estimates of future experience,
4 or in the case of any plan of life insurance which is of such a
5 nature that minimum values cannot be determined by the methods
6 described in subsections (b), (c), (d), (e) and (f), then:

7 (1) The company shall satisfy the department that the
8 benefits provided under the plan are substantially as
9 favorable to policyholders and insureds as the minimum
10 benefits otherwise required by subsections (b), (c), (d), (e)
11 and (f).

12 (2) The company shall satisfy the department that the
13 benefits and the pattern of premiums of that plan are not
14 such as to mislead prospective policyholders or insureds.

15 (3) The cash surrender values and paid-up nonforfeiture
16 benefits provided by the plan shall not be less than the
17 minimum values and benefits required for the plan computed by
18 a method consistent with the principles of this section, as
19 determined by regulations promulgated by the department.

20 (h) Default on premiums not due on anniversary date.--Any
21 cash surrender value and any paid-up nonforfeiture benefit,
22 available under the policy in the event of default in a premium
23 payment due at any time other than on the policy anniversary,
24 shall be calculated with allowance for the lapse of time and the
25 payment of fractional premiums beyond the beginning of the
26 policy year in which the default occurs. All values referred to
27 in subsections (c), (d), (e) and (f) may be calculated upon the
28 assumption that any death benefit is payable at the end of the
29 policy year of death.

30 (i) Progression of cash surrender values.--

1 (1) This subsection applies to all policies issued on or
2 after January 1, 1985. Any cash surrender value available
3 under the policy in the event of default in a premium payment
4 due on any policy anniversary shall be in an amount which
5 does not differ by more than 0.2% of either the amount of
6 insurance, if the insurance be uniform in amount, or the
7 average amount of insurance at the beginning of each of the
8 first ten policy years, from the sum of:

9 (i) the greater of zero and the basic cash value
10 under paragraph (2); and

11 (ii) the present value of any existing paid-up
12 additions less the amount of any indebtedness to the
13 company under the policy.

14 (2) The basic cash value shall be equal to the present
15 value, on the policy anniversary, of the future guaranteed
16 benefits which would have been provided for by the policy,
17 excluding any existing paid-up additions and before deduction
18 of any indebtedness to the company, if there had been no
19 default, less the then present value of the nonforfeiture
20 factors corresponding to premiums which would have fallen due
21 on and after the anniversary. The effect on the basic cash
22 value of supplemental life insurance or annuity benefits or
23 of family coverage, as described in subsection (c) or (e),
24 whichever is applicable, shall be the same as the effect
25 under subsection (c) or (e), whichever is applicable, on the
26 cash surrender value under that subsection.

27 (3) The nonforfeiture factor for each policy year shall
28 be an amount equal to a percentage of the adjusted premium
29 for the policy year, under subsection (e) or (f), whichever
30 is applicable. Except as is required by paragraph (4), this

percentage:

(i) shall be the same percentage for each policy year between the second policy anniversary and the later of:

(A) the fifth policy anniversary; or

(B) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least 0.2% of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and

(ii) shall be such that no percentage after the later of the policy anniversaries specified in subparagraph (i) may apply to fewer than five consecutive policy years.

(4) The basic cash value shall not be less than the value which would be obtained if the adjusted premiums for the policy under subsection (e) or (f), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

(5) All adjusted premiums and present values referred to in this subsection shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

(6) Any cash surrender value available other than in the

1 event of default in a premium payment due on a policy
2 anniversary, and the amount of any paid-up nonforfeiture
3 benefit available under the policy in the event of default in
4 a premium payment, shall be determined consistently with the
5 provisions for determining the analogous minimum amounts in
6 subsections (b), (c), (d), (e), (f), (g), (h) and (j). The
7 amounts of any cash surrender values and of any paid-up
8 nonforfeiture benefits granted in connection with additional
9 benefits such as those listed in subsection (k) shall conform
10 with the principles of this subsection.

11 (j) Paid-up additions.--The net value of any paid-up
12 additions, other than paid-up term additions, shall not be less
13 than the amounts used to provide such additions.

14 (k) Additional benefits.--Notwithstanding subsection (c),
15 additional benefits payable:

16 (1) in the event of death or dismemberment by accident
17 or accidental means;

18 (2) in the event of total and permanent disability;

19 (3) as reversionary annuity or deferred reversionary
20 annuity benefits;

21 (4) as term insurance benefits provided by a rider or
22 supplemental policy provision to which, if issued as a
23 separate policy, this section would not apply;

24 (5) as term insurance on the life of a child or on the
25 lives of children, provided in a policy on the life of a
26 parent of the child, if such term insurance expires before
27 the child reaches 26 years of age, is uniform in amount after
28 the child reaches one year of age and has not become paid-up
29 by reason of the death of a parent of the child; and

30 (6) as other policy benefits additional to life

1 insurance and endowment benefits;
2 and premiums for all such additional benefits, shall be
3 disregarded in ascertaining cash surrender values and
4 nonforfeiture benefits required by this section. These
5 additional benefits shall not be required to be included in any
6 paid-up nonforfeiture benefits.

7 (1) Exclusions.--This section does not apply to any of the
8 following:

9 (1) Reinsurance.

10 (2) Group insurance.

11 (3) Pure endowment.

12 (4) Annuity or reversionary annuity contracts.

13 (5) Term policies of uniform amount, which provide no
14 guaranteed nonforfeiture or endowment benefits, or renewal
15 thereof, of 20 years or less expiring before the insured
16 reaches 71 years of age, for which uniform premiums are
17 payable during the entire term of the policy.

18 (6) Term policies of decreasing amount, which provide no
19 guaranteed nonforfeiture or endowment benefits, on which each
20 adjusted premium, calculated as specified in subsections (e)
21 and (f), is less than the adjusted premium so calculated on a
22 term policy of uniform amount, or renewal thereof, which
23 provides no guaranteed nonforfeiture or endowment benefits,
24 issued at the same age and for the same initial amount of
25 insurance and for a term of 20 years or less expiring before
26 the insured reaches 71 years of age, for which uniform
27 premiums are payable during the entire term of the policy.

28 (7) Policies providing no guaranteed nonforfeiture or
29 endowment benefits, for which no cash surrender value or
30 present value of any paid-up nonforfeiture benefit, at the

beginning of any policy year, calculated as specified in subsections (c), (d), (e) and (f), exceeds 2.5% of the amount of insurance at the beginning of the same policy year.

(8) Policies delivered outside this Commonwealth through an agent or other representative of the company issuing the policy.

For the purposes of this subsection, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

(m) Operative date.--The operative date of this section is the operative date of former section 410A of The Insurance Company Law of 1921, and is not later than January 1, 1948, for any life insurance company, except a limited life insurance company.

§ 5323. Annuity and endowment contracts.

(a) Uniform provisions for annuities and pure endowments.--An annuity or pure endowment contract shall not be delivered in this Commonwealth, except policies of industrial insurance where the premiums are payable monthly or more often, and except in the case of a reversionary annuity, otherwise called a survivorship annuity, or an annuity contracted by an employer on behalf of his employees, unless it contains in substance the following provisions:

(1) A provision that there shall be a grace period, either of 30 days or of one month, within which any stipulated payment to the company falling due after the first year may be made, subject, at the option of the company, to an interest charge thereon at a rate to be specified in the contract, but not exceeding 8% a year, for the grace period elapsing before payment, during which grace period the

1 contract shall continue in full force; that if a claim arises
2 under the contract on account of death during the grace
3 period before any overdue payment or deferred payments of the
4 current year are made, the amount of the payments, with
5 interest on any overdue payments, may be deducted from any
6 amount payable under the contract in settlement. If the
7 contract contains a loan provision, the rate of interest for
8 contracts issued prior to April 8, 1982, may not exceed 8% a
9 year.

10 (2) If statements, other than those relating to age and
11 identity, are required as a condition of issuing the
12 contract, a provision that the contract shall be
13 incontestable after it has been in force during the lifetime
14 of the person or each of the persons as to whom such
15 statements are required for a period of two years from its
16 date of issue, except where stipulated payments to the
17 company have not been made, and except for violation of the
18 conditions of the contract relating to military or naval
19 service in time of war. At the option of the company,
20 provisions relative to benefits in the event of total and
21 permanent disability and relative to insurance specifically
22 against death by accident may also be excepted.

23 (3) A provision that the contract constitutes the entire
24 contract between the parties. If the company desires to make
25 the application a part of the contract, it may do so, if a
26 copy of the application is endorsed upon or attached to the
27 contract when issued; in this case, the contract shall
28 contain a provision that the insurance contract and the
29 application constitute the entire contract between the
30 parties.

1 (4) A provision that, if the age of any of the persons
2 upon whose lives the contract is based has been misstated,
3 the amount payable under the contract shall be that which the
4 stipulated payments to the company would have purchased at
5 the correct age. Any overpayment by the company on account of
6 misstatement of age shall, with interest thereon at a rate to
7 be specified in the contract but not exceeding 6% a year, be
8 charged against the current or next succeeding payment to be
9 made by the company under the contract.

10 (5) If the contract is participating, a provision that
11 the divisible surplus shall be apportioned annually, and
12 dividends shall be payable in cash or shall be applicable to
13 any stipulated payment to the company under the contract.

14 (6) A provision specifying the options available upon
15 cessation of payment of consideration under the contract.

16 (i) In the case of contracts issued prior to July 3,
17 1980, the provision shall specify that, if the contract,
18 after having been in force for three full years, shall by
19 its terms lapse or become forfeited because any
20 stipulated payment to the company has not been made, the
21 reserve on the contract, computed according to the
22 standard adopted by the company under Chapter 7 (relating
23 to reserve liability) shall, after deducting 20% of the
24 entire reserve and any indebtedness to the company under
25 the contract, be applied as a net single payment
26 according to that standard for the purchase of a paid-up
27 annuity or pure endowment contract, which may be
28 nonparticipating and which shall be payable by the
29 company under the same terms and conditions, except as to
30 the amount of the original contract. A company may

1 provide, in lieu of the paid-up values, for a paid-up
2 annuity or pure endowment contract in an amount bearing
3 the same proportion to the original annuity or pure
4 endowment contract as the number of stipulated payments
5 made to the company bears to the total number of
6 stipulated payments required to be made to the company
7 under the contract. If there is any indebtedness to the
8 company under the contract, the amount of the paid-up
9 annuity or pure endowment shall be reduced by an amount
10 bearing the same proportion to the paid-up annuity or
11 pure endowment as the indebtedness bears to the reserve
12 on the paid-up annuity or pure endowment, computed
13 according to the standard adopted by the company under
14 Subchapter A of Chapter 7.

15 (ii) In the case of contracts issued on or after
16 July 3, 1980, the provisions shall be in accordance with
17 section 5324 (relating to standard nonforfeiture law for
18 individual deferred annuities).

19 (7) A provision that the contract may be reinstated at
20 any time within one year from the date of default in making
21 stipulated payments to the company, if all overdue stipulated
22 payments are made with interest thereon at a rate to be
23 specified in the contract, but not exceeding 8% a year, and
24 any indebtedness to the company on the contract is paid with
25 interest determined in accordance with section 5326 (relating
26 to policy loan interest rates), compounded annually. If
27 necessary, a company may also include a requirement of
28 evidence of insurability satisfactory to the company.

29 (b) Standard provisions for reversionary annuities.--A
30 contract for a reversionary annuity shall not be so issued or

1 delivered in this Commonwealth unless it contains in substance
2 the following provisions:

3 (1) Provisions described in subsection (a)(1), (2), (3)
4 and (5), except that under the provision described in
5 subsection (a)(1) the company may provide for an equitable
6 reduction of the amount of the annuity payments in
7 settlement, or an overdue or deferred payments in lieu of
8 providing for a deduction of the payments from any amount
9 payable upon a settlement under the contract.

10 (2) A provision that, if the age of any of the persons
11 upon whose lives the contract is based has been misstated,
12 the amount payable under the contract shall be that which the
13 stipulated payments to the company would have purchased at
14 the correct ages.

15 (3) A provision that the contract may be reinstated at
16 any time within three years from the date of default in
17 making stipulated payments to the company upon production of
18 evidence of insurability satisfactory to the company, if all
19 overdue payments are made with interest thereon at a rate to
20 be specified in the contract, but not exceeding 8% a year,
21 and any indebtedness to the company is paid with interest
22 thereon at a rate or rates determined in accordance with
23 section 5326, compounded annually.

24 (c) Alternative provisions.--Provisions of this section
25 which do not apply to nonparticipating contracts or to contracts
26 for which a single stipulated payment to the company is made
27 shall to that extent not be incorporated in the contract. Any
28 such contract may be delivered in this Commonwealth if, in the
29 opinion of the department, it contains provisions, on any one or
30 more of the requirements of this section, more favorable to the

1 holder of the contract than required by this section.

2 (d) Permitted policies.--This section does not prohibit a
3 life insurance corporation, which issues life insurance on a
4 participating basis, from issuing annuities, reversionary
5 annuities or pure endowments on a nonparticipating basis.

6 (e) Construction of contracts.--Any contract, or any
7 application, endorsement or rider form used in connection
8 therewith, issued in violation of this section shall
9 nevertheless be held valid, but shall be construed as provided
10 in this section. When any provision in the contract,
11 application, endorsement or rider is in conflict with this
12 section or with any other provision of this title or the rights,
13 duties and obligations of the company, the holder of the
14 contract and the beneficiary or annuitant thereunder shall be
15 governed by the provisions thereof. This section does not apply
16 to contracts of reinsurance or to contracts for deferred
17 annuities or reversionary annuities included in life insurance
18 policies.

19 § 5324. Standard nonforfeiture law for individual deferred
20 annuities.

21 (a) Short title of section.--This section shall be known and
22 may be cited as the Standard Nonforfeiture Law for Individual
23 Deferred Annuities.

24 (b) Applicability.--This section does not apply to any of
25 the following:

26 (1) Reinsurance.

27 (2) Group annuity purchased under a retirement plan or
28 plan of deferred compensation established or maintained by an
29 employer or an employee organization, or by both, other than
30 a plan providing individual retirement accounts or individual

1 retirement annuities under section 408 of the Internal
2 Revenue Code (Public Law 93-406, 26 U.S.C. § 408).

3 (3) Premium deposit fund.

4 (4) Variable annuity.

5 (5) Investment annuity.

6 (6) Immediate annuity.

7 (7) Deferred annuity contract after annuity payments
8 have commenced.

9 (8) Reversionary annuity.

10 (9) Contracts delivered outside this Commonwealth
11 through an agent or other representative of the company
12 issuing the contract.

13 (c) Required contract provisions.--Except as stated in
14 subsection (b), no annuity contract shall be delivered or issued
15 for delivery in this Commonwealth unless it contains in
16 substance the following provisions, or corresponding provisions
17 which in the opinion of the department are at least as favorable
18 to the contract holder, upon cessation of payment of
19 consideration under the contract:

20 (1) That upon cessation of payment of consideration
21 under a contract, the company will grant a paid-up annuity
22 benefit on a plan stipulated in the contract of the value
23 determined under subsections (e), (f), (g), (h), (i) and (k).

24 (2) If a contract provides for a lump-sum settlement at
25 maturity or at any other time, that upon surrender of the
26 contract at or prior to the commencement of any annuity
27 payments, the company will pay, in lieu of any paid-up
28 annuity benefit, a cash surrender benefit of the amount
29 determined under subsections (e), (f), (i) and (k). The
30 company shall reserve the right to defer the payment of the

1 cash surrender benefit for a period of six months after
2 demand therefor with surrender of the contract.

3 (3) A statement of the mortality table, if any, and
4 interest rates used in calculating any minimum paid-up
5 annuity, cash surrender or death benefits guaranteed under
6 the contract, together with sufficient information to
7 determine the amounts of those benefits.

8 (4) A statement that any paid-up annuity, cash surrender
9 or death benefits available under the contract are not less
10 than the minimum benefits required by any statute of the
11 state in which the contract is delivered and an explanation
12 of the manner in which the benefits are altered by the
13 existence of any additional amounts credited by the company
14 to the contract, any indebtedness to the company on the
15 contract or any prior withdrawals from or partial surrenders
16 of the contract. Notwithstanding this subsection, any
17 deferred annuity contract may provide that if no
18 consideration has been received under a contract for a period
19 of two full years and the portion of the paid-up annuity
20 benefit at maturity on the plan stipulated in the contract
21 arising from consideration paid prior to the period would be
22 less than \$20 per month, the company may at its option
23 terminate the contract by payment in cash of the then present
24 value of that portion of the paid-up annuity benefit,
25 calculated on the basis of the mortality table, if any, and
26 interest rate specified in the contract for determining the
27 paid-up annuity benefit; by this payment the company shall be
28 relieved of any further obligation under the contract.

29 (d) Minimum nonforfeiture amount.--The minimum values as
30 specified in subsections (e), (f), (g), (h), (i) and (k) of any

1 paid-up annuity, cash surrender or death benefits available
2 under an annuity contract shall be based upon minimum
3 nonforfeiture amounts determined under this subsection.

4 (1) With respect to contracts providing for flexible
5 consideration, the minimum nonforfeiture amount at any time
6 at or prior to the commencement of any annuity payments shall
7 be equal to an accumulation up to that time at a rate of
8 interest of 3% a year of percentages of the net consideration
9 (as set forth in paragraph (2)), paid prior to that time,
10 plus any existing additional amounts credited to the
11 contract, decreased by the sum of:

12 (i) any prior withdrawals from or partial surrenders
13 of the contract accumulated at a rate of interest of 3% a
14 year; and

15 (ii) any indebtedness to the company on the
16 contract, including interest due and accrued.

17 (2) The net consideration for a given contract year used
18 to define the minimum nonforfeiture amount shall be an amount
19 not less than zero and shall be equal to the corresponding
20 gross consideration credited to the contract during that
21 contract year less an annual contract charge of \$30 and less
22 a collection charge of \$1.25 a payment credited to the
23 contract during that contract year. The percentages of net
24 considerations shall be 65% of the net consideration for the
25 first contract year and 87.5% of the net consideration for
26 the second and later contract years; however, the percentage
27 shall be 65% of the portion of the total net consideration
28 for any renewal contract year which exceeds by not more than
29 two times the sum of those portions of the net consideration
30 in all prior contract years for which the percentage was 65%.

1 (3) With respect to contracts providing for fixed
2 scheduled payments of consideration, minimum nonforfeiture
3 amounts shall be calculated on the assumption that the
4 payments are made annually in advance and shall be defined as
5 for contracts with flexible consideration which is paid
6 annually with the following exceptions:

7 (i) The portion of the net consideration for the
8 first contract year to be accumulated shall be the sum of
9 65% of the net consideration for the first contract year
10 plus 22.5% of the excess of the net consideration for the
11 first contract year over the lesser of the net
12 consideration for the second or third contract years.

13 (ii) The annual contract charge shall be \$30 or 10%
14 of the gross annual consideration, whichever is less.

15 (4) With respect to contracts providing for a single
16 payment of consideration, minimum amount shall be defined as
17 for contracts with flexible consideration except that the
18 percentage of net consideration used to determine the minimum
19 nonforfeiture amount shall be equal to 90% and the net
20 consideration shall be the gross consideration less a
21 contract charge of \$75.

22 (e) Paid-up annuity benefits.--Any paid-up annuity benefit
23 available under a contract shall be such that its present value
24 on the date the annuity payments are to commence is at least
25 equal to the minimum nonforfeiture amount on that date. The
26 present value shall be computed using the mortality table, if
27 any, and the interest rate specified in the contract for
28 determining the minimum paid-up benefits guaranteed in the
29 contract.

30 (f) Cash surrender benefits.--For contracts which provide

1 cash surrender benefits, cash surrender benefits available prior
2 to maturity shall not be less than the present value as of the
3 date of surrender of that portion of the maturity value of the
4 paid-up annuity benefit which would be provided under the
5 contract at maturity arising from consideration paid prior to
6 the time of cash surrender reduced by the amount appropriate to
7 reflect any prior withdrawals from or partial surrenders of the
8 contract. The present value shall be calculated on the basis of
9 an interest rate not more than 1% higher than the interest rate
10 specified in the contract for accumulating the net consideration
11 to determine maturity value, decreased by the amount of any
12 indebtedness to the company on the contract, including interest
13 due and accrued, and increased by any existing additional
14 amounts credited by the company to the contract. The cash
15 surrender benefit shall not be less than the minimum
16 nonforfeiture amount at that time. The death benefit under such
17 contracts shall be at least equal to the cash surrender benefit.

18 (g) Contracts without cash surrender benefits.--For
19 contracts which do not provide cash surrender benefits, the
20 present value of any paid-up annuity benefit available as a
21 nonforfeiture option at any time prior to maturity shall not be
22 less than the present value of that portion of the maturity
23 value of the paid-up annuity benefit provided under the contract
24 arising from consideration paid prior to the time the contract
25 is surrendered in exchange for, or changed to, a deferred paid-
26 up annuity. Subject to subsection (e), the present value shall
27 be calculated for the period prior to that maturity date on the
28 basis of the interest rate specified in the contract for
29 accumulating the net consideration to determine the maturity
30 value, and increased by any existing additional amount credited

1 by the company to the contract.

2 (h) Contracts limiting death benefits.--For contracts which
3 do not provide any death benefits prior to the commencement of
4 any annuity payments, the present values shall be calculated
5 subject to subsection (e), on the basis of the interest rate and
6 the mortality table specified in the contract for determining
7 the maturity value of the paid-up annuity benefit.

8 (i) Maturity date.--For the purpose of determining the
9 benefits calculated under subsections (f), (g) and (h), in the
10 case of annuity contracts under which an election may be made to
11 have annuity payments commence at optional maturity dates, the
12 maturity date shall be deemed to be the latest date for which
13 election shall be permitted by the contract, but shall not be
14 deemed to be later than the anniversary of the contract next
15 following the 70th birthday of the annuitant or the 10th
16 anniversary of the contract, whichever is later.

17 (j) Disclosure of omitted benefits.--Any contract which does
18 not provide cash surrender benefits or does not provide death
19 benefits at least equal to the minimum nonforfeiture amount
20 prior to the commencement of any annuity payments shall include
21 a statement in a prominent place in the contract that such
22 benefits are not provided.

23 (k) Calculation factors.--Any paid-up annuity, cash
24 surrender or death benefit available at any time, other than on
25 the contract anniversary under any contract with fixed scheduled
26 payments of consideration, shall be calculated with allowance
27 for the lapse of time and the payment of any scheduled
28 consideration beyond the beginning of the contract year in which
29 cessation of payment of consideration under the contract occurs.

30 (l) Contract including life insurance benefits.--For any

1 contract which provides, within the same contract by rider or
2 supplemental contract provision, both annuity benefits and life
3 insurance benefits that are in excess of the greater of cash
4 surrender benefits or a return of the gross considerations with
5 interest, the minimum nonforfeiture benefits shall be equal to
6 the sum of the minimum nonforfeiture benefits for the annuity
7 portion and the minimum nonforfeiture benefits for the life
8 insurance portion computed as if each portion were a separate
9 contract.

10 (m) Additional benefits.--Notwithstanding subsections (e),
11 (f), (g), (h), (i) and (k), additional benefits payable in the
12 event of total and permanent disability, as reversionary annuity
13 or deferred reversionary annuity benefits or as other policy
14 benefits additional to life insurance, endowment and annuity
15 benefits, and consideration for all such additional benefits,
16 shall be disregarded in ascertaining the minimum nonforfeiture
17 amounts, paid-up annuity, cash surrender and death benefits that
18 may be required by this section. The inclusion of these
19 additional benefits shall not be required in any paid-up
20 benefits, unless such additional benefits separately would
21 require minimum nonforfeiture amounts, paid-up annuity, cash
22 surrender and death benefits.

23 § 5325. Notice of right to examine policies.

24 (a) Life and endowment policies.--A policy of individual
25 life insurance or endowment insurance shall not be delivered in
26 this Commonwealth unless it has prominently printed on the first
27 page or attached a notice stating in substance that the
28 policyholder shall be permitted to return the policy within at
29 least ten days of its delivery and to have the premium paid
30 refunded, if after examination of the policy, the policyholder

1 is not satisfied with it for any reason.

2 (b) Annuity or pure endowment contracts.--An individual
3 fixed dollar annuity or pure endowment contract shall not be
4 delivered in this Commonwealth unless it has prominently printed
5 on the first page or attached a notice stating in substance that
6 the policyholder shall be permitted to return the policy within
7 at least ten days of its delivery and to have the stipulated
8 payment or premium paid refunded if, after examination of the
9 contract, the contractholder is not satisfied with it for any
10 reason.

11 (c) Individual variable annuities.--An individual variable
12 annuity contract shall not be entered into in this Commonwealth
13 unless it has prominently printed on the first page or attached
14 a notice stating in substance that the contractholder shall be
15 permitted to return the contract within at least ten days of its
16 delivery if, after examination of the contract, the
17 contractholder is not satisfied with it for any reason and that,
18 if the contract is returned, the insurer will pay to the
19 contractholder an amount equal to the sum of:

20 (1) the difference between the premiums paid including
21 any contract fees or other charges and the amounts, if any,
22 allocated to any separate accounts under the contract; and

23 (2) the cash value of the contract or, if the contract
24 does not have a cash value, the reserve for the contract, on
25 the date of surrender attributable to the amounts so
26 allocated.

27 (d) Returned policies or contracts.--If a policyholder or
28 contractholder returns the contract, pursuant to the notice
29 required under this section, to the insurer at its home or
30 branch office or to the agent through whom it was purchased, it

1 shall be void from the beginning, and the parties shall be in
2 the same position as if no policy or contract had been entered
3 into.

4 § 5326. Policy loan interest rates.

5 (a) Statement of purpose.--The purpose of this section is to
6 permit and set guidelines for companies to include in life
7 insurance policies and annuity contracts containing a loan
8 provision, a provision for periodic adjustment of policy loan
9 interest rates.

10 (b) Definitions.--For the purposes of this section:

11 (1) The rate of interest on policy loans includes the
12 interest rate charged on reinstatement of policy loans for
13 the period during and after any lapse of a policy.

14 (2) The term "policy loan" includes any premium loan
15 made under a policy to pay one or more premiums that were not
16 paid to the company as they fell due.

17 (3) The term "policyholder" includes the owner of the
18 policy or the person designated to pay premiums as shown on
19 the records of the company.

20 (4) The term "policy" includes certificates issued by a
21 fraternal benefit society and annuity contracts which provide
22 for policy loans.

23 (5) The term "published monthly average" means Moody's
24 Corporate Bond Yield Average - Monthly Average Corporates as
25 published by Moody's Investors Service, Inc. or any successor
26 thereto, or if Moody's Corporate Bond Yield Average - Monthly
27 Average Corporates is no longer published, a substantially
28 similar average established by regulation promulgated by the
29 department.

30 (c) Provisions and disclosures.--

1 (1) Policies providing for policy loan interest rates
2 shall have:

3 (i) a provision permitting a maximum interest rate
4 of not more than 8% a year; or

5 (ii) a provision permitting an adjustable maximum
6 interest rate established from time to time by the
7 company as permitted by law.

8 (2) The rate of interest charged on a policy loan made
9 under paragraph (1)(ii) shall not exceed the higher of the
10 following:

11 (i) the published monthly average for the calendar
12 month ending two months before the date on which the rate
13 is determined; or

14 (ii) the rate used to compute the cash surrender
15 values under the policy during the applicable period plus
16 1% a year.

17 (3) If the maximum rate of interest is determined under
18 paragraph (1)(ii), the policy shall contain a provision
19 setting forth the frequency at which the rate is to be
20 determined for that policy.

21 (4) The maximum rate for each policy shall be determined
22 at regular intervals at least once every 12 months, but not
23 more frequently than once in any three-month period. At the
24 intervals specified in the policy:

25 (i) The rate being charged may be increased whenever
26 such increase as determined under paragraph (2) would
27 increase that rate by 0.5% a year or more.

28 (ii) The rate being charged shall be reduced
29 whenever such reduction as determined under paragraph (2)
30 would decrease that rate by 0.5% a year or more.

1 (5) The company shall:

2 (i) Notify the policyholder at the time a cash loan
3 is made of the initial rate of interest on the loan.

4 (ii) Notify the policyholder with respect to premium
5 loans of the initial rate of interest on the loan as soon
6 as it is reasonably practical to do so after making the
7 initial loan. Notice need not be given to the
8 policyholder when a further premium loan is added, except
9 as provided in subparagraph (iii).

10 (iii) Send to policyholders with loans reasonable
11 advance notice of any increase in the rate.

12 (iv) Include in the notices required above the
13 substance of the pertinent provisions of paragraphs (1)
14 and (3).

15 (6) The loan value of the policy shall be determined as
16 provided in section 5321(8) (relating to uniform policy
17 provisions).

18 (7) A policy shall not terminate in a policy year as the
19 sole result of change in the interest rate during that policy
20 year, and the company shall maintain coverage during that
21 policy year until the time at which it would otherwise have
22 terminated if there had been no change during that policy
23 year.

24 (8) The substance of the pertinent provisions of
25 paragraphs (1) and (3) shall be set forth in the policies to
26 which they apply.

27 (9) No other statute applies to policy loan interest
28 rates unless made specifically applicable to such rates.

29 (d) Applicability.--This section does not apply to any
30 insurance contract issued before April 8, 1982, unless the

1 policyholder agrees in writing to its applicability.

2 § 5327. Prohibited policy provisions.

3 A policy of life insurance shall not be delivered in this
4 Commonwealth, except policies of industrial insurance where the
5 premiums are payable monthly or more often, if it contains any
6 of the following provisions:

7 (1) Any provision for forfeiture of the policy for
8 failure to repay any loan on the policy or to pay interest on
9 the loan, while the total indebtedness on the policy is less
10 than the cash value thereof. In ascertaining the indebtedness
11 due upon the policy loan, the interest, if not paid when due,
12 shall be added to the principal of the loan, and shall bear
13 interest at the rate specified in the note or loan agreement.

14 (2) Any provision limiting the time within which any
15 action at law or equity may be commenced to less than two
16 years after the cause of action accrues.

17 (3) Any provision by which the policy purports to be
18 issued or to take effect more than six months before the
19 original application for the insurance was made.

20 (4) Any provision for a mode of settlement at maturity
21 of less value than the amount insured on the face of the
22 policy, plus any dividend additions, less the indebtedness to
23 the company on the policy, and less any premiums that may be
24 deducted by the terms of the policy.

25 § 5328. Medical examinations.

26 In any case where the medical examiner or physician acting as
27 such, or the agent of the insurer recording the answers of the
28 applicant where a medical examination is waived, of any
29 insurance company doing business in this Commonwealth issues a
30 certificate of health, declares the applicant a fit subject for

1 insurance or so reports to the company under its rules and
2 regulations, the company shall thereby be estopped from setting
3 up in defense of an action on the policy or certificate issued
4 to the insured, that the insured was not in the condition of
5 health required by the policy or certificate or by the company
6 issuing the same at the time of the medical examination, or the
7 recording of the answers of the applicant where a medical
8 examination is waived, unless the policy or certificate is
9 procured by means of fraud, deceit or misrepresentation of or on
10 behalf of the insured.

11 § 5329. Insurance on the life of another person.

12 (a) General rule.--Except as provided in this section, a
13 policy of life insurance shall not be delivered in this
14 Commonwealth except upon the application of the person insured.
15 A person liable for the support of a child may take out a policy
16 of insurance on the child. Individuals, partnerships,
17 associations and corporations may insure the lives and health of
18 officers, directors, principals, partners and employees without
19 signing a personal application.

20 (b) Insurable interest.--Any individual may insure his own
21 life for the benefit of any person, but no person shall cause to
22 be insured the life of another, unless the beneficiary named in
23 the life insurance policy or contract, whether himself or a
24 third person, has an insurable interest in the life of the
25 insured. If a policy of life insurance has been issued in
26 conformity with this section, a transfer of the policy or any
27 interest thereunder shall not be invalid by reason of a lack of
28 insurable interest of the transferee in the life of the insured
29 or the payment of premiums thereafter by the transferee. As used
30 in this section the term "insurable interest" means:

1 (1) In the case of persons related by blood or law, an
2 interest engendered by love and affection.

3 (2) In the case of other persons, a lawful economic
4 interest in having the life of the insured continue, as
5 distinguished from an interest which would arise only by the
6 death of the insured.

7 § 5330. Statements by prospective insured.

8 All statements made by the applicant for an annuity or pure
9 endowment contract, or statements made by the insured or on his
10 behalf in the negotiation for a policy or certificate of life,
11 endowment, accident or health insurance, or any reinstatement
12 thereof issued by any insurance entity, fraternal benefit
13 society, beneficial society doing business in this Commonwealth,
14 shall be deemed, in the absence of fraud, to be representations
15 and not warranties.

16 § 5331. Insurance proceeds.

17 (a) Retention by insurer.--Whenever, under the terms of any
18 annuity or policy of life insurance issued by any domestic or
19 foreign stock or mutual life insurance company doing business in
20 this Commonwealth, the proceeds are retained by the company at
21 maturity or otherwise, the company shall not be required to
22 segregate these funds, but may hold the funds as part of its
23 general corporate funds.

24 (b) Limitations on use by insureds.--A person entitled to
25 any part of the proceeds, or any installment of interest due or
26 to become due thereon, shall not be permitted to commute,
27 anticipate, encumber, alienate or assign them in whole or in
28 part, if permission is expressly withheld by the terms of the
29 policy.

30 § 5332. (Reserved).

1 § 5333. Certain life, health and accident companies.

2 Companies incorporated under the provisions of the former act
3 of April 29, 1874 (P.L.73, No.32), KNOWN AS THE CORPORATION ACT <—
4 OF 1874, relating to life, health and accident insurance, may
5 write life, health and accident insurance of every kind
6 permitted under this title, in or outside this Commonwealth.

7 § 5334. Exchange, alteration and conversion of policies.

8 (a) General rule.--Any life insurance company may, at the
9 request of a policyholder, exchange, alter or convert any policy
10 of life or endowment insurance, annuity policy contract, or any
11 other policy benefits issued by it, for or into any policy which
12 conforms with the law in force on the date of the original
13 policy, if the rewritten policy is by its terms made effective
14 as of that date, or which conforms with the law in force on a
15 subsequent date, if the rewritten policy is by its terms made
16 effective on the subsequent date.

17 (b) Retroactive change.--If the rewritten policy is made
18 effective as of a date earlier than the date on which the
19 exchange, alteration or conversion occurs:

20 (1) the rewritten policy, if evidence of insurability is
21 required in conjunction with an exchange, alteration or
22 conversion to a policy on a plan requiring a lower premium
23 rate or to a policy to which benefits or features are added
24 differing from those in the original policy, may provide that
25 the date on which the transaction pursuant to this section
26 occurs shall be used in determining the applicability of an
27 incontestability clause in the rewritten policy to the right
28 of the company to contest the transaction, or in determining
29 the applicability of a clause in the rewritten policy
30 limiting liability in the event of suicide of the insured;

1 and

2 (2) the amount of insurance under the rewritten policy
3 shall not exceed the amount of insurance under the original
4 policy, or the amount of insurance which the premium paid for
5 the original policy would have purchased if the rewritten
6 policy had been originally applied for, whichever amount is
7 the greater.

8 (c) Applicability of other sections.--Sections 3582
9 (relating to rebates and inducements) and 5327(3) (relating to
10 prohibited policy provisions) do not prohibit transactions
11 pursuant to this section.

12 § 5335. Penalty for misrepresentation.

13 (a) Criminal penalty.--Any agent of a stock or mutual life
14 insurance company, physician or other person who knowingly
15 makes, directly or indirectly, any misrepresentation or false
16 statement for the purpose of securing, from any stock or mutual
17 life insurance company, a policy of insurance upon his own life
18 or the life of any other person, commits a misdemeanor of the
19 third degree.

20 (b) Civil penalties.--Upon satisfactory evidence of
21 violation of subsection (a) by any agent of any insurance entity
22 or any insurance broker, the department may do any or all of the
23 following:

24 (1) Suspend or revoke the license of the offending agent
25 or broker.

26 (2) Refuse, for a period of not to exceed one year, to
27 issue a new license to the offending agent or broker.

28 (3) Impose a penalty of not more than \$1,000 for each
29 violation.

30 SUBCHAPTER C

1 CONVERSION OF STOCK COMPANIES INTO MUTUAL COMPANIES

2 Sec.

3 5341. Power to effect conversion.

4 5342. Approval of plan of conversion.

5 5343. Filing of plan.

6 5344. Rights of dissenters.

7 5345. Completion of conversion.

8 § 5341. Power to effect conversion.

9 Any domestic corporation with capital stock transacting the
10 business of life insurance on the mutual plan of any domestic
11 life insurance corporation having capital stock may acquire its
12 own shares of the capital stock for the benefit of its
13 policyholders and convert the corporation into a mutual life
14 insurance corporation as provided in this subchapter.

15 § 5342. Approval of plan of conversion.

16 (a) General rule.--The corporation may carry out a plan for
17 the acquisition of the shares of its capital stock for the
18 purposes of conversion into a mutual life insurance corporation.
19 The plan shall become effective if it is adopted under the
20 procedure set forth in this section.

21 (b) Approval by directors.--The plan shall be adopted by a
22 majority of the entire number of the directors of the
23 corporation.

24 (c) Approval by department.--The plan shall be submitted for
25 approval to the department.

26 (d) Approval by shareholders.--The plan shall be approved by
27 vote of the stockholders of the corporation, representing a
28 majority in amount of the entire capital stock of the
29 corporation, at a special meeting of stockholders called for the
30 purpose. Notice of the time, place and object of the meeting

1 shall be given to the stockholders by publication, once a week
2 for three successive weeks before the meeting, in at least two
3 daily or weekly newspapers and in the legal periodical
4 designated by the rules of the court for the publication of
5 legal notices, published in the municipality where the
6 corporation has its principal office. At the meeting a vote of
7 the stockholders shall be taken on the plan. The vote shall be
8 conducted by three judges, who shall be stockholders of the
9 corporation, appointed by the board of directors to hold the
10 vote. If any judge is absent, the judges present shall appoint a
11 replacement. The judges shall swear that they will conduct the
12 vote according to law and to the best of their ability. The
13 corporation shall furnish the judges at the meeting with a
14 statement of the amount of its capital stock with the names of
15 the persons holding the stock and the number of shares held by
16 each, which shall be signed and sworn to by one of the chief
17 officers of the corporation. The stockholders may vote in person
18 or by proxy, and all votes shall be cast by ballot. Each share
19 of stock shall entitle its holder to one vote. The judges shall
20 decide upon the qualifications of voters, count the number of
21 shares voted for and against the plan and declare whether the
22 persons holding a majority in amount of capital stock of the
23 corporation have approved or disapproved the plan. The judges
24 shall prepare triplicate returns of the vote, stating the number
25 of shares of stock that voted for and against the plan, and
26 subscribe and deliver the returns to one of the chief officers
27 of the corporation. Each ballot shall have endorsed on it the
28 number of shares represented thereby, but no share or shares
29 transferred within 21 days shall entitle its holder to vote at
30 the meeting.

1 (e) Approval by policyholders.--The plan shall be approved
2 by a majority vote of the policyholders of the corporation whose
3 insurance is in force, voting at a meeting called for the
4 purpose. Notice of the time, place and object of the meeting
5 shall be given to the policyholders by publication, once a week
6 for three successive weeks before the meeting, in at least two
7 daily or weekly newspapers and in the legal periodical
8 designated by the rules of the court for the publication of
9 legal notices, published in the municipality where the
10 corporation has its principal office, and in at least one daily
11 or weekly newspaper published in the capital city of each state
12 in which the corporation does business. At this meeting, a vote
13 of the policyholders shall be taken on the plan. The vote shall
14 be conducted by three judges, who shall be the policyholders of
15 the corporation, appointed by the department to hold the
16 election. If any judge is absent, the judges present shall
17 appoint a replacement. The judges shall swear that they will
18 conduct the vote according to law and to the best of their
19 ability. The corporation shall supply the judges with such
20 books, records and papers of the corporation as they may request
21 in order to assist them in the proper conduct of the meeting.
22 All votes cast shall be cast by ballot. Each policyholder may
23 cast one vote in person or by proxy, but no proxy shall be
24 received or entitle the holder to vote unless it bears the date
25 or has been executed within two months next preceding the vote.
26 The judges shall decide upon the qualifications of voters, count
27 the number of votes cast for and against the plan, and declare
28 whether a majority of policyholders voting at the meeting have
29 approved or disapproved the plan. The judges shall prepare
30 triplicate returns of the vote, stating the number of

1 policyholders who voted for and against the plan, and subscribe
2 and deliver the returns to one of the chief officers of the
3 corporation.

4 § 5343. Filing of plan.

5 The corporation shall, within 30 days after the plan is
6 adopted and approved under section 5342 (relating to approval of
7 plan of conversion), file with the Secretary of the Commonwealth
8 and with the department:

9 (1) A copy of the plan.

10 (2) A copy of the resolution of the directors adopting
11 the plan.

12 (3) One of the copies of the return of the meeting of
13 the stockholders.

14 (4) One of the copies of the return of the meeting of
15 the policyholders.

16 This filing shall constitute notice to all interested parties of
17 the adoption and approval of the plan.

18 § 5344. Rights of dissenters.

19 (a) Petition for appraisal.--Any stockholder of the
20 corporation who does not consent to the plan may, within 30 days
21 from the filing of the papers under section 5343 (relating to
22 filing of plan), petition the court in the county where the
23 principal office of the corporation is located to appoint an
24 assessor to appraise the shares of stock of the stockholder in
25 the corporation. If the stockholder fails to petition for the
26 appointment of an assessor within the 30-day period, the
27 corporation may do so. Upon the filing of the petition, the
28 court shall direct such notice to be given as the court deems
29 proper to the corporation or the stockholder as respondent. Upon
30 proof of proper notice, and upon hearing all parties in interest

1 appearing in response to the petition, the court shall appoint
2 the assessor.

3 (b) Method of appraisal.--The assessor shall appraise the
4 shares of the stockholder without regard to any appreciation or
5 depreciation in consequence of the plan.

6 (c) Effect of confirmed appraisal.--The appraisal, when
7 confirmed by the court, shall be final and conclusive. The
8 corporation shall at its election either:

9 (1) pay to the stockholder the value of the shares so
10 ascertained, at which time the stockholder shall transfer the
11 shares to the corporation; or

12 (2) deposit the value so ascertained of the shares of
13 the stockholder with the court, at which time the stockholder
14 shall cease to have any interest in the corporation and the
15 shares shall become the property of the corporation.

16 (d) Default.--If the value of the shares is not paid or
17 deposited within 30 days after the appraisal is made and
18 confirmed by the court, the appraisal shall be filed as a
19 judgment against the corporation and may be collected as a
20 judgment.

21 (e) Costs.--The cost of the court proceedings, including a
22 reasonable allowance to the assessor, shall be paid by the
23 corporation pursuant to order of court.

24 § 5345. Completion of conversion.

25 When the corporation has acquired all its shares of the
26 capital stock, the stock shall be canceled by the corporation,
27 and the cancellation shall be certified in duplicate by the
28 secretary of the corporation under the corporate seal. One of
29 the certificates shall be filed with the ~~Secretary of the~~ <—
30 ~~Commonwealth~~ DEPARTMENT OF STATE, and the other shall be filed <—

1 with the department. When these certificates are filed, all
2 rights of the stockholders of the corporation to vote at any
3 meeting of the corporation or to retain any interest in the
4 corporation or in its property or assets shall cease. The
5 corporation shall then become a mutual life insurance
6 corporation under the new corporate name adopted under the plan.
7 The ~~Secretary of the Commonwealth~~ DEPARTMENT OF STATE shall <—
8 issue the corporation a signed and sealed certificate, granting
9 the corporation the use of the new corporate name. The
10 corporation shall be subject to any provisions of this title
11 applicable to the incorporation and operation of mutual life
12 insurance companies.

13 SUBCHAPTER D

14 MUTUAL LIFE INSURANCE COMPANIES

15 Sec.

16 5351. Foreign and alien companies.

17 5352. Guarantee capital subscriptions.

18 5353. Surplus or safety fund.

19 § 5351. Foreign and alien companies.

20 Foreign mutual life insurance companies may be admitted to do
21 business in this Commonwealth if they have the requisite funds
22 of a mutual life insurance company and, in the opinion of the
23 department, are in sound financial condition and have policies
24 in force upon not less than 500 lives for an aggregate amount of
25 not less than \$1,000,000. Any foreign or alien stock or mutual
26 life insurance company licensed to transact business in this
27 Commonwealth on May 17, 1921, having less capital or assets than
28 that required under this title for domestic life insurance
29 companies, may be relicensed so long as, in the opinion of the
30 department, it is in a sound financial condition and otherwise

1 complies with all requirements of law.

2 § 5352. Guarantee capital subscriptions.

3 (a) Assessments.--Every person subscribing to the guarantee
4 capital of any mutual life insurance company organized under
5 this title shall give to the company his note or obligation, in
6 such form as the bylaws of the company may prescribe, for the
7 unpaid portion of the guarantee capital so subscribed. This note
8 or obligation shall be liable to assessment as necessary by the
9 directors or trustees of the company for the successful conduct
10 of its business. These assessments may be made to meet the
11 losses, expenses, insurance reserve and other obligations of the
12 company until the whole amount of the note or obligation is
13 paid. All assessments shall be made pro rata upon the entire
14 amount of unpaid subscriptions, and, if the assessments are not
15 paid, they shall be collected by legal proceedings.

16 (b) Interest.--The subscribers to the guarantee capital of
17 any mutual life insurance company shall receive interest from
18 the company, payable semiannually at the rate, not exceeding 6%,
19 agreed upon at the time of subscribing, if the net surplus over
20 a requisite reservation for liabilities and contingencies is
21 sufficient to pay the interest. If the interest paid is less
22 than the sum originally agreed on, the interest paid shall be
23 made equal to the sum agreed on when the profits of the company
24 are sufficient.

25 (c) Retirement.--Whenever the lawful invested assets of any
26 mutual life insurance company exceed the reserve and other
27 liabilities to an amount equal to the amount of the guarantee
28 capital subscribed, the directors or trustees may retire or
29 return all or any portion of the guarantee capital to the
30 subscribers. The amount returned shall not exceed that actually

1 paid in, with the interest due and unpaid.

2 § 5353. Surplus or safety fund.

3 Any domestic mutual life insurance company transacting
4 business in this Commonwealth may establish or maintain a
5 surplus or safety fund to an amount not in excess of 10% of its
6 reserve, or \$100,000, whichever is greater, and the excess of
7 the market value of its securities over their book value. For
8 cause shown, the department may permit any corporation to
9 accumulate and maintain a surplus or safety fund in excess of
10 this limit for a prescribed period by making a ruling stating
11 its reasons and publishing the ruling in its next annual report.
12 The ruling shall be effective for one year only, but may be
13 renewed for additional periods of one year by the department.

14 SUBCHAPTER E

15 GROUP INSURANCE

16 Sec.

17 5361. Authorized types of group insurance.

18 5362. Coverage of spouse and children.

19 5363. Policies issued to employers or trustees.

20 5364. Policies issued to trustees of joint funds.

21 5365. Policies issued to creditors.

22 5366. Policies issued to employee organizations.

23 5367. Standard policy provisions.

24 5368. Notice of conversion privileges.

25 5369. Assignment of incidents of ownership.

26 5370. Existing policies.

27 5371. Basis of premiums.

28 5372. Voting power of employers.

29 5373. Insurance for public employees.

30 5374. Payment of public employee group premiums.

1 § 5361. Authorized types of group insurance.

2 (a) General rule.--A policy of group life insurance shall
3 not be delivered in this Commonwealth unless it conforms to one
4 of the following descriptions and to the requirements as to each
5 set forth in sections 5363 (relating to policies issued to
6 employers or trustees) through 5366 (relating to policies issued
7 to employee organizations):

8 (1) A policy issued to an employer or to the trustees of
9 a fund established by an employer, which employer or trustees
10 shall be deemed the policyholder, to insure the employees of
11 the employer for the benefit of persons other than the
12 employer.

13 (2) A policy issued to the trustees of a fund
14 established by two or more employers in the same industry or
15 by one or more labor unions, or by one or more employers and
16 one or more labor unions, which trustees shall be deemed the
17 policyholder, to insure employees of the employers or members
18 of the unions for the benefit of persons other than the
19 employers or the unions.

20 (3) A policy issued to a creditor, who shall be deemed
21 the policyholder, to insure debtors of the creditor.

22 (4) A policy issued to a labor union, credit union,
23 police fraternity, firemen's fraternity or teachers'
24 association or federation, which shall be deemed the
25 policyholder, to insure members thereof for the benefit of
26 persons other than the union, fraternity, association or
27 federation or any of their officials, representatives or
28 agents.

29 (5) Life insurance covering the members of any units of
30 the National Guard or Naval Militia of any state, written

1 under a policy issued to the commanding general of the
2 National Guard or commanding officer of the Naval Militia,
3 who shall be deemed to be the employer for the purposes of
4 this subchapter, the premium on which is to be paid by the
5 members of the units for the benefit of persons other than
6 the employer. When the benefits of the policy are offered to
7 all eligible members of the unit, not less than 75% of the
8 members of the unit shall be so insured.

9 (b) Exclusions.--This subchapter shall not be construed to
10 define as a group the lives covered by:

11 (1) A policy insuring only individuals related by
12 marriage, blood or legal adoption.

13 (2) A joint life policy insuring only individuals having
14 an insurable interest in the lives of each other.

15 § 5362. Coverage of spouse and children.

16 A policy issued pursuant to section 5361(a)(1), (2), (4) or
17 (5) (relating to authorized types of group insurance) may
18 include provisions for the payment by the insurer of life
19 insurance benefits upon the death of the spouse of the insured
20 employee or member, and upon the death of one or more of the
21 children of the insured dependent upon the insured for support
22 and maintenance. The insurance upon the life of the spouse shall
23 not exceed \$10,000 or one-half of the amount of insurance on the
24 life of the insured employee or member under the policy,
25 whichever is less. The insurance upon the life of each dependent
26 child shall not exceed \$5,000 or one-third of the amount of
27 insurance on the life of the insured employee or member under
28 the policy, whichever is less.

29 § 5363. Policies issued to employers or trustees.

30 A policy issued pursuant to section 5361(a)(1) (relating to

authorized types of group insurance) is subject to the following requirements:

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include any or all of the following:

(i) The employees of one or more subsidiary corporations, and the employees, individual proprietors and partners of any affiliated corporations, proprietors or partnerships if the business of the employer and of the affiliated corporations, proprietors or partnerships is under common control through stock ownership or contract.

(ii) The individual proprietor or partners, if the employer is an individual proprietor or a partnership.

(iii) Retired employees.

(iv) In the case of a policy issued to insure employees of a public body, elected or appointed officials.

(2) The premium for the policy shall be paid by the policyholder, either wholly from funds contributed by the employer or partly from such funds and partly from funds contributed by the insured employees. A policy may not be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75% of the then eligible employees, excluding any as to

1 whom evidence of individual insurability is not satisfactory
2 to the insurer, elect to make the required contributions. A
3 policy on which none of the premium is to be derived from
4 funds contributed by the insured employees shall insure all
5 eligible employees, or all except any as to whom evidence of
6 individual insurability is not satisfactory to the insurer.

7 (3) The policy shall cover at least ten employees at the
8 date of issue.

9 (4) The amounts of insurance under the policy shall be
10 based upon a plan precluding individual selection either by
11 the employees or by the employer or trustees.

12 § 5364. Policies issued to trustees of joint funds.

13 A policy issued pursuant to section 5361(a)(2) (relating to
14 authorized types of group insurance) is subject to the following
15 requirements:

16 (1) The persons eligible for insurance shall be all of
17 the employees of the employers or all of the members of the
18 unions, or all of any class or classes thereof determined by
19 conditions pertaining to their employment to membership in
20 the unions, or to both. The policy may provide that the term
21 "employees" shall include any or all of the following:

22 (i) Retired employees.

23 (ii) The individual proprietor or partners if an
24 employer is an individual proprietor or a partnership.

25 (iii) The trustees or their employees, or both, if
26 their duties are principally connected with the
27 trusteeship.

28 (2) The premium for the policy shall be paid by the
29 trustees wholly from funds contributed by the employer or
30 employers of the insured persons, by the union or unions, or

1 by both, or partly from such funds and partly from funds
2 contributed by the insured persons. A policy on which part of
3 the premium is to be derived from funds contributed by the
4 insured persons specifically for their insurance may be
5 placed in force only if at least 75% of the then eligible
6 persons, excluding any as to whom evidence of insurability is
7 not satisfactory to the insurer, elect to make the required
8 contributions. A policy on which none of the premium is to be
9 derived from funds contributed by the insured persons
10 specifically for their insurance shall insure all eligible
11 persons, or all except any as to whom evidence of individual
12 insurability is not satisfactory to the insurer.

13 (3) The policy shall cover at date of issue at least 100
14 persons and not less than an average of five persons per
15 employer unit. If the fund is established by the members of
16 an association of employers:

17 (i) either the participating employers shall
18 constitute at date of issue at least 60% of those
19 employer members whose employees are not already covered
20 for group life insurance, or the total number of persons
21 covered at date of issue shall exceed 600; and

22 (ii) the policy shall not require that, if a
23 participating employer discontinues membership in the
24 association, the insurance of his employees shall cease
25 solely by reason of the discontinuance.

26 (4) The amounts of insurance under the policy shall be
27 based upon a plan precluding individual selection either by
28 the insured persons or by the policyholder, employers or
29 unions.

30 § 5365. Policies issued to creditors.

1 A policy issued pursuant to section 5361(a)(3) (relating to
2 authorized types of group insurance) is subject to the following
3 requirements:

4 (1) The debtors eligible for insurance under the policy
5 shall be all of the debtors of the creditor whose
6 indebtedness is repayable in installments, or all of any
7 class or classes thereof determined by conditions pertaining
8 to the indebtedness or to the purchase giving rise to the
9 indebtedness. The policy may provide that the term "debtors"
10 shall include the debtors of any subsidiary corporations, and
11 the debtors of one or more affiliated corporations,
12 proprietors or partnerships if the business of the
13 policyholder and of the affiliated corporations, proprietors
14 or partnerships is under common control through stock
15 ownership, contract or otherwise.

16 (2) The premium for the policy shall be paid by the
17 policyholder, either from the funds of the creditor, or from
18 charges collected from the insured debtors, or from both. A
19 policy on which part or all of the premium is to be derived
20 from the collection from the insured debtors of identifiable
21 charges not required of uninsured debtors shall not include
22 in any class of debtors eligible for insurance debtors under
23 obligations outstanding at its date of issue without evidence
24 of individual insurability unless at least 75% of the then
25 eligible debtors elect to pay the required charges. A policy
26 on which none of the premium is to be derived from the
27 collection of identifiable charges shall insure all eligible
28 debtors, or all except any as to whom evidence of individual
29 insurability is not satisfactory to the insurer.

30 (3) The policy may be issued only if the group of

1 eligible debtors is then receiving new entrants at the rate
2 of at least 100 persons yearly, or may reasonably be expected
3 to receive at least 100 new entrants during the first policy
4 year, and only if the policy reserves to the insurer the
5 right to require evidence of individual insurability if less
6 than 75% of the new entrants become insured.

7 (4) The amount of insurance on the life of any debtor
8 shall not exceed the amount owed by him which is repayable in
9 installments to the creditor, or \$60,000, whichever is less.

10 (5) The insurance shall be payable to the policyholder.
11 The payment shall reduce or extinguish the unpaid
12 indebtedness of the debtor to the extent of the payment.

13 § 5366. Policies issued to employee organizations.

14 A policy issued pursuant to section 5361(a)(4) (relating to
15 authorized types of group insurance) is subject to the following
16 requirements:

17 (1) The members eligible for insurance under the policy
18 shall be all of the members of the union, fraternity,
19 association or federation, or all of any class or classes
20 thereof determined by conditions pertaining to their
21 employment, or to membership in the union, fraternity,
22 association or federation, or both.

23 (2) The premium for the policy shall be paid by the
24 policyholder, either wholly from the funds of the union,
25 fraternity, association or federation, or partly from such
26 funds and partly from funds contributed by the insured
27 members specifically for their insurance. A policy may not be
28 issued on which the entire premium is to be derived from
29 funds contributed by the insured members specifically for
30 their insurance. A policy on which part of the premium is to

1 be derived from funds contributed by the insured members
2 specifically for their insurance may be placed in force only
3 if at least 75% of the then eligible members, excluding any
4 as to whom evidence of individual insurability is not
5 satisfactory to the insurer, elect to make the required
6 contributions. A policy on which none of the premium is to be
7 derived from funds contributed by the insured members
8 specifically for their insurance shall insure all eligible
9 members, or all except any as to whom evidence of individual
10 insurability is not satisfactory to the insurer.

11 (3) The policy shall cover at least 25 members at the
12 date of issue.

13 (4) The amounts of insurance under the policy shall be
14 based upon a plan precluding individual selection either by
15 the members or by the union, fraternity, association or
16 federation.

17 § 5367. Standard policy provisions.

18 (a) General rule.--A policy of group life insurance shall
19 not be delivered in this Commonwealth unless it contains in
20 substance the provisions described in subsection (c), or
21 provisions which in the opinion of the department are more
22 favorable to the persons insured, or at least as favorable to
23 the persons insured and more favorable to the policyholder.

24 (b) Exceptions.--The provisions described in subsection
25 (c)(6), (7), (8), (9) and (10) do not apply to policies issued
26 pursuant to section 5361(a)(3) (relating to authorized types of
27 group insurance). The standard provisions required for
28 individual life insurance policies do not apply to group life
29 insurance policies. If the group life insurance policy is on a
30 plan other than the term plan, it shall contain nonforfeiture

1 provisions which in the opinion of the department are equitable
2 to the insured persons and to the policyholder. This section
3 does not require that group life insurance policies contain the
4 same nonforfeiture provisions as are required for individual
5 life insurance policies.

6 (c) Mandatory provisions.--The provisions required under
7 this section are as follows:

8 (1) A provision that the policyholder is entitled to a
9 grace period of 31 days for the payment of any premium due
10 except the first; and that during the grace period the death
11 benefit coverage shall continue in force, unless the
12 policyholder has given the insurer written notice of
13 discontinuance in advance of the date of discontinuance and
14 in accordance with the terms of the policy. The policy may
15 provide that the policyholder is liable to the insurer for
16 the payment of a pro rata premium for the time the policy was
17 in force during the grace period.

18 (2) A provision that the validity of the policy shall
19 not be contested, except for nonpayment of premiums, after it
20 has been in force for two years from its date of issue; and
21 that no statement made by any person insured under the policy
22 relating to his insurability shall be used in contesting the
23 validity of the insurance with respect to which the statement
24 was made after the insurance has been in force prior to the
25 contest for a period of two years during the lifetime of the
26 person or it is not contained in a written instrument signed
27 by him.

28 (3) A provision that a copy of any application of the
29 policyholder shall be attached to the policy when issued;
30 that all statements made by the policyholder or by the

1 persons insured shall be deemed representations and not
2 warranties; and that no statement made by any person insured
3 shall be used in any contest unless a copy of the instrument
4 containing the statement was furnished to the person or his
5 beneficiary.

6 (4) A provision setting forth all conditions under which
7 the insurer reserves the right to require a person eligible
8 for insurance to furnish evidence of individual insurability
9 satisfactory to the insurer as a condition to part or all of
10 his coverage.

11 (5) A provision specifying an equitable adjustment of
12 premiums or benefits, or both, to be made if the age of a
13 person insured has been misstated, including a clear
14 statement of the method of adjustment to be used.

15 (6) A provision that any sum becoming due by reason of
16 the death of the person insured shall be payable to the
17 beneficiary designated by the person insured, subject to:

18 (i) the provisions of the policy if there is no
19 designated beneficiary, as to all or any part of that
20 sum, living at the death of the person insured; and

21 (ii) any right reserved by the insurer in the policy
22 and set forth in the certificate to pay at its option a
23 part of that sum not exceeding \$250 to any person
24 appearing to the insurer to be equitably entitled thereto
25 by reason of having incurred funeral or other expenses
26 incident to the last illness or death of the insured.

27 (7) A provision that the insurer will issue to the
28 policyholder for delivery to each person insured an
29 individual certificate setting forth a statement as to the
30 insurance protection to which he is entitled, to whom the

1 insurance benefits are payable and the rights and conditions
2 under paragraphs (8), (9) and (10).

3 (8) A provision that if the insurance, or any portion of
4 it, on a person covered under the policy ceases because of
5 termination of employment or of membership in any class
6 eligible for coverage under the policy, the person may have
7 issued to him by the insurer, without evidence of
8 insurability, an individual policy of life insurance without
9 disability or other supplementary benefits, if an application
10 for the individual policy is made, and the first premium paid
11 to the insurer within 31 days after termination. The
12 individual policy shall, at the option of the person, be on
13 any one of the forms, except term insurance, customarily
14 issued by the insurer at the age and for the amount applied
15 for. The individual policy shall be in an amount not in
16 excess of the amount of life insurance which ceases because
17 of the termination, less, in the case of a person whose
18 membership in the class or classes eligible for coverage
19 terminates but who continues in employment in another class,
20 the amount of any life insurance for which the person is or
21 becomes eligible under any other group policy within 31 days
22 after termination; however, any amount of insurance which has
23 matured on or before the date of termination as an endowment
24 payable to the person insured, whether in one sum or in
25 installments or in the form of an annuity, shall not, for the
26 purposes of this sentence, be deemed included in the amount
27 which ceases because of the termination. The premium on the
28 individual policy shall be at the insurer's customary rate
29 applicable to the form and amount of the individual policy,
30 to the class of risk to which the person then belongs, and to

1 the person's age attained on the effective date of the
2 individual policy.

3 (9) A provision that if the group policy terminates or
4 is amended so as to terminate the insurance of any class of
5 insured persons, every person insured at the date of the
6 termination whose insurance terminates and who has been so
7 insured for at least five years prior to the termination date
8 may have issued to him by the insurer an individual policy of
9 life insurance, subject to the conditions and limitations
10 provided under paragraph (8). However, the group policy may
11 provide that the amount of the individual policy shall not
12 exceed the lesser of:

13 (i) the amount of the person's life insurance
14 protection ceasing because of such termination or
15 amendment, less the amount of any life insurance for
16 which he is eligible under any group policy issued or
17 reinstated by the same or another insurer within 31 days
18 after such termination; or

19 (ii) \$2,000.

20 (10) A provision that if a person insured under the
21 group policy dies during the period within which he would
22 have been entitled to have an individual policy issued to him
23 in accordance with paragraph (8) or (9) and before the
24 individual policy becomes effective, the amount of life
25 insurance which he would have been entitled to have issued to
26 him under the individual policy shall be payable as a claim
27 under the group policy, whether or not application for the
28 individual policy or the payment of the first premium has
29 been made.

30 § 5368. Notice of conversion privileges.

1 If any individual insured under a group life insurance policy
2 delivered in this Commonwealth becomes entitled under the terms
3 of the policy to have an individual policy of life insurance
4 issued to him without evidence of insurability, subject to
5 making of application and payment of the first premium within
6 the period specified in the policy, and if the individual is not
7 given notice of the existence of this right at least 15 days
8 prior to the expiration date of the period, then the individual
9 shall have an additional period within which to exercise the
10 right. This section does not continue any insurance beyond the
11 period provided in the policy. This additional period shall
12 expire 15 days after the individual is given the notice but in
13 no event shall the additional period extend beyond 60 days after
14 the expiration date of the period provided in the policy.
15 Written notice presented to the individual or mailed by the
16 policyholder to the last known address of the individual or
17 mailed by the insurer to the last known address of the
18 individual as furnished by the policyholder shall constitute
19 notice for the purpose of this section.

20 § 5369. Assignment of incidents of ownership.

21 Notwithstanding any provision of law, a person whose life is
22 insured under any policy of group life insurance, whether or not
23 the policy is otherwise subject to this subchapter, may make an
24 assignment of all or any part of his incidents of ownership in
25 the insurance, including any right to designate a beneficiary
26 thereunder and any right to have an individual policy issued
27 upon termination either of employment or of the policy of group
28 life insurance. However, the insurer and the group policyholder
29 may prohibit or restrict such assignment by appropriate policy
30 provisions.

1 § 5370. Existing policies.

2 The provisions of this subchapter do not invalidate or
3 otherwise affect any policy or contract of group life insurance
4 in effect on September 1, 1949.

5 § 5371. Basis of premiums.

6 (a) Regulations.--The department shall promulgate
7 regulations, except with respect to group life insurance set
8 forth in sections 5361(a)(3) (relating to authorized types of
9 group insurance) and 5365 (relating to policies issued to
10 creditors) prescribing the minimum group life insurance premiums
11 to be charged for the first year of insurance, based on an
12 examination of the experience of the insurers and on reasonable
13 assumptions as to interest, mortality and expense. No such
14 regulation shall be promulgated except after hearing, of which
15 notice shall be given to all affected insurers.

16 (b) Policy provisions.--A domestic, foreign or alien life
17 insurance company shall not deliver in this Commonwealth any
18 policy of group life insurance the premium for which shall be
19 less than the premium prescribed in the regulations promulgated
20 by the department. However, any such policy may provide for a
21 readjustment of the rate based on experience at the end of the
22 first or any subsequent year of insurance, which readjustment
23 may be made retroactive for that policy year only.

24 § 5372. Voting power of employers.

25 In every group policy issued by a domestic life insurance
26 company where the employer is the policyholder under section
27 5361 (relating to authorized types of group insurance), the
28 employer, if entitled to vote at a meeting of the company, shall
29 be entitled to one vote.

30 § 5373. Insurance for public employees.

1 ~~Any Commonwealth agency or political subdivision~~ GOVERNMENT <—
2 UNIT may make contracts of insurance with any insurance company,
3 nonprofit hospitalization corporation or nonprofit medical
4 service corporation authorized to transact business in this
5 Commonwealth insuring its elected or appointed officers and
6 employees or any class thereof, or their dependents, under a
7 policy or policies of group insurance covering life, health,
8 hospitalization, medical service or accident insurance, and may
9 contract with any such company granting annuities or pensions
10 for the pensioning of the employees. For these purposes, the
11 ~~Commonwealth agency or political subdivision~~ GOVERNMENT UNIT may <—
12 agree to pay part or all of the premiums or charges for carrying
13 those contracts and may appropriate out of its treasury any
14 money necessary to pay those premiums or charges. The proper
15 officer, agency, board or commission of any ~~political~~ <—
16 ~~subdivision~~ GOVERNMENT UNIT may deduct from the compensation of <—
17 the officer or employee such part of the premium as is payable
18 by the officer or employee and as authorized by the officer or
19 employee in writing. All contracts procured under this section
20 shall conform and be subject to all the APPLICABLE provisions of <—
21 law concerning group insurance and group annuity contracts. This
22 section does not apply to cities of the third class, boroughs,
23 townships or school districts.

24 § 5374. Payment of public employee group premiums.

25 (a) Withholding.--Any officer or officers of any
26 ~~Commonwealth agency or political subdivision~~ GOVERNMENT UNIT, <—
27 whose duty it is to pay compensation to any elected or appointed
28 officer or employee, shall, upon receipt of written
29 authorization from the officer or employee so to do, withhold
30 from the compensation any premium or other charge due from the

1 officer or employee for group insurance covering life, health,
2 hospitalization, medical, osteopathic or dental service or
3 accident insurance, pursuant to any contract with any
4 corporation or association authorized to transact such business
5 with the Commonwealth. The duty imposed of making such salary
6 deductions shall extend to any premiums or other charges due
7 under such contracts, whether made by the officers or employees
8 directly as members of a group, or made on behalf of such
9 officers or employees by the ~~Commonwealth agency or any~~ <—
10 ~~political subdivision~~ GOVERNMENT UNIT. <—

11 (b) Payment to insurer.--The deductions required to be made
12 shall be paid directly by the officer making the deductions to
13 the corporation or association entitled thereto under the
14 contract.

15 (c) Status of deductions.--A corporation or association
16 shall not have any right to any deductions under this section
17 until they are actually paid over to it by the officer making
18 the deductions. The ~~Commonwealth agency or political subdivision~~ <—
19 GOVERNMENT UNIT shall not be subject to any liability with <—
20 respect to the deductions, except as to the amount actually
21 deducted.

22 (d) Revocation of authority to withhold.--Any officer or
23 employee who has authorized the making of deductions from
24 compensation under this section may revoke the authority to make
25 the deductions by delivering a written revocation to the officer
26 making the deduction at least 15 days before the revocation is
27 to take effect. Upon receipt of the revocation the officer shall
28 cease to make the deduction.

29 SUBCHAPTER F

30 INDUSTRIAL INSURANCE

1 Sec.

2 5381. Definition.

3 5382. Uniform policy provisions.

4 5383. Prohibited policy provisions.

5 5384. Notice of right to examine policies.

6 § 5381. Definition.

7 As used in this subchapter, the term "industrial insurance"
8 means life or endowment insurance:

9 (1) under which premiums are payable weekly; or

10 (2) under which premiums are payable monthly or more
11 often, other than weekly, if the face amount of insurance
12 provided in the policy is less than \$1,000.

13 § 5382. Uniform policy provisions.

14 (a) Required provisions.--A policy of industrial insurance
15 shall not be delivered in this Commonwealth unless the words
16 "industrial insurance" are printed upon the policy as part of
17 the descriptive matter and unless it contains in substance the
18 following provisions:

19 (1) A provision that the insured is entitled to a grace
20 period of four weeks within which the payment of any premium
21 after the first may be made, except that if premiums are
22 payable monthly the insured shall be entitled to a grace
23 period of one month or 30 days. During the grace period the
24 policy shall continue in full force, but if the policy
25 becomes a claim during the grace period before the overdue
26 premiums are paid, the amount of overdue premiums may be
27 deducted in any settlement under the policy.

28 (2) A provision that the policy constitutes the entire
29 contract between the parties. If the company desires to make
30 the application a part of the contract, it may do so if a

1 copy of the application is endorsed upon or attached to the
2 policy when issued; in this case the policy shall contain a
3 provision that the policy and the application constitute the
4 entire contract between the parties.

5 (3) A provision that the policy shall be incontestable
6 after it has been in force, during the lifetime of the
7 insured, two years from its date of issue, except for
8 nonpayment of premium; and that, at the option of the
9 company, provisions relating to disability benefits and those
10 granting additional insurance specifically against death by
11 accident or accidental means may also be excepted. A clause
12 in any policy of industrial life insurance providing that the
13 policy shall be incontestable after a specified period shall
14 preclude only a contest of the validity of the policy and
15 shall not preclude the assertion, at any time, of defenses
16 based upon provisions in the policy which exclude or restrict
17 coverage, whether or not such restrictions or exclusions are
18 excepted in that clause.

19 (4) A provision that, if the age of the insured or of
20 any other person whose age is considered in determining the
21 premium has been misstated, the amount payable or benefit
22 accruing under the policy shall be that which the premium
23 would have purchased at the correct age.

24 (5) A provision that the policy shall participate in the
25 surplus of the company; that the company shall annually
26 determine the portion of any divisible surplus accruing on
27 the policy; and stating the conditions under which the
28 company shall apportion the surplus to the policyholder or
29 the party entitled thereto.

30 (6) A provision for a nonforfeiture benefit and cash

1 surrender value.

2 (i) In the case of any policy issued prior to the
3 operative date of section 5322 (relating to standard
4 nonforfeiture law for life insurance), a nonforfeiture
5 benefit shall be provided in event of default in premium
6 payments after premiums have been paid for three years.
7 The nonforfeiture benefit shall be a stipulated form of
8 insurance, effective from the due date of the defaulted
9 premium, the net value of which shall not be less than
10 the reserve on the policy, exclusive of any reserves for
11 provisions:

12 (A) relating to benefits in the event of
13 specific types of disability;

14 (B) granting additional insurance specifically
15 against death by accident; and

16 (C) granting other benefits in addition to life
17 insurance;

18 at the end of the last completed quarter of the policy
19 year for which premiums have been paid, and on any
20 dividend additions to such reserve. The policy shall
21 specify the mortality table, the rate of interest and the
22 method of valuation, if other than net level premium,
23 adopted for computing the reserve, less a specified
24 maximum percentage, not greater than 2.5% of the maximum
25 face amount insured by the policy and of any dividend
26 additions thereto and less any existing indebtedness to
27 the company on or secured by the policy. The percentage
28 or other rule of calculation, stated as to permit
29 determination of the value, shall be specified for each
30 year for which required values are not included in the

1 policy. A company may, in lieu of the provision permitted
2 under this section for the deduction from the reserve of
3 the specified maximum percentage, provide that a
4 deduction of 20% of the reserve may be made, or a
5 deduction of the 2.5% of the maximum face amount insured
6 or 20% of the reserve at the option of the company. After
7 premiums have been paid for five years, the policy may be
8 surrendered to the company at its home office within four
9 weeks of the due date of the defaulted premium for a
10 specific cash value at least equal to the sum which would
11 otherwise be available for the purchase of insurance. The
12 company may defer payment of the cash value for not more
13 than six months after the application is made. If the
14 cash or other nonforfeiture value is not requested within
15 the required period, it shall be provided that a
16 stipulated form of insurance shall automatically become
17 effective.

18 (ii) In the case of any policy issued on or after
19 the operative date of section 5322, a nonforfeiture
20 benefit and cash surrender value shall be provided in
21 accordance with section 5322.

22 (7) A table showing in figures the nonforfeiture options
23 available under the policy at the end of each year upon
24 default in premium payments during the premium payment
25 period, but not to exceed the first 20 years of the policy;
26 and a provision that the company will furnish upon request an
27 extension of the table beyond the years shown in the policy.

28 (8) A provision that, if the policy is not surrendered
29 for its cash value or if the period of extended insurance has
30 not expired, the policy may be reinstated, upon written

1 application, within one year from the date of default in
2 payment of premiums, upon:

3 (i) the payment of all overdue premiums and, at the
4 option of the company, interest at a rate not to exceed
5 8% a year;

6 (ii) the payment or reinstatement of any other
7 indebtedness to the company upon the policy, and, at the
8 option of the company, interest thereon at a rate
9 determined under section 5326 (relating to policy loan
10 interest rates) compounded annually; and

11 (iii) the presentation of evidence satisfactory to
12 the company of the insurability of the insured.

13 (9) A provision that when a policy becomes a claim by
14 the death of the insured, settlement shall be made upon
15 receipt of proof of death.

16 (10) A form number and title on the face of the policy
17 clearly describing its form.

18 (b) Optional provisions.--Any industrial insurance policy
19 may be delivered in this Commonwealth which, in the opinion of
20 the department, contains provisions more favorable to the
21 policyholder than required under subsection (a). The policies of
22 a foreign or alien insurance company may contain, when delivered
23 in this Commonwealth, any provision prescribed by the law of the
24 state or foreign country under which the company is organized
25 not contrary to the provisions of subsection (a). The policies
26 of a domestic life insurance company, when delivered in any
27 other state or any foreign country, may contain any provision
28 required by the law of the state or foreign country to be
29 contained in the policies delivered therein.

30 (c) Applicability.--Any of the provisions set forth in

1 subsection (a), or parts thereof, not applicable to
2 nonparticipating policies shall to that extent not be
3 incorporated therein. The provisions of this section do not
4 apply to policies issued or granted pursuant to the
5 nonforfeiture provisions prescribed in subsection (a)(6).

6 § 5383. Prohibited policy provisions.

7 A policy of industrial insurance shall not be delivered in
8 this Commonwealth if it contains any of the following
9 provisions:

10 (1) A provision limiting the time within which any
11 action at law or in equity may be commenced to less than two
12 years after the cause of action accrues.

13 (2) A provision by which the settlement on the maturity
14 of any policy shall be of less value than the amount promised
15 on the face of the policy plus any dividend additions less
16 any indebtedness to the company on or secured by the policy,
17 and less any premium that may be deducted by the terms of the
18 policy.

19 (3) A provision deeming the agent soliciting the
20 insurance to be the agent of the person insured under the
21 policy, or making the acts or representations of that agent
22 binding upon the person so insured.

23 (4) A provision by which the company may pay the
24 proceeds of the policy at the death of the insured to any
25 person other than the beneficiary designated in the policy.
26 However, the policy may provide that, if the beneficiary does
27 not within the period stated in the policy, which shall not
28 be less than 30 days after the death of the insured, submit
29 proof of claim in the manner and form required by the policy,
30 or if there is no beneficiary designated in the policy other

1 than the estate of the insured, or if the beneficiary is a
2 minor or is not legally qualified to give a valid release or
3 dies before the insured, then the company may pay the
4 proceeds of the policy to the executor or administrator of
5 the insured, or to any relative by blood or marriage of the
6 insured appearing to the company to be equitably entitled to
7 those proceeds.

8 (5) A provision by which the company may deny liability
9 under the policy for the reason that the insured has
10 previously obtained other insurance from the same company.

11 § 5384. Notice of right to examine policies.

12 A policy of industrial insurance shall not be delivered in
13 this Commonwealth unless it has prominently printed on the first
14 page or attached a notice stating in substance that the
15 policyholder may return the policy within at least ten days of
16 its delivery and to have the premium paid refunded if, after
17 examination of the policy, the policyholder is not satisfied
18 with it for any reason. If a policyholder pursuant to this
19 notice returns the policy to the insurer at its home or branch
20 office or to the agent through whom it was purchased, it shall
21 be void from the beginning and the parties shall be in the same
22 position as if no policy had been issued.

23 SUBCHAPTER G

24 LIMITED LIFE INSURANCE COMPANIES

25 Sec.

26 5391. Definition.

27 5392. Powers of limited life insurance companies.

28 5393. Reincorporation as limited life insurance company.

29 5394. Procedure for reincorporation.

30 5395. Authorization to do business.

1 5396. Reserves and capital stock requirements.

2 5397. Election of directors.

3 § 5391. Definition.

4 As used in this subchapter, the term "limited life insurance
5 company" means any corporation which writes life, personal
6 injury, disability or health insurance and which is incorporated
7 or reincorporated under this subchapter or under:

8 (1) the act of April 28, 1903 (P.L.329, No.259),
9 relating to incorporation and regulation of corporations for
10 the purpose of transacting certain types of insurance; or

11 (2) the act of April 20, 1927 (P.L.317, No.190),
12 relating to reincorporation of beneficial or protective
13 societies for the purpose of transacting certain types of
14 insurance.

15 § 5392. Powers of limited life insurance companies.

16 (a) General powers.--A limited life insurance company may
17 issue policies agreeing to pay not more than:

18 (1) \$50 per week in case of disability from sickness or
19 accident;

20 (2) \$1,000 in case of death from natural causes; or

21 (3) \$2,000 in case of death from accidental causes;

22 and issue policies of endowment insurance subject to the
23 provisions of this subchapter notwithstanding any limitation to
24 the contrary in any statute or in its charter.

25 (b) Additional life insurance.--The company may issue
26 policies agreeing to pay not more than \$1,500 in the event of
27 death from natural causes, nor more than double that amount in
28 the event of death from accidental causes, if it has:

29 (1) In the case of stock companies, capital of \$100,000,
30 and a surplus of at least \$25,000.

(2) In the case of mutual companies, a surplus of at least \$100,000.

(c) Additional disability insurance.--The company may issue policies agreeing to pay in excess of the weekly limitations prescribed in subsection (a), but not exceeding \$105 per week, and agreeing to pay an additional benefit for hospital and medical expenses for any one sickness or accident not exceeding \$300 in the event of disability from sickness or accident, if the policies limit payment of benefits to periods during which insured is admitted as a full-time patient in a licensed and incorporated hospital if it has:

(1) In the case of stock companies, additional capital of \$25,000 and a surplus of at least \$25,000.

(2) In the case of mutual companies, an additional surplus in the sum of at least \$25,000.

The additional capital and additional surplus required by paragraphs (1) and (2) are in addition to that required under this section or otherwise under this title.

(d) Alternative limitations.--The company may issue policies agreeing to pay a total of not more than \$5,000 in case of death from natural causes or \$10,000 in case of death from accidental causes. The company may issue policies of endowment insurance agreeing to pay not more than \$5,000 upon maturity if the total amount of insurance issued by the company on any one life does not exceed the limits prescribed in this subsection. The company may issue policies pursuant to this subsection if it has:

(1) In the case of stock companies, capital of \$150,000 and a surplus paid in at least equal to half the amount of its capital stock. Any limited life insurance company may revise its capital stock structure so that it shall have a

capital stock of \$150,000 divided into shares of not less than \$10 par value, payment for which shall be made in cash at the time of subscribing.

(2) In the case of mutual companies, a surplus of not less than \$150,000.

§ 5393. Reincorporation as limited life insurance company.

Any corporation or any two corporations now formed or organized under the first paragraph IX of section 2 of the act of April 29, 1874 (P.L.73, No.32), ~~relating to the incorporation and regulation of certain corporations~~ KNOWN AS THE CORPORATION ACT OF 1874, except fraternal, benevolent, charitable or secret societies issuing beneficial certificates and paying benefits to their membership through the lodge system, and insurance or relief associations formed by or for the exclusive benefit of employees of corporations or firms or formed by or for the exclusive benefit of members of any religious corporation or association, may be reincorporated, or merged and reincorporated, as a limited life insurance company. However, no corporation may proceed under this section unless operating in compliance with Chapter 41 (relating to beneficial societies).

§ 5394. Procedure for reincorporation.

Any corporation desiring to proceed under section 5393 (relating to reincorporation as limited life insurance company) shall proceed as prescribed in this section. A meeting of the members of the corporation shall be held. If a majority of the members of each corporation vote or authorize a vote in favor of the reincorporation or merger and reincorporation, a resolution to that effect shall be adopted, and each such resolution shall be recorded in the office of the recorder of deeds in the county where each corporation has its principal office. The directors

1 of the corporation or the respective directors of the two
2 corporations acting jointly, as the case may be, shall proceed
3 under Chapter 33 (relating to incorporation of insurance
4 companies). Upon the approval of the articles of agreement, the
5 corporation or corporations shall be deemed organized under
6 section 5393, and all the property rights, liabilities and
7 obligations of the former corporation or corporations shall be
8 deemed transferred to the successor corporation without further
9 act or deed.

10 § 5395. Authorization to do business.

11 (a) Stock companies.--When the entire amount of the
12 authorized capital of a stock insurance company incorporated
13 under section 5393 (relating to reincorporation as limited life
14 insurance company) has been paid in, certificates shall be
15 issued therefor to the persons entitled to receive them, which
16 shall be transferable upon the books of the company. The
17 president or secretary of the company shall then notify the
18 department that the entire capital of the company has been paid
19 in and that it is ready to commence business. Upon receipt of
20 the notice, the department shall examine the company and, if it
21 finds that the company has complied with the provisions of
22 section 5394 (relating to procedure for reincorporation) and has
23 funds equal to the amount of its capital, it shall issue to the
24 company a certificate showing that it is lawfully organized and
25 is authorized to transact the business of insurance in this
26 Commonwealth as a limited life insurance company under this
27 title.

28 (b) Mutual companies.--In the case of a mutual life
29 insurance company incorporated under section 5393, upon the
30 receipt of a notice from the president or secretary of the

1 company, the department shall make an examination and, if it
2 finds that the company has the necessary amount of insurance in
3 force and that the guaranteed capital has been paid in, it shall
4 issue a certificate authorizing the company to commence business
5 as a limited life insurance company under this title.

6 (c) Examination of companies.--The department may also
7 conduct such examination of any proposed company as is
8 necessary, to determine whether the responsibility, character
9 and general fitness for the business of the incorporators and
10 directors named in the articles are such as to command the
11 confidence of the public and to warrant the belief that the
12 business of the proposed company will be lawfully, honestly and
13 efficiently conducted. Until the department issues a certificate
14 authorizing companies to commence business under this section,
15 the companies shall have the same powers to transact the
16 business of insurance as were possessed by the companies prior
17 to the reincorporation.

18 § 5396. Reserves and capital stock requirements.

19 (a) Reserves.--Any corporation formed under the section 5393
20 (relating to reincorporation as limited life insurance company)
21 shall place reserves on the life portion contained in all
22 policies issued based upon a standard table of mortality, with
23 interest at a rate of not more than 3.5%, as approved by the
24 department. Reserves shall be carried on the disability feature
25 of 50% of the actual weekly, monthly or annual premiums in force
26 and shall be charged on all definite and outstanding incurred
27 claims.

28 (b) Capital stock.--Capital stock of a stock company formed
29 under section 5393 shall not be less than \$25,000 and shall be
30 divided into shares of not less than \$10 each. Payment for the

1 shares shall be made in cash, and 10% on each share shall be
2 paid at the time of subscribing, with the balance paid at such
3 times as the company may direct, not more than one year from the
4 time of subscription. The company may provide such rules with
5 regard to forfeiture of partial payments on subscriptions as
6 advisable; these rules shall be binding upon the subscribers, if
7 disclosed at the time of subscription. The company shall have a
8 surplus paid in at least equal to the amount of the capital
9 stock.

10 (c) Mutual companies.--Any mutual company formed under
11 section 5393 shall be authorized to do the business of insurance
12 when it has life insurance in force in an amount of not less
13 than \$250,000 upon at least 2,000 persons. The company shall not
14 be authorized to do the business of insurance until it has a
15 guaranteed capital of at least \$25,000 and a surplus of at least
16 \$25,000 and until it has deposited with the department \$25,000
17 in cash or approved securities. The department shall hold the
18 amount deposited for the benefit of the members of the
19 corporation and its creditors, preference being given in the
20 following order:

21 (1) Claims under policies.

22 (2) Salaries of employees.

23 (3) General creditors.

24 § 5397. Election of directors.

25 The annual meeting for election of directors of any company
26 formed under section 5393 (relating to reincorporation as
27 limited life insurance company) shall be held at such time, on
28 or before the May 1, as the bylaws of the company may direct.
29 The notice of the time and place of the meeting shall be given
30 to the stockholders or members as is provided in the bylaws. At

1 the annual meeting, the stockholders or members shall elect by
2 ballot not less than 5 nor more than 13 directors, to serve for
3 one year and until their successors are duly chosen. At any
4 annual meeting of the stockholders or members, the directors who
5 are to be chosen may be divided into not more than four classes
6 to be elected for staggered terms. If a vacancy occurs the
7 remaining directors shall elect a replacement to fill the
8 vacancy during the remainder of the term of the director
9 replaced.

10 CHAPTER 55

11 PROPERTY AND CASUALTY INSURANCE

12 Subchapter

13 A. General Regulation

14 B. Workmen's Compensation Insurance

15 C. Employers' Mutual Liability Insurance Associations

16 D. Arson Reporting Immunity

17 E. Anti-Arson Applications

18 F. Notice of Premium Increases, Cancellations and
19 Nonrenewals

20 G. Miscellaneous Provisions

21 SUBCHAPTER A

22 GENERAL REGULATION

23 Sec.

24 5501. Applicability of chapter.

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2 5509. Procedure when capital impaired.
3 5510. Resident agents for foreign or alien insurance entities.
4 5511. Insurability of downhill ski operators against punitive
5 damages.

6 § 5501. Applicability of chapter.

7 (a) General rule.--All stock casualty insurance companies
8 incorporated or formed by authority of any general or special
9 law shall be subject to the provisions of this chapter, except
10 where the provision clearly indicates otherwise.

11 (b) Specific authorizations.--Stock companies organized
12 under the act of April 28, 1903 (P.L.329, No.259), relating to
13 the incorporation and regulation of insurance corporations,
14 having a paid-up capital of not less than \$100,000, may issue
15 policies providing personal accident and sickness indemnity as
16 specified in section 3302(c)(2) (relating to authorized classes
17 of insurance) and also an indemnity for death arising from
18 natural causes for an amount not exceeding \$100,000. Stock
19 companies organized under the act of April 29, 1874 (P.L.73,
20 ~~No.32), relating to the incorporation and regulation of certain~~ <—
21 ~~corporations~~ KNOWN AS THE CORPORATION ACT OF 1874, for the <—
22 purpose of guaranteeing the fidelity of persons in positions of
23 trust and to act as surety on official bonds, may transact
24 business under this title by filing with the Secretary of the
25 Commonwealth and with the department a resolution of the board
26 of directors, approved by the stockholders at a meeting
27 specially called for that purpose, accepting the provisions of
28 this title and agreeing to be governed thereby. This acceptance,
29 when filed, shall exempt the company from any otherwise
30 applicable provisions of the act of April 29, 1874 (P.L.73,

1 No.32).

2 § 5502. Financial requirements of foreign or alien companies.

3 (a) Stock companies.--Foreign and alien stock casualty
4 insurance companies, organized to transact any of the classes of
5 insurance mentioned in section 3302(c) (relating to authorized
6 classes of insurance), in order to be licensed to do business in
7 this Commonwealth, shall be required to have a paid up and
8 safely invested capital, if a company of another state, or a
9 deposit in the United States, if an alien company, of at least
10 the amount required in this title for domestic companies. This
11 title does not prevent any foreign stock life insurance company
12 now engaged in the business of accident and sickness or
13 liability insurance, or both, from continuing in these
14 businesses, if the amount of its paid-up capital is at least the
15 amount required of a domestic company to transact the business
16 of life insurance and at least \$50,000 for each of the other
17 classes of insurance undertaken.

18 (b) Mutual companies.--A foreign or alien mutual casualty
19 insurance company, having by its charter the power to transact
20 the insurance business specified in section 3302(c), in order to
21 be authorized to transact the classes of business mentioned in
22 section 3302(c) shall have a surplus over all liabilities,
23 including unearned premium and loss reserves, of not less than
24 the capital required of a domestic stock company to transact the
25 same classes of insurance.

26 § 5503. Investment of capital.

27 Every domestic stock casualty insurance company shall invest
28 and keep invested all its capital in sound investments as
29 enumerated in this section, except such cash as may be required
30 in the transaction of its business. The investments shall

1 include the following:

2 (1) Such real estate as is authorized by section 5506
3 (relating to authorized holdings of real estate).

4 (2) Bonds of the United States, of any state or of any
5 province or territory of the Dominion of Canada, and bonds or
6 debentures issued by Federal land banks, Federal intermediate
7 credit banks or banks for cooperatives under the Farm Credit
8 Act of 1971 (Public Law 92-181, 12 U.S.C. § 2001 et seq.) or
9 by Federal home loan banks under the Home Loan Bank Act (47
10 Stat. 725, 12 U.S.C. § 1421 et seq.).

11 (3) The legally authorized bonds or notes of any
12 municipality, school or water district of this Commonwealth
13 or of any other state of the United States or province of the
14 Dominion of Canada.

15 (4) The bonds or notes of any solvent railroad or street
16 railway corporation upon which no default in interest has
17 been made.

18 (5) Ground rents and loans upon improved and
19 unencumbered real estate. Except for bonds secured by
20 mortgages which are insured by, or for which a commitment to
21 insure has been made by, the Federal Housing Administrator,
22 under the provisions for mutual mortgage insurance in Title
23 II of the National Housing Act (48 Stat. 1247, 12 U.S.C. §
24 1707 et seq.) for the purpose of financing the construction
25 or purchase of dwellings and similar residential property and
26 the refinancing of mortgages, no such loan shall exceed 66
27 2/3% of the fair market value of the real estate.

28 (6) Debentures issued by the Federal Housing
29 Administrators in settlement of claims for insurance under
30 Title II of the National Housing Act.

1 (7) Securities of national mortgage associations or
2 similar national mortgage credit institutions organized under
3 Title III of the National Housing Act (48 Stat. 1252, 12
4 U.S.C. § 1716 et seq.).

5 (8) Bonds, notes or obligations issued, assumed or
6 guaranteed by the International Bank for Reconstruction and
7 Development.

8 (9) If the company which has \$1,000,000 of capital and
9 \$1,000,000 of surplus, the capital of any domestic or foreign
10 stock casualty insurance company, solely to transact the same
11 class of business in countries other than the United States.
12 These investments shall be limited to 30% of the par value of
13 the capital stock of the investing company.

14 (10) The securities of a foreign government in a
15 sufficient amount from its reserves in order to enable it to
16 comply with the laws of the foreign government and transact
17 business therein, if the department permits the company to
18 make such an investment.

19 (11) Shares of state and regional business development
20 credit corporations formed under the law of this
21 Commonwealth.

22 (12) Bonds and notes of the Pennsylvania Housing Finance
23 Agency.

24 (13) Bonds, notes and obligations issued, assumed or
25 guaranteed by the Inter-American Development Bank.

26 (14) Bonds, notes and obligations issued by the
27 Pennsylvania Civil Disorder Authority.

28 (15) Bonds, notes and obligations issued, assumed or
29 guaranteed by the Asian Development Bank.

30 (16) Subject to the provisions of section 5504 (relating

to investments in financial institutions), the investments described in section 5504(a).

§ 5504. Investments in financial institutions.

(a) Applicability.--This section shall apply to:

(1) Any interest-bearing deposit, savings account or certificate of deposit in any bank, bank and trust company, savings bank or national banking association located in this Commonwealth.

(2) A savings account or certificate of deposit of any savings association incorporated under the law of this Commonwealth or of any savings and loan association incorporated under Federal law.

(b) Limitation on use.--Any investment described in subsection (a) shall be an authorized investment if the interest-bearing deposit, savings account or certificate of deposit is not made, opened or deposited in any financial institution wherever located which is directly or indirectly, through a holding company or in any other manner, affiliated with any insurance entity making or depositing the interest-bearing deposits or certificates of deposit, in the case of investments described in subsection (a)(1), or making, depositing or opening the savings accounts, in the case of investments described in subsection (a)(2). Funds invested in certificates of deposit shall not be encumbered directly or indirectly as security, collateral or as counterbalance funds for any subsidiary, affiliate, associated concern or other person except as specifically approved by written order of the department.

(c) Limitation on amount.--Neither the total investments described in subsection (a)(1), nor the total investments

described in subsection (a)(2), in any single depository or branches thereof shall at any time exceed 10% of the larger of:

(1) the company's total admitted invested assets at the time of such investment or at any subsequent annual statement reporting date; or

(2) the maximum amount insured by Federal insurance coverage on such investments.

Neither the investments described in subsection (a)(1), nor the investments described in subsection (a)(2), considered

separately, made in all depositories or branches thereof shall at any time exceed 25% of the company's total admitted invested assets at the time of the investment or at any subsequent annual statement reporting date, unless the investments made in any single depository or branches thereof is not greater than the Federal insurance limitations.

(d) Time allowed for compliance.--Whenever the investments authorized by this section exceed the maximum amounts provided in subsection (c), the investments shall be reduced to comply therewith within 90 days of the occurrence of the excess or at the earliest maturity date or the next optional renewal date, exercisable by either holder or issuer, of any investment mentioned in this section.

(e) Penalty.--Any company which fails to cure a violation of subsection (c) within the time allowed under subsection (d) shall pay a penalty not to exceed \$100 for each day during which the failure continues. The penalty shall be imposed by the department after appropriate hearing. No value as an admitted asset shall be allowed the excess of the investment over the maximum amounts provided in subsection (c).

§ 5505. Investment of surplus.

1 (a) Authorized investments.--Any money over and above the
2 capital of any such stock casualty insurance company may be
3 loaned upon the security of investments authorized by section
4 5503 (relating to investment of capital) or invested in such
5 securities or invested in:

6 (1) Bonds or notes of any public instrumentality of any
7 state or of any foreign country or political subdivision
8 thereof.

9 (2) Stock or other evidence of indebtedness of any
10 solvent corporation created under Federal law or the law of
11 any jurisdiction mentioned in paragraph (1) or loaned upon
12 the pledge of the same, except its own stock.

13 (3) Stock or shares of any regulated investment company
14 formed under Federal law or the law of any state or of the
15 Dominion of Canada or any province thereof.

16 (b) Restrictions.--The total investments made by such
17 company in stocks of other insurance companies which have
18 invested in or loaned its funds on the stock of the first
19 investing company shall not exceed 5% of the gross assets of the
20 first investing company. The total investments made or held by
21 the company in the stocks or other evidence of indebtedness of
22 solvent alien corporations shall not exceed 10% of the funds of
23 the company over and above its capital and the reserves which it
24 is required to maintain under this title. The current market
25 value of those securities at the time of any loan thereon shall
26 be at least 15% more than the sum loaned. A stock casualty
27 insurance company shall not invest or hold any of its funds in
28 any unincorporated business or enterprise, or in the stock or
29 evidence of indebtedness of any corporation, if the owners or
30 holders of its securities are or may become liable on account

1 thereof to any assessment, except for taxes. Funds of a stock
2 casualty insurance company shall not be loaned on personal
3 security except for defraying the expenses of an employee
4 transferred or about to be transferred to a new place of
5 employment with the company. Not more than 20% of its capital
6 shall be invested or held in a single mortgage. The company
7 shall not enter into any agreement to withhold from sale any of
8 its property, but the disposition of its property shall be at
9 all times within the control of its board of directors or
10 trustees. If any investment or loan is made or held in a manner
11 not authorized by this section, the officers and directors
12 making or authorizing the investment or loan shall be personally
13 liable for any loss occasioned thereby, and no value as an asset
14 shall be allowed for such an investment or loan.

15 (c) Investments regarding company's building.--Any stock
16 casualty insurance company may invest in the capital stock and
17 obligations of a corporation formed for the purpose of taking
18 and holding title to real estate and erecting or maintaining
19 thereon any building to be used in whole or in part for the
20 accommodation and transaction of the business of the company
21 without being subject to the limitation prescribed in this
22 section as to investment in the stock of a solvent corporation.
23 The insurance company shall not at any time have invested more
24 than 50% of its capital and surplus in investments described in
25 this subsection without the written approval of the department.
26 § 5506. Authorized holdings of real estate.

27 A domestic stock casualty insurance company shall not
28 purchase, hold or convey real estate, except as follows:

29 (1) Real estate which is for the transaction of its
30 business including residential real estate purchased from an

1 employee transferred or about to be transferred to a new
2 place of employment with the company.

3 (2) Real estate which has been conveyed to it in
4 satisfaction of debts previously contracted in the course of
5 its dealings.

6 (3) Real estate which has been purchased at sales upon
7 judgments, decrees or mortgages, obtained or made for debts
8 due the company or for debts due other persons, if the
9 company may have liens or encumbrances on the real estate and
10 the purchase is deemed necessary to save the company from
11 loss.

12 Any real estate acquired under paragraph (2) or (3), which has
13 been held for a period of more than five years from the date of
14 its acquisition, shall be disposed of within a period of six
15 months after notice to the company from the department to do so.
16 The department may extend the time for disposition if the
17 interest of the company will suffer materially by a forced sale.

18 § 5507. Dividends.

19 A stock casualty insurance company shall not make any
20 dividend on its capital except from the profits arising from its
21 business. In estimating the profits, all of the following shall
22 first be charged as a liability:

23 (1) The capital of the company.

24 (2) All unpaid losses or other loss claims.

25 (3) All liabilities for reserve or unearned premiums on
26 undetermined risks as required by law.

27 (4) All sums due the company on bonds, book accounts and
28 judgments on which the interest has not been paid during the
29 last calendar year, or on the principal of which no payment
30 has been made during that period.

1 (5) All other debts or obligations of the company.

2 (6) All shares of stock on which no dividend has been
3 paid during the last calendar year.

4 § 5508. Reduction and withdrawal of capital stock.

5 Any existing stock casualty insurance company and any stock
6 casualty insurance company formed under this title, having a
7 paid-up capital in excess of the minimum required, may reduce
8 the excess, in whole or in part, in the manner provided in
9 section 3558 (relating to reduction of capital stock). Any such
10 company which has undertaken two or more kinds of insurance and
11 wishes to discontinue a particular kind may withdraw the entire
12 additional capital paid in on account thereof.

13 § 5509. Procedure when capital impaired.

14 Any stock casualty insurance company receiving notice from
15 the department that its capital is impaired shall immediately
16 call upon its stockholders for such amounts as will restore its
17 capital to the amount fixed by its charter. If any stockholder
18 fails to pay the amount called for, after notice personally
19 given or by advertisement at the time and in the manner the
20 department approves, the company shall require the return of the
21 original certificates of stock held by the stockholder, or issue
22 new certificates in the proportion as determined by the
23 department, that the ascertained value of the assets of the
24 company bears to the original capital, the company paying for
25 any fractional parts of shares. The directors may create new
26 stock, issue certificates therefor and dispose of this stock at
27 not less than par for an amount sufficient to make up the
28 original capital, or the department may permit the company to
29 reduce its capital and the par value of its shares in proportion
30 to the extent of the impairment, but the capital shall at no

1 time be reduced to an amount less than that required by this
2 title for the organization of the company. In fixing the reduced
3 capital, not more than 50% of the original capital shall be
4 deducted from the assets on hand to be retained as surplus funds
5 nor shall any part of the assets be distributed to stockholders.

6 § 5510. Resident agents for foreign or alien insurance
7 entities.

8 Other than companies subject to section 5901 (relating to
9 resident agents for foreign or alien insurance entities), an
10 authorized foreign or alien insurance entity shall not make,
11 write, place or cause to be made, written or placed, any policy
12 or contract of insurance in this Commonwealth except through an
13 agent. The agent shall be an individual, partnership or
14 corporation who or which is a resident of this Commonwealth or
15 maintains his or its principal place of business in this
16 Commonwealth. The agent shall receive a commission thereon when
17 the premium is paid so that the Commonwealth may receive the
18 taxes required to be paid on the premiums collected for
19 insurance written or placed in this Commonwealth. The department
20 may, under such regulations and restrictions as necessary, issue
21 licenses to nonresident agents who are licensed in the state in
22 which they reside, but these agents shall not countersign any
23 policy or contract of insurance. The policies and contracts
24 shall be signed only by resident agents, who shall receive a
25 commission thereon when the premium is paid. Countersignature
26 shall not be required in the case of policies and contracts set
27 forth in section 3302(a)(1) (relating to authorized classes of
28 insurance) issued by life insurance companies or in the case of
29 bid bonds issued in connection with public or private contracts.

30 § 5511. Insurability of downhill ski operators against punitive

1 damages.

2 (a) Legislative findings.--The General Assembly finds that
3 the sport of downhill skiing is practiced by a large number of
4 citizens of this Commonwealth and also attracts to this
5 Commonwealth large numbers of nonresidents, significantly
6 contributing to the economy of this Commonwealth. It is
7 recognized that, as in some other sports, there are inherent
8 risks in the sport of downhill skiing. Because the law of this
9 Commonwealth is unclear with regard to insurability against
10 punitive damages, the operators of downhill skiing areas face
11 uncertainty in securing insurance to indemnify against downhill
12 skiing accidents.

13 (b) Insurability.--It is not against the public policy of
14 this Commonwealth for an insurance entity authorized under
15 section 3302(a)(2) or (c) (relating to authorized classes of
16 insurance) to insure the operator of a downhill skiing area
17 against punitive damages, other than punitive damages arising
18 from an intentional tort committed by the operator.

19 (c) Applicability.--This section does not change or amend
20 the public policy of this Commonwealth with respect to
21 insurability against punitive damages in cases which do not
22 arise from downhill skiing. This section applies to all
23 contracts of insurance entered into, reissued or reaffirmed
24 after December 19, 1985.

25 SUBCHAPTER B

26 WORKMEN'S COMPENSATION INSURANCE

27 Sec.

28 5521. Policy provisions.

29 5522. Actions for premiums.

30 5523. Rating plans.

1 5524. Annual report of premiums and loss experience.

2 5525. Powers of department.

3 § 5521. Policy provisions.

4 (a) Mandatory policy provisions.--Every policy of insurance
5 against liability under the act of June 2, 1915 (P.L.736,
6 No.338), known as The Pennsylvania Workmen's Compensation Act,
7 or under the act of June 21, 1939 (P.L.566, No.284), known as
8 The Pennsylvania Occupational Disease Act, shall contain the
9 agreement of the insurer:

10 (1) that the insurer shall pay all compensation and
11 provide all medical, surgical and hospital attendance for
12 which the insured employer may become liable under those acts
13 during the term of the insurance; and

14 (2) that, as between the insurer and any claimant under
15 those statutes, notice to the employer or the employer's
16 knowledge of an accident or injury or disability caused by
17 occupational disease constituting the basis of a claim under
18 those acts shall be deemed notice to the insurer.

19 These agreements shall be deemed a direct promise to the injured
20 employee or to the dependents of a deceased employee having a
21 claim under those statutes, and shall be enforceable by action
22 brought in the name of the injured employee or in the name of
23 such dependents. The obligation under this section shall not be
24 affected by any default of the insured, after an accident or
25 after disability caused by occupational disease, in the payment
26 of premiums or in the giving of any notices required by the
27 policy or otherwise.

28 (b) Prohibited policy provisions.--The policy of insurance
29 shall not contain any limitation of the liability of the insurer
30 to an amount less than that for which the insured employer may

1 become liable under the statutes mentioned in subsection (a)
2 during the term of the insurance. A policy or contract of
3 insurance, or an agreement to deliver such insurance, shall not
4 be issued except upon a form approved by the department as
5 complying with this title. However, a policy may be issued to a
6 self-insurer, qualified under section 305 (relating to insurance
7 of payment of compensation by employer) of The Pennsylvania
8 Workmen's Compensation Act or under section 305 (relating to
9 self-insurance) of The Pennsylvania Occupational Disease Act,
10 providing for the payment of any stated loss in excess of
11 \$10,000 falling upon the self-insurer, under the terms of those
12 statutes, by reason of any single accident or by reason of any
13 single occurrence resulting in disability from occupational
14 disease. Except for nonpayment of premiums, a policy of
15 insurance issued or renewed against liability under the statutes
16 mentioned in subsection (a) or the Federal Coal Mine Health and
17 Safety Act of 1969 (Public Law 91-173, 30 U.S.C. § 801 et seq.),
18 or insuring an employer against liability of an employer to his
19 employee because of bodily injury by accident or disease,
20 including death resulting therefrom, sustained by the employee
21 arising out of and in the course of his employment, may not be
22 canceled or terminated by an insurer during the term of the
23 policy.

24 § 5522. Actions for premiums.

25 An action shall not be maintained for the collection of
26 premiums upon any policy of insurance under the act of June 2,
27 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's
28 Compensation Act, or under the act of June 21, 1939 (P.L.566,
29 No.284), known as The Pennsylvania Occupational Disease Act,
30 which violates this title. All premiums and interest charges on

1 account of policies insuring employees against liability under
2 this chapter, which are due to the State Workmen's Insurance
3 Fund, or any stock corporation or mutual association authorized
4 to transact the business of insurance in this Commonwealth, and
5 all judgments recovered by the State Workmen's Insurance Fund,
6 or any such insurance corporation or association, against any
7 employer on actions brought under any such policy, shall be
8 deemed preferred claims in all insolvency or bankruptcy
9 proceedings, trustee proceedings for administration of estates,
10 or receiverships, involving the employers liable therefor, or
11 the property of such employer, but claims for wages shall
12 receive prior preference in all such proceedings.

13 § 5523. Rating plans.

14 (a) Preparation of rating plan.--A rating plan shall be
15 proposed annually by one or more rating bureaus, which shall be
16 located in this Commonwealth, subject to supervision and
17 examination by the department and approved by it as adequately
18 equipped to compile rates on an equitable and impartial basis. A
19 schedule or merit rating plan shall be applied only by the
20 approved rating bureau. In the preparation of schedules, an
21 employer shall not be discriminated against or penalized because
22 of physical impairment of any employee or because of the number
23 of dependents of any employee.

24 (b) Approval by department.--The rating plan shall be filed
25 with and shall be subject to review by the department, which
26 shall by order modify, amend or approve it. A rating plan shall
27 not take effect without the consent of the department, and it
28 may withdraw its approval whenever the plan is inadequate or
29 discriminates unfairly between risks of essentially the same
30 hazard. Any person aggrieved by the order may obtain a review

1 thereof before the department.

2 (c) Review of assignment of risk.--The assignment by an
3 approved rating bureau of any individual risk to a particular
4 classification in accordance with a system of classification of
5 risks and underwriting rules approved by the department under
6 this section may be appealed by any person aggrieved by such
7 assignment before the rating bureau in accordance with
8 procedures of the bureau approved by the department. If still
9 aggrieved by the assignment, the person may obtain a further
10 review thereof by filing an appeal with the department within 30
11 days of the mailing date of the final decision of the bureau.
12 The department shall hold a hearing upon not less than ten days'
13 written notice to the applicant and to the rating bureau which
14 made the classification and shall issue an order modifying,
15 amending or approving the placement of the individual risk
16 within the particular classification as the result of that
17 hearing. Any order made by the department under this subsection
18 may be appealed to the Commonwealth Court in accordance with
19 Title 42 (relating to judiciary and judicial procedure).

20 (d) Mandatory use of rating plans.--Neither the State
21 Workmen's Insurance Fund, nor any insurance corporation, mutual
22 association or company, shall issue, renew or carry any policy
23 or contract of insurance against liability under the statutes
24 mentioned in subsection (g), except in accordance with the
25 rating plans proposed by a rating bureau for the risk insured
26 and as modified, amended or approved by the department for such
27 insurer.

28 (e) Special approval.--Notwithstanding any other provisions
29 of this section, upon the written consent of the insured stating
30 his reasons therefor, filed with and approved by the department,

1 a rate in excess of that determined in accordance with the other
2 provisions of this section may be used on any specific risk.

3 (f) Filing of plan.--A complete copy of every policy or a
4 true copy of the substantive provisions of any policy or
5 contract of insurance against liability under the statutes
6 mentioned in subsection (g), and a true copy of every
7 endorsement upon any such policy and of every agreement
8 pertaining thereto, shall be filed with each rating bureau whose
9 rating plan the insurer uses within a reasonable time after the
10 effective date of the policy, endorsement, contract or
11 agreement.

12 (g) Definition.--As used in this section the term "rating
13 plan" means a classification of risks, set of premium rates or
14 underwriting rules of schedule or merit rating plan for
15 insurance of employers and employees under the act of June 2,
16 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's
17 Compensation Act, or under the act of June 21, 1939 (P.L.566,
18 No.284), known as The Pennsylvania Occupational Disease Act, and
19 for insurance with respect to this Commonwealth as to liability
20 under the Longshoremen's and Harbor Workers' Compensation Act
21 (44 Stat. 1424, 33 U.S.C. § 901 et seq.), written as a part of a
22 workmen's compensation and employers' liability policy.

23 § 5524. Annual report of premiums and loss experience.

24 The State Workmen's Insurance Fund, and every insurance
25 company and every employer's mutual liability association which
26 insures employers and employees under the act of June 2, 1915
27 (P.L.736, No.338), known as The Pennsylvania Workmen's
28 Compensation Act, or under the act of June 21, 1939 (P.L.566,
29 No.284), known as The Pennsylvania Occupational Disease Act, or
30 with respect to this Commonwealth under the Longshoremen's and

1 Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. § 901
2 et seq.), when such liability is insured as a part of a
3 workmen's compensation and employers' liability policy, shall
4 annually, on or before June 30, file with the department a sworn
5 report of its premium and loss experience, in such detail and
6 form as may be prescribed by the department. Any insurance
7 carrier which neglects to timely file the required statement
8 shall pay \$100 for each day during which such neglect continues
9 and, upon notice by the department, its authority to do business
10 shall cease while the default continues.

11 § 5525. Powers of department.

12 The department may suspend or revoke the license of any
13 insurance company which violates this subchapter.

14 SUBCHAPTER C

15 EMPLOYERS' MUTUAL LIABILITY

16 INSURANCE ASSOCIATIONS

17 Sec.

18 5531. Definitions.

19 5532. Examination of premises and books.

20 5533. Rules and regulations.

21 5534. Premiums.

22 5535. Division of subscribers into groups.

23 5536. Powers of department.

24 5537. Dividends.

25 5538. Surplus.

26 5539. Contingent mutual liability of subscribers.

27 5540. Assessments.

28 5541. Withdrawal of subscribers.

29 § 5531. Definitions.

30 The following words and phrases when used in this subchapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Association." An incorporated association or company formed
4 by employers for the purpose of insuring themselves, and such
5 other employers as may become subscribers to the association,
6 against liability under Articles II and III of the act of June
7 2, 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's
8 Compensation Act.

9 "Board of directors." The board of directors of an
10 association.

11 "Subscriber." A subscriber to an association.

12 § 5532. Examination of premises and books.

13 The board of directors may inspect the premises of any
14 subscriber, and may appoint inspectors for that purpose, who
15 shall have free access to the premises during the regular
16 working hours. The board of directors may, from time to time,
17 examine, by their auditor or other agent, the books and records
18 of any subscriber for the purpose of determining the amount of
19 premium chargeable to the subscriber.

20 § 5533. Rules and regulations.

21 The board of directors shall make reasonable rules and
22 regulations for the prevention of injuries upon the premises of
23 subscribers and may refuse to insure or may terminate the
24 insurance of any subscriber who refuses to permit examination or
25 violates the rules and regulations and may ORDER THE SUBSCRIBER <—
26 TO forfeit one-half of the unearned premiums previously paid by
27 him. The termination of the insurance of any subscriber shall
28 not release him from liability for the payment of assessments
29 made by the board of directors to make up deficiencies existing
30 at the termination of his insurance.

1 § 5534. Premiums.

2 (a) Criteria for determining amount.--The board of directors
3 shall determine the amount of the premiums which the subscribers
4 shall pay for their insurance, in accordance with the nature of
5 the business in which the subscribers are engaged and the
6 ~~probably~~ PROBABLE risk of injury to their employees under <—
7 existing conditions. In fixing the premium payable by any
8 subscriber, the board of directors may take into account the
9 condition of the property of the subscriber, in respect to the
10 safety of those employed therein as shown by the report of any
11 inspector appointed by the board. Subject to the approval of the
12 department, they shall fix each premium at an amount sufficient
13 to enable the association to create and maintain the surplus
14 required under section 5538 (relating to surplus), to pay to its
15 subscribers all sums which may become due and payable to their
16 employees under Article III of the act of June 2, 1915 (P.L.736,
17 No.338), known as The Pennsylvania Workmen's Compensation Act,
18 and to defray the expenses of conducting the business of the
19 association.

20 (b) Change in premium.--The board of directors may change
21 the amount of premiums payable by any of the subscribers as
22 circumstances may permit or require. The board may increase the
23 premiums of any subscriber who neglects to provide safety
24 devices required by law or violates the rules or regulations
25 made by the board of directors in accordance with section 5533
26 (relating to rules and regulations).

27 (c) Effectiveness of policy.--A policy of insurance issued
28 to any subscriber shall not be effective until he has paid the
29 initial premium.

30 § 5535. Division of subscribers into groups.

1 The board of directors may divide the subscribers into
2 groups, in accordance with the nature of their business and the
3 ~~probably~~ PROBABLE risks of injury therein. The board shall fix <—
4 all premiums for each business in the group and for the various
5 classes of employment therein, in accordance with the probable
6 risks of injury to the employees in such business and in each
7 class of employment therein. The board shall make all
8 assessments and determine and pay all dividends by and for each
9 group in accordance with its experience. All funds of the
10 association and the contingent liability of the subscribers
11 shall be available for the payment of any claim against the
12 association, but as between the association and its subscribers
13 until the whole of the contingent liability of the members of
14 any group is exhausted, the general funds of the association and
15 the contingent liability of the members of other groups shall
16 not be available for the payment of losses and expenses incurred
17 by that group in excess of the earned premiums paid by its
18 members.

19 § 5536. Powers of department.

20 Every association shall file a statement with the department
21 of any proposed premium, assessment, dividend or distribution of
22 subscribers into groups. ~~A proposed change~~, WHICH shall not take <—
23 effect until approved by the department.

24 § 5537. Dividends.

25 The board of directors may, from time to time, fix and
26 determine the amount to be paid as dividends upon policies
27 expiring each year, after retaining the unearned premiums upon
28 undetermined risks, sufficient sums to pay all the compensation
29 then payable or which may become payable on account of injuries
30 received by employees of the subscribers and to pay the expenses

1 incurred in the operation of the business of the association,
2 and such percentage of the premiums as has been paid or is
3 payable to create and maintain the surplus provided in section
4 5538 (relating to surplus).

5 § 5538. Surplus.

6 The board of directors may set aside such part of all
7 premiums collected as it deems necessary for the creation of an
8 adequate surplus to cover catastrophic losses to the subscribers
9 to the fund and to guarantee the solvency of the fund.

10 § 5539. Contingent mutual liability of subscribers.

11 Every subscriber shall be under a contingent mutual liability
12 for the payment of losses and expenses in excess of the cash
13 funds of the association to an amount at least equal to the
14 premium paid by him during the current year.

15 § 5540. Assessments.

16 If any association does not possess cash funds over and above
17 its unearned premiums on undetermined risks, sufficient for the
18 payment of incurred losses and expenses, it shall make an
19 assessment for the amount needed to pay such losses and expenses
20 upon the subscribers liable to assessment therefor, in
21 proportion to their several liabilities.

22 § 5541. Withdrawal of subscribers.

23 Any subscriber who has complied with all of its rules and
24 regulations may withdraw therefrom by written notice to that
25 effect, sent by the subscriber by registered mail to the
26 association. The withdrawal shall become effective on the first
27 day of the month immediately following the tenth day after the
28 receipt of the notice. Such withdrawal shall not release the
29 subscriber from liability for the payment of assessments
30 thereafter made by the board of directors to make up

1 deficiencies existing at the date of his withdrawal, if the
2 assessment is made within one calendar year from the date of
3 withdrawal. The subscriber may receive his share of any dividend
4 earned at the date of his withdrawal.

5 SUBCHAPTER D

6 ARSON REPORTING IMMUNITY

7 Sec.

8 5551. Short title of subchapter.

9 5552. Definitions.

10 5553. Disclosure of information.

11 5554. Immunity.

12 5555. Evidence.

13 5556. Penalty.

14 5557. Construction of subchapter.

15 5558. Regulations.

16 § 5551. Short title of subchapter.

17 This subchapter shall be known and may be cited as the Arson
18 Reporting Immunity Act.

19 § 5552. Definitions.

20 The following words and phrases when used in this subchapter
21 shall have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 "Action." Includes nonaction or the failure to take action.

24 "Authorized agencies."

25 (1) Includes:

26 (i) The Pennsylvania State Police Commissioner and
27 other police officers charged with the investigation of
28 fires at the place where the fire actually took place.

29 (ii) The fire commissioner or fire chief of all
30 cities.

1 (iii) The Attorney General.

2 (iv) The prosecuting attorney responsible for
3 prosecutions in the county where the fire occurred.

4 (v) The Federal Bureau of Investigation.

5 (vi) The Federal Bureau of Alcohol, Tobacco and
6 Firearms.

7 (vii) The United States Attorney when authorized or
8 charged with investigation or prosecution of the fire in
9 question.

10 (viii) The Bureau of Forestry of the Department of
11 Environmental Resources.

12 (2) Solely for the purposes of section 5553(b) (relating
13 to disclosure of information), an appropriate authorized
14 agency is:

15 (i) the Pennsylvania State Police Commissioner or
16 his authorized representative; or

17 (ii) the fire commissioner or fire chief of all
18 cities and the fire chief of any other municipality with
19 a paid fire department when that municipality is not
20 serviced by the Pennsylvania State Police Commissioner or
21 his authorized representative for the purpose of
22 investigating fires.

23 "Fire loss." Includes loss by explosion.

24 "Insurance company." Any insurance company authorized to
25 transact the business of insurance in this Commonwealth and
26 empowered to issue policies of insurance against loss by the
27 perils of fire or explosion, including the fair plan created
28 under Chapter 57 (relating to Pennsylvania Fair Plan).

29 "Relevant." Any information having a tendency to make the
30 existence of any fact that is of consequence to the

1 investigation or determination of the issue more or less
2 probable than it would be without the information.

3 § 5553. Disclosure of information.

4 (a) Fire loss information.--Any authorized agency may, in
5 writing, require any insurance company at interest to release to
6 the agency any or all relevant information or evidence deemed
7 important to the agency which the insurance company may have in
8 its possession relating to a fire loss under investigation by
9 the agency. Relevant information may include, but shall not be
10 limited to, any of the following:

11 (1) Pertinent policy information relevant to a fire loss
12 under investigation, including any application for such a
13 policy.

14 (2) Underwriting information or risk inspection reports.

15 (3) Policy premium payment records.

16 (4) History of previous claims made by the insured.

17 (5) Material relating to the investigation of the loss,
18 including statements of any person, and proof of loss.

19 (b) Notification for investigation.--Whenever the
20 investigation of a fire loss by an insurance company insuring
21 the loss indicates that the probable cause of the fire loss was
22 arson, the company shall notify, in writing, the appropriate
23 authorized agency. Upon the request of any authorized agency,
24 the insurance company shall provide the agency with such fire
25 loss information developed from the company's inquiry into the
26 fire loss as may be requested by the agency. The insurance
27 company may provide to any authorized agency any information it
28 has relating to a fire loss. This subsection does not abrogate
29 or impair any rights or duties created under subsection (a).

30 (c) Notification to policyholder.--When information is given

1 by any insurance company to an authorized agency under
2 subsection (a) or (b):

3 (1) The insurance company shall send written notice to
4 the policyholders about whom the information pertains, unless
5 the insurance company receives notice that the authorized
6 agency finds, based on specific facts, that there is reason
7 to believe that such information will result in any of the
8 following:

9 (i) Endangerment of the life or physical safety of
10 any person.

11 (ii) Flight from prosecution.

12 (iii) Destruction of or tampering with evidence.

13 (iv) Intimidation of any potential witness.

14 (v) Obstruction of or seriously jeopardizing an
15 investigation.

16 (2) The insurance company shall send written notice not
17 less than 45 nor more than 60 days from the time the
18 information is furnished to an authorized agency, except when
19 the agency specifies that a notice should not be sent in
20 accordance with the exceptions under paragraph (1), in which
21 event the insurance company shall send written notice to the
22 policyholder not less than 180 days nor more than 190 days
23 after the information is furnished to an authorized agency.

24 (3) Every insurance company or authorized agency and any
25 person acting on behalf of either, complying with or
26 attempting in good faith to comply with paragraphs (1) and
27 (2), shall be absolutely immune from any civil liability
28 arising out of any acts or omissions in so doing. This
29 subsection does not create any additional rights to privacy
30 or causes of action on behalf of policyholders.

1 (d) Release of information.--An authorized agency that is
2 provided with information under subsection (a) or (b) may in
3 good faith release or provide orally or in writing such
4 information as it possesses in whole or in part to any other
5 authorized agency or insurance company in furtherance of the
6 agency's own investigative purposes.

7 § 5554. Immunity.

8 Any insurance company or person designated to act in its
9 behalf, or any authorized agency or person authorized to act on
10 its behalf, who without actual malice releases oral or written
11 information under section 5553(a), (b) or (d) (relating to
12 disclosure of information) shall be immune from liability
13 arising out of a civil action and from criminal prosecution with
14 respect to the release of the information.

15 § 5555. Evidence.

16 Except as provided in section 5553(d) (relating to disclosure
17 of information), any authorized agency or insurance company who
18 receives any information furnished pursuant to this subchapter
19 shall hold the information in strict confidence until such time
20 as its release is required pursuant to a criminal or civil
21 proceeding.

22 § 5556. Penalty.

23 (a) Disclosure of information.--Any person who fails or
24 refuses to release any information required to be released under
25 this subchapter or who discloses information required to be held
26 in confidence, or who otherwise violates any provision of this
27 subchapter, except section 5553(c)(1) and (2) (relating to
28 disclosure of information), commits a misdemeanor or the third
29 degree.

30 (b) Immunity from liability.--Any person who releases or

1 discloses information required to be held in confidence pursuant
2 to section 5555 (relating to evidence), other than as provided
3 under section 5553(a), (b) or (d), shall not be afforded
4 immunity under section 5554 (relating to immunity).

5 § 5557. Construction of subchapter.

6 (a) Municipal ordinances.--This subchapter does not affect
7 or repeal any ordinances of any municipality relating to fire
8 prevention or the control of arson.

9 (b) Impairment of rights not intended.--With the exception
10 of section 5554 (relating to immunity), this subchapter does not
11 impair any existing statutory or common law rights, powers or
12 duties.

13 § 5558. Regulations.

14 The Pennsylvania State Police Commissioner may promulgate
15 such regulations concerning the implementation of section
16 5553(d) (relating to disclosure of information) as he deems
17 necessary. The department may promulgate regulations concerning
18 the implementation of this subchapter except for section
19 5553(d).

20 SUBCHAPTER E

21 ANTI-ARSON APPLICATIONS

22 Sec.

23 5561. Short title of subchapter.

24 5562. Purpose of subchapter.

25 5563. Definitions.

26 5564. Applicability of subchapter.

27 5565. Form of anti-arson applications.

28 5566. Insurability.

29 5567. Requirement and effect of anti-arson applications.

30 5568. Alternative anti-arson applications.

1 5569. Termination of insurance policies or contracts.

2 5570. Penalties.

3 5570.1 REGULATIONS.

4 5571. Advisory board.

5 § 5561. Short title of subchapter.

6 This subchapter shall be known and may be cited as the Anti-
7 Arson Application Law.

8 § 5562. Purpose of subchapter.

9 The purpose of this subchapter is to promote the public
10 welfare by reducing the loss of life and fire damage to property
11 caused by the crime of arson by requiring insurance companies to
12 secure anti-arson applications from applicants for new policies
13 of property insurance containing information to control the
14 incidence of arson fraud.

15 § 5563. Definitions.

16 The following words and phrases when used in this subchapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Anti-arson application." Any application for insurance
20 covering the peril of fire that includes certain questions to be
21 answered by the applicant in addition to the basic information
22 normally supplied to an insurer by an applicant.

23 "Commercial monoline fire policy." An insurance policy on a
24 commercial or industrial premise in which coverage is limited to
25 the perils of:

26 (1) fire, lightning or removal as contained in the
27 standard fire policy in section 5906 (relating to provisions
28 of fire insurance policies); or

29 (2) the coverage described in paragraph (1) and extended
30 coverage, including windstorm or hail, smoke, explosion, riot

1 or civil commotion, aircraft and vehicle, vandalism or
2 malicious mischief.

3 The term does not include any package policy or multiperil
4 policy which provides coverage of other perils such as, but not
5 limited to, coverage of bodily injury or property damage
6 liability.

7 "Insurance policy" or "contract of insurance." Any written
8 evidence of new insurance providing coverage from the peril of
9 fire written or entered into on or after March 7, 1983, or any
10 assignment of an existing insurance policy or contract which
11 occurs because of the transfer of a major financial interest in
12 the insured real property. Except for those assignments, the
13 term does not include any property insurance policy in force
14 before March 7, 1983, or the renewal of a contract of insurance
15 in force before March 7, 1983.

16 "Renewal." The issuance and delivery by an insurer of a
17 policy superseding at the end of the policy period a policy
18 previously issued and delivered by the same insurer, providing
19 types and limits of coverage at least equal to those contained
20 in the policy being superseded, or the issuance and delivery of
21 a certificate or notice extending the term of a policy beyond
22 its policy period or term with types and limits of coverage at
23 least equal to those contained in the policy being extended. Any
24 policy with a policy period or term of less than 12 months or
25 any period with no fixed expiration date shall be considered as
26 if written for successive policy periods or terms of 12 months.
27 § 5564. Applicability of subchapter.

28 Anti-arson applications shall be used for commercial monoline
29 fire policies, designated occupancies and designated areas of
30 this Commonwealth, upon a finding by the department, after a

1 public hearing in a location or municipality to be included in a
2 designated area, that commercial monoline fire policies, the
3 designated occupancies and the areas of this Commonwealth have
4 an abnormally high incidence of arson. Hearings pursuant to this
5 section shall be held under the act of July 3, 1986 (P.L.388,
6 No.84), known as the Sunshine Act.

7 § 5565. Form of anti-arson applications.

8 (a) Two-tier applications.--The department, in promulgating
9 the anti-arson application form, shall consider generally
10 recognized two-tier application forms. If the initial first-tier
11 application elicits certain predesignated answers, then the
12 second-tier supplementary application shall be administered.

13 (b) Contents.--The two-tiered application shall secure the
14 disclosure of all of the following information:

15 (1) The name and address of the applicant, any
16 mortgagees and any other parties who have an ownership
17 interest in the property.

18 (2) The amount of insurance requested and the method of
19 valuation used to establish the amount of insurance.

20 (3) The dates and selling prices of the property in all
21 real estate transactions involving the property during the
22 last three years.

23 (4) The applicant's loss history over the last five
24 years with regard to any property in which he held an equity
25 interest or a mortgage and where any such loss exceeded
26 \$1,000 in damages.

27 (5) All taxes unpaid or overdue for one or more years
28 and any mortgage payments overdue by three months or more.

29 (6) All known current violations of fire, safety,
30 health, building or construction codes on the property to be

1 insured.

2 (7) The present occupancy of the structure.

3 (8) Such other information as the department deems
4 necessary.

5 (c) Form of validation.--An anti-arson application shall
6 contain the following language:

7 I (We) certify that all information contained herein is
8 true and correct to the best of my (our) knowledge and
9 belief. Signed under penalty of perjury.

10 (d) Excluded property.--If a commercial, designated
11 occupancy or designated area property subject to this subchapter
12 is insured in a contract of insurance which includes other
13 properties which are not subject to section 5564 (relating to
14 applicability of subchapter), the information required in this
15 section shall only be the information applicable to the property
16 subject to this subchapter.

17 § 5566. Insurability.

18 Designation of any area of this Commonwealth under section
19 5564 (relating to applicability of subchapter) shall not be
20 deemed a valid reason for refusal to write, termination or
21 nonrenewal of any policy or contract of insurance.

22 § 5567. Requirement and effect of anti-arson applications.

23 (a) Use of anti-arson application.--An insurer may not enter
24 into a permanent contract to insure any building, except one to
25 four family owner-occupied dwellings, against the peril of fire
26 to be issued after March 7, 1983, unless the insurer first
27 receives an anti-arson application signed and affirmed by the
28 insured, if required by the department under this subchapter.
29 This subsection does not prohibit the issuance of a binder or
30 other temporary contract of insurance for a period of 90 days or

1 less, provided that the anti-arson application is provided to
2 the insured for completion in accordance with this section.

3 (b) Effect.--Any anti-arson application required by this
4 subchapter shall be deemed a material part of the insurance
5 policy to which the application pertains. A material
6 misrepresentation shall be deemed grounds to void the insurance
7 policy.

8 (c) Notice of changes.--Policyholders shall notify their
9 insurer in writing of any change in the information contained in
10 the anti-arson application, within a period of time to be
11 specified by the department. A material failure to notify or a
12 material misrepresentation in such notification shall be deemed
13 grounds to void the insurance policy.

14 § 5568. Alternative anti-arson applications.

15 (a) Power of department.--The department may mandate
16 alternative anti-arson applications pursuant to findings, after
17 a public hearing, that:

18 (1) there exist certain types of policies, certain
19 classes of property and certain geographic areas of this
20 Commonwealth which have an abnormally high incidence of
21 arson;

22 (2) the anti-arson application was implemented as
23 respects those types of insurance policies, classes of
24 property and areas of this Commonwealth under this
25 subchapter; and

26 (3) the use of the anti-arson application under this
27 subchapter failed to substantially decrease the arson problem
28 for those types of insurance policies, classes of property
29 and geographic areas.

30 (b) Limitations.--The department shall not mandate the use

1 of any applications other than the anti-arson application.

2 Alternative anti-arson applications may only be mandated for the
3 types of insurance policies, types of occupancies and the areas
4 of this Commonwealth which would be permissible subjects for the
5 anti-arson application under this subchapter.

6 § 5569. Termination of insurance policies or contracts.

7 Notwithstanding any other provision of law which limits the
8 time for termination of insurance policies, an insurer may
9 terminate for any lawful reason any policy or contract of
10 insurance where the anti-arson application or any alternative
11 anti-arson application is required within 90 days from the
12 insurer's acceptance of the application. The notice of
13 cancellation to the insured shall contain the specific reasons
14 for the termination of the policy.

15 § 5570. Penalties.

16 (a) Civil penalty.--Any insurer willfully violating this
17 subchapter shall be subject to a civil penalty imposed by the
18 department of not more than \$10,000.

19 (b) Criminal penalty.--Any insurer violating section 5567
20 (relating to requirement and effect of anti-arson applications)
21 commits a misdemeanor of the first degree.

22 § 5570.1. REGULATIONS.

←

23 THE DEPARTMENT MAY PROMULGATE SUCH REGULATIONS AS ARE
24 NECESSARY OR DESIRABLE TO IMPLEMENT THIS SUBCHAPTER.

25 § 5571. Advisory board.

26 (a) Establishment.--The department may establish an advisory
27 board of public and private representatives, which shall consist
28 of the commissioner as chairman and two lay people, two members
29 of the insurance industry, two municipal officials and two
30 members of the General Assembly, one of which shall be appointed

1 by the Speaker of the House of Representatives and one of which
2 shall be appointed by the President pro tempore of the Senate,
3 to assist the department in administering this subchapter and in
4 studying and implementing any other measures to prevent arson.

5 (b) Expenses.--Each member of the advisory board shall
6 receive \$40 per diem for each day actually engaged in attendance
7 at meetings of the board. The members shall also receive the
8 amount of actual traveling, hotel and other necessary expenses
9 incurred in the performance of their duties.

10 (c) Expiration.--The advisory board established by
11 subsection (a) shall expire and its authority shall cease on
12 March 7, 1987, unless extended by statute.

13 SUBCHAPTER F

14 NOTICE OF PREMIUM INCREASES, CANCELLATIONS

15 AND NONRENEWALS

16 Sec.

17 5575.1. Notice of premium increases.

18 5575.2. Grounds for cancellation.

19 5575.3. Notice of midterm cancellations and nonrenewals.

20 5575.4. Return of unearned premium amounts.

21 5575.5. Extended reporting endorsement.

22 5575.6. Policy form filings.

23 5575.7. Applicability.

24 5575.8. Penalties.

25 5575.9. Rulemaking.

26 § 5575.1. Notice of premium increases.

27 Notwithstanding any other provision of law, a policy of
28 insurance covering commercial property or casualty risks in this
29 Commonwealth shall provide for not less than 60 days' notice of
30 intent to increase the insured's renewal premium with 30 days'

1 notice of an estimate of the renewal premium. This section does
2 not apply to policies written on a retrospective rating plan.

3 § 5575.2. Grounds for cancellation.

4 No insurer may cancel in midterm a policy of insurance
5 covering commercial property and casualty risks for any reason
6 other than the following:

7 (1) A condition, factor or loss experience material to
8 insurability has changed substantially or a substantial
9 condition, factor or loss experience material to insurability
10 has become known during the policy term.

11 (2) Loss of reinsurance or a substantial decrease in
12 reinsurance has occurred, which loss or decrease shall, at
13 the time of cancellation, be certified to the department as
14 directly affecting in-force policies.

15 (3) The insured has made a material misrepresentation
16 which affects the insurability of the risk.

17 (4) The policy was obtained through fraudulent
18 statements, omissions or concealment of fact material to the
19 acceptance of the risk or to the hazard assumed by the
20 company.

21 (5) The insured has failed to pay a premium when due,
22 whether the premium is payable directly to the company or its
23 agents or indirectly under a premium finance plan or
24 extension of credit.

25 (6) The insured has requested cancellation.

26 (7) Material failure to comply with policy terms,
27 conditions or contractual duties.

28 (8) Other reasons that the department may approve.

29 § 5575.3. Notice of midterm cancellations and nonrenewals.

30 (a) General rule.--Notices of midterm cancellation and

1 nonrenewal shall meet the following requirements:

2 (1) The midterm cancellation or nonrenewal notice shall
3 be forwarded by registered or first class mail or delivered
4 by the insurance company directly to the named insured OR <—
5 INSUREDS.

6 (2) Written notice of nonrenewal in the manner
7 prescribed in this section shall be forwarded directly to the
8 named insured OR INSUREDS at least 60 days in advance of the <—
9 effective date of termination.

10 (3) Written notice of cancellation in the manner
11 prescribed in this section shall be forwarded directly to the
12 named insured OR INSUREDS at least 60 days in advance of the <—
13 effective date of termination unless one or more of the
14 following circumstances ~~obtain~~ EXIST: <—

15 (i) The insured has made a material
16 misrepresentation which affects the insurability of the
17 risk, in which case the prescribed written notice of
18 cancellation shall be forwarded directly to the named
19 insured at least 15 days in advance of the effective date
20 of termination.

21 (ii) The insured has failed to pay a premium when
22 due, whether the premium is payable directly to the
23 company or its agents or indirectly under a premium
24 finance plan or extension of credit, in which case the
25 prescribed written notice of cancellation shall be
26 forwarded directly to the named insured at least 15 days
27 in advance of the effective date of termination.

28 (iii) The policy was canceled by the named insured,
29 in which case written notice of cancellation shall not be
30 required and coverage shall be terminated on the date

1 requested.

2 This paragraph does not restrict the insurer's right to
3 rescind an insurance policy ab initio upon discovery that the
4 policy has been obtained through fraudulent statements,
5 omissions or concealment of fact material to the acceptance
6 of the risk or to the hazard assumed by the company.

7 (4) The notice shall be clearly labeled "notice of
8 cancellation" or "notice of nonrenewal."

9 (5) The midterm cancellation or nonrenewal notice shall
10 state the specific reasons for the cancellation or
11 nonrenewal. The reasons shall identify the condition, factor
12 or loss experience which caused the midterm cancellation or
13 nonrenewal. The notice shall provide sufficient information
14 or data for the insured to correct the deficiency.

15 (6) The midterm cancellation or nonrenewal notice shall
16 state that, at the insured's request, the insurer shall
17 provide loss information to the insured for at least three
18 years or the period of time during which the insurer has
19 provided coverage, whichever is less. Loss information on the
20 insured shall consist of the following:

21 (i) Information on closed claims, including date and
22 description of occurrence, and amount of payments, if
23 any.

24 (ii) Information on open claims, including date and
25 description of occurrence, amount of payment, if any, and
26 amount of reserves, if any.

27 (iii) Information on notices of occurrence,
28 including date and description of occurrence and amount
29 of reserves, if any.

30 (7) The insured's written request for loss information

1 shall be made within ten days of the insured's receipt of the
2 midterm cancellation or nonrenewal notice. The insurer shall
3 provide the requested information within 30 days from the
4 date of receipt of the written request.

5 (b) Effective notice.--Until an insurer issues a nonrenewal
6 or cancellation notice that complies with this subchapter,
7 insurance coverage will remain in effect. However, if the
8 insured obtains replacement coverage, the noncomplying insurer's
9 obligation to continue coverage ceases.

10 § 5575.4. Return of unearned premium amounts.

11 (a) Cancellation initiated by insurer.--Unearned premium
12 amounts must be returned to the insured not later than ten
13 business days after the effective date of termination if
14 commercial property or casualty risks are canceled in midterm by
15 the insurer.

16 (b) Cancellation initiated by insured.--Unearned premium
17 amounts must be returned to the insured not later than 30 days
18 after the effective date of termination if commercial property
19 or casualty risks are canceled in midterm by the insured.

20 (c) Estimated basis.--If the amount of premium to be
21 returned cannot be calculated precisely within the time period
22 required under subsection (a) or (b) because the policy was
23 written on the basis of an estimated premium, or was issued
24 subject to a premium audit, unearned premium amounts shall be
25 returned to the insured on an estimated basis. Upon the
26 insurer's completion of computation of the exact premium amount
27 to be returned, an additional return of premium or a charge
28 shall be made to the named insured within 15 days of the final
29 computation.

30 (d) Applicability.--This section does not apply to policies

1 written on a retrospective rating plan.

2 § 5575.5. Extended reporting endorsement.

3 Insurers shall provide a 60-day period, after cancellation or
4 nonrenewal of a claims made policy is effective, during which
5 the insured may purchase an extended reporting coverage
6 endorsement, also referred to as tail coverage. If the insured
7 purchases the extended reporting coverage endorsement at any
8 time within this 60-day period, the extended reporting coverage
9 shall become effective as of the date the claims made policy
10 terminated.

11 § 5575.6. Policy form filings.

12 Policy form filings received by the department on or after
13 July 3, 1986, shall conform to the requirements of this chapter.

14 § 5575.7. Applicability.

15 (a) General rule.--This subchapter applies to insurance
16 policies, exclusive of reinsurance policies, covering commercial
17 property and casualty risks located in this Commonwealth.

18 (b) Partial exemption.--Workmen's compensation policies, and
19 medical malpractice policies subject to Chapter 71 (relating to
20 health care services malpractice), are not subject to the
21 cancellation provisions of this subchapter.

22 (c) Short term policies.--This chapter does not apply to
23 commercial property and casualty insurance policies that are in
24 effect less than 60 days, unless they are renewals. An insurer
25 may cancel the policy provided it gives at least 30 days' notice
26 of the termination and provided it gives notice not later than
27 the 60th day unless the policy provides for a longer period of
28 notification.

29 § 5575.8. Penalties.

30 Upon satisfactory evidence of a violation of this subchapter,

1 the department may pursue one or both of the following courses
2 of action:

3 (1) Order that the insurer cease and desist from the
4 violation.

5 (2) Impose a fine of not more than \$5,000 for each
6 violation.

7 § 5575.9. Rulemaking.

8 The department shall promulgate regulations necessary for the
9 administration of this subchapter.

10 SUBCHAPTER G

11 MISCELLANEOUS PROVISIONS

12 Sec.

13 5581. Companies providing boiler insurance.

14 5582. Boiler insurance in cities of the first class.

15 5583. Insurance consultation services exemption.

16 § 5581. Companies providing boiler insurance.

17 Domestic companies or companies doing business in this
18 Commonwealth with power to insure against loss by the explosion
19 of steam boilers may insure all loss or damage which the owner
20 or owners of the boiler, or their employees or other persons,
21 may suffer or be liable for in case of an explosion of the
22 boilers mentioned in any policy of insurance issued by the
23 company for the amount specified therein.

24 § 5582. Boiler insurance in cities of the first class.

25 (a) General rule.--Any steam boiler insurance company which
26 has complied with the law of this Commonwealth relative to
27 insurance companies shall be authorized to inspect and insure
28 boilers in all cities of the first class under this section.

29 (b) Interest in manufacture of steam boilers.--Neither the
30 insurance company nor its executive officers shall, directly or

1 indirectly, be interested in the manufacture or sale of steam
2 boilers or of any of the appliances connected with steam engines
3 and boilers.

4 (c) Oath of boiler inspectors.--The insurance company shall
5 employ skillful and competent persons for the inspection of
6 steam boilers who, before entering upon their duties, shall
7 swear that they will not accept for the performance of their
8 duties any money, gift, gratuity or consideration from any
9 person or persons, other than the insurance company which
10 employs them, and that they will not, directly or indirectly, be
11 interested in the manufacture or sale of steam boilers or of any
12 of the appliances connected with steam engines and boilers.

13 (d) Requirement of inspection.--A policy of insurance
14 described in subsection (a) shall not be for a longer period
15 than three years and shall not be effected until the boiler has
16 been inspected and tested, and its inspection, test, condition,
17 attachments and indicators have been found to conform to the
18 provisions of the city ordinances regarding the inspection of
19 steam engines and boilers. The details of this inspection, test,
20 attachments and indicators shall be furnished the city inspector
21 in the required form.

22 (e) Minimum premium.--A policy of insurance described in
23 subsection (a) shall not be valid unless the premium upon the
24 policy, including a fee paid to the city inspector under this
25 section, shall be at least one and one-half times the charges
26 prescribed by the city ordinance for the inspection of steam
27 boilers. The policy shall not be canceled or modified so that
28 the premium is less than the amount provided under this
29 subsection without notifying the city inspector immediately in
30 writing with the reasons therefor.

1 (f) Issuance of certificate of inspection.--Whenever the
2 insurance company inspects a boiler and issues a policy of
3 insurance covering it, the company shall issue a certificate of
4 inspection, which shall set forth that the inspection, tests,
5 attachments and indicators have been found to be in accordance
6 with the requirements of the city ordinances. The certificate
7 shall also state the pressure, in pounds, to which each boiler
8 has been subjected in testing, together with the amount of
9 pressure the user is authorized to carry within the boiler, in
10 accordance with the city ordinances. It shall further state that
11 the boiler inspected has been insured by the company, and that
12 the holder of the certificate is required to maintain it in a
13 conspicuous place near the boiler to which it refers.

14 (g) Cancellation of modification of policy.--If the
15 insurance company cancels a policy of insurance issued in
16 accordance with this section, or modifies the policy so that the
17 premium is less than the amount provided under subsection (e),
18 the cancellation or modification shall render the certificate of
19 inspection upon each boiler affected invalid, and notice of the
20 cancellation shall be communicated to the city inspector
21 immediately.

22 (h) Form and effect of certificate.--The inspector of steam
23 engines and boilers in cities of the first class shall furnish
24 all steam boiler insurance companies or their agents with
25 printed forms for recording the details of inspection, similar
26 to those furnished to his own assistants. The inspector shall
27 also furnish the companies with a form of certificate setting
28 forth that the premium upon the policy of insurance to be issued
29 in connection with the certificate of inspection equals or
30 exceeds the amount provided under subsection (e). He shall

1 record the forms and certificates as provided for in the city
2 ordinance and shall affix his signature and official seal to the
3 certificate of inspection of the insurance companies if the
4 inspection shows that the requirements of the city ordinances
5 relative to boiler inspections have been complied with, and that
6 the company has complied with this section. The inspector of
7 steam engines and boilers in any city of the first class shall
8 receive for such approval \$1 for each boiler, which shall be
9 paid into the city treasury, but the approval shall not be
10 effective for a longer period than one year from the date
11 thereof.

12 (i) Notice of withdrawal of certificate.--When the inspector
13 withholds or withdraws a certificate of inspection, by reason of
14 the incompetence or unreliability of the engineer, under this
15 section and the city ordinance for the inspection of steam
16 boilers, or whenever he considers the boiler unsafe, he shall
17 give the user of the boiler and the insurance company issuing
18 the policy thereon written notice thereof. The notice shall
19 contain a statement of the reasons for the action. The notice
20 shall be equivalent to the removal of the certificate. The
21 withdrawal of the certificate shall render void the policy of
22 insurance upon the boilers to which the certificate had
23 reference.

24 (j) Penalty.--Any inspector of an insurance company who aids
25 in procuring insurance of any stationary steam engine or boiler
26 which does not comply with the conditions, or stand the test
27 provided for in the ordinance of a city of the first class
28 relative to boiler inspection, or which is not provided with the
29 attachments and indicators required by the ordinance, or
30 knowingly permits insurance to continue upon any stationary

1 steam engine or boiler in a city of the first class not provided
2 with such attachments and indicators, commits a misdemeanor of
3 the second degree.

4 § 5583. Insurance consultation services exemption.

5 (a) Short title.--This section shall be known and may be
6 cited as the Insurance Consultation Services Exemption Act.

7 (b) Exemption from civil liability.--The furnishing, or
8 failure to furnish, insurance consultation services shall not
9 subject the insurer, its agents, employees or service
10 contractors to liability for damages from injury, death or loss
11 occurring as a result of any act or omission by any person in
12 the course of such services.

13 (c) Applicability.--This section does not apply:

14 (1) If the injury, loss or death occurred during the
15 actual performance of consultation services and was caused by
16 the negligence of the insurer, its agent, employees or
17 service contractors which was a proximate cause of the
18 injury, death or loss.

19 (2) To any consultation services required to be
20 performed under the provisions of a written service contract
21 not incidental to a policy of insurance.

22 (3) In any action against any insurer, its agents,
23 employees or service contractors for damages caused by the
24 act or omission of such persons in which it is judicially
25 determined that the act or omission constituted a crime or
26 was accompanied by actual malice or gross negligence.

27 (4) If the insurer fails to furnish the insured with
28 written notice of the provisions of this section. The notice
29 shall be provided the insured by the insurer at the time the
30 policy is issued or written and at each renewal thereof. The

manner in which the notice shall be given and its specific contents shall be approved by the department.

(5) To the immunities and protections provided by section 305 (relating to insurance of payment of compensation by employer) of the act of June 2, 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's Compensation Act.

(d) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Insurance consultation service." Any survey, consultation, inspection, advisory or related services performed by an insurer, its agents, employees or service contractors incident to an application for property or casualty insurance or a policy of such insurance for the purpose of reducing the likelihood of injury, death or loss.

"Insurer." Any authorized property or casualty insurance company.

CHAPTER 57

PENNSYLVANIA FAIR PLAN

Subchapter

- A. General Provisions
- B. Structure of Fair Plan
- C. Pennsylvania Civil Disorder Authority
- D. Basic Property Insurance Assessment

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

5701. Short title of chapter.

5702. Purposes of chapter.

5703. Definitions.

1 § 5701. Short title of chapter.

2 This chapter shall be known and may be cited as the
3 Pennsylvania Fair Plan Act.

4 § 5702. Purposes of chapter.

5 The purposes of this chapter are to:

6 (1) Encourage stability in the property insurance market
7 for property located in urban areas of this Commonwealth.

8 (2) Encourage maximum use in obtaining basic property
9 insurance of the normal insurance market provided by the
10 private property insurance industry.

11 (3) Encourage the improvement of the condition of
12 properties located in urban areas of this Commonwealth and to
13 further orderly community development generally.

14 (4) Provide for the formulation and administration by an
15 industry placement facility of a fair plan in order that no
16 property shall be denied basic property insurance through the
17 normal insurance market provided by the private property
18 insurance industry except after a physical inspection of the
19 property and a fair evaluation of its individual underwriting
20 characteristics.

21 (5) Publicize the purposes and procedures of the fair
22 plan so that no one may fail to seek its assistance through
23 ignorance thereof.

24 (6) Provide for the formulation and administration by
25 the industry placement facility of a reinsurance arrangement
26 whereby property insurers shall share equitably the
27 responsibility for insuring insurable property for which
28 basic property insurance cannot be obtained through the
29 normal insurance market.

30 (7) Provide a framework for participation by the

1 Commonwealth in a sharing of insured losses resulting from
2 riots and other civil disorders occurring in this
3 Commonwealth through the formation of a Pennsylvania Civil
4 Disorder Authority, in order that insurance companies doing
5 business in this Commonwealth may qualify for Federal
6 reinsurance of such losses if Federal legislation providing
7 for reinsurance is enacted.

8 § 5703. Definitions.

9 The following words and phrases when used in this chapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Basic property insurance." Insurance against direct loss to
13 real or tangible personal property at a fixed location caused by
14 perils defined and limited in the standard fire policy
15 prescribed in section 5906 (relating to provisions of fire
16 insurance policies) and in the extended coverage endorsement
17 approved by the department under section 3515 (relating to
18 approval of contracts by department) and vandalism, malicious
19 mischief, burglary, theft or other classes of insurance as are
20 determined by the industry placement facility with the approval
21 of the department. The term does not include insurance on a
22 motor vehicle or farm or such manufacturing risks as are
23 excluded by the department.

24 "Fair plan." A plan formulated by the industry placement
25 facility under the authority of this chapter for the purposes
26 set forth in SECTION 5711(b) (relating to industry placement
27 facility).

28 "Federal reinsurance facility." Any agency, or
29 instrumentality thereof, or any body corporate created by the
30 Federal Government for the purpose of providing reinsurance for

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1 losses resulting from riots and other civil disorders.

2 "Government." The Federal Government and the government of
3 the Commonwealth, or any agency or instrumentality, corporate or
4 otherwise, of either of them.

5 "Inspection bureau." The organization or organizations
6 designated by the industry placement facility with the approval
7 of the department to inspect and to determine the condition of
8 the properties for which basic property insurance is sought.

9 "Insurer." Any insurance company or group of companies under
10 common ownership which is authorized to engage in the insurance
11 business under the law of any state, including any pool or
12 association of insurance companies formed, associated or
13 otherwise created for the purpose of sharing risks written in
14 accordance with this chapter.

15 "Premiums written." Gross direct premiums charged on all
16 policies of basic property insurance and the basic property
17 insurance components of all multiple peril policies covering
18 property in this Commonwealth, less all premiums and dividends
19 returned to policyholders and the unused or unabsorbed portions
20 of premium deposits.

21 "Urban area." Any municipal corporation having a blighted,
22 deteriorated or deteriorating area which the Secretary of the
23 Federal Department of Housing and Urban Development has approved
24 as eligible for an urban renewal project or which has been
25 designated as an urban area by the industry placement facility
26 with the approval of the department.

27 SUBCHAPTER B

28 STRUCTURE OF FAIR PLAN

29 Sec.

30 5711. Industry placement facility.

1 5712. Fair plan.
2 5713. Distribution of risks.
3 5714. Uninsurable risks.
4 5715. Regulation by department.
5 5716. Annual and other statements.
6 5717. Privileged communications.
7 5718. Review.
8 § 5711. Industry placement facility.

9 (a) Membership.--Each insurer which is authorized to write
10 and is engaged in writing in this Commonwealth, on a direct
11 basis, basic property insurance or any component thereof
12 contained in a multiple peril policy, including homeowners and
13 commercial multiple peril policies, shall participate in the
14 industry placement facility as a condition of its authority to
15 write those kinds of insurance in this Commonwealth. Other
16 insurers may become members if they are eligible surplus lines
17 insurers under section 1307 (relating to eligible surplus lines
18 insurers).

19 (b) Purposes.--The purposes of the facility shall be to:

20 (1) Formulate and administer, subject to the approval of
21 the department, a plan to be known as the fair plan assuring
22 fair access to insurance requirements in order that no
23 property in urban areas shall be denied basic property
24 insurance through the normal insurance market provided by the
25 private property insurance industry, except after a physical
26 inspection of the property and a fair evaluation of its
27 individual underwriting characteristics.

28 (2) Formulate and administer, subject to the approval of
29 the department, a reinsurance arrangement whereby the members
30 of the facility shall share equitably the responsibility for

1 insuring property in urban areas which is insurable, but for
2 which basic property insurance cannot be obtained through the
3 normal insurance market.

4 (c) Plan of operation.--The industry placement facility
5 shall operate under a plan of operation of the facility,
6 consistent with the provisions of this chapter and the purposes
7 of the facility, which shall provide for the fair plan, the
8 reinsurance arrangement and the economical and efficient
9 administration of the facility, including, but not limited to,
10 management of the facility, preliminary assessment of all
11 members for initial expenses necessary to commence operations,
12 establishment of necessary facilities in this Commonwealth,
13 assessment of members to defray losses and expenses, commission
14 arrangements, reasonable underwriting standards and limits of
15 liability, acceptance and cession of reinsurance and procedures
16 for determining amounts of insurance to be provided. The plan of
17 operation shall be the plan approved by the department under the
18 former section 201(c) (relating to industry placement facility)
19 of the act of July 31, 1968 (P.L.738, No. 233), known as the
20 Pennsylvania Fair Plan Act or under subsection (d).

21 (d) Amendment of plan of operation.--At the direction of the
22 department, the facility shall amend the plan of operation, and
23 the facility may amend the plan of operation on its own
24 initiative subject to the prior approval of the department.

25 (e) Organization of facility.--The facility shall be
26 governed by a board of seven directors elected annually by the
27 members of the facility. Each member of the facility shall be
28 allotted votes bearing the same ratio to the total number of
29 votes to be cast as its degree of participation in the facility
30 bears to the total participation. Pending the determination of

1 the degree of participation of the members in the facility, each
2 member of the facility shall be allotted votes bearing the same
3 ratio to the total number of votes to be cast as each member's
4 written premium on basic property insurance during calendar year
5 1967 bears to the statewide total written premium for basic
6 property insurance during that year. The first board shall be
7 elected at a meeting of the members or their authorized
8 representatives. Any vacancy on the board shall be filled by a
9 vote of the other directors. If at any time the members fail to
10 elect the required number of directors or a vacancy remains
11 unfilled for more than 15 days, the commissioner may appoint the
12 directors necessary to constitute a full board.

13 (f) Participation.--All members of the facility shall
14 participate in its expenses and in its profits and losses, or in
15 such categories thereof as may be separately established by the
16 facility, in the proportion that the premiums written by each
17 such member during the second preceding calendar year bear to
18 the aggregate premiums written in this Commonwealth by all
19 members of the facility. For the purposes of computing the
20 proportion of participation, the "premiums written" shall not
21 include the premiums attributable to the reinsurance arrangement
22 maintained by the facility. Participation by each member in the
23 facility shall be determined annually by the facility on the
24 basis of the premiums written during the second preceding
25 calendar year as disclosed in the annual statements and other
26 reports filed by the member with the department.

27 (g) Termination of Federal reinsurance facility.--Policies
28 issued pursuant to the direction of and other obligations
29 incurred by the industry placement facility shall not be
30 impaired by the termination of the Federal reinsurance facility,

1 and the industry placement facility shall continue for the
2 purpose of servicing these policies and performing these
3 obligations.

4 § 5712. Fair plan.

5 The fair plan shall provide as follows:

6 (1) Any person having an insurable interest in real or
7 tangible personal property at a fixed location in an urban
8 area, his representative, an insurance agent or broker or an
9 insurer may request the facility for an inspection of the
10 property by representatives of the inspection bureau, such
11 inspection to be without cost to the applicant for insurance.
12 The request for such inspection need not be made in writing.
13 The risk shall not be written at surcharged rates or be
14 denied insurance coverage for basic property insurance by an
15 insurer unless such an inspection has first been made.

16 (2) The plan of operation of the inspection bureau, the
17 manner and scope of the inspection and the form of the
18 inspection report, which shall include, but need not be
19 limited to, pertinent structural and occupancy features as
20 well as the general condition of the building and surrounding
21 structures, shall be prescribed by the industry placement
22 facility subject to the approval of the department.

23 (3) Promptly after the request for inspection is
24 received by the facility, if no policy has been issued, the
25 inspection shall be made and a written inspection report
26 prepared and filed with any insurer designated by the
27 applicant and filed with the facility. A copy of the
28 inspection report shall be made available to the applicant or
29 his representative upon request. If no insurer has been
30 designated by the applicant, the facility shall proceed as

1 provided in paragraph (9).

2 (4) After the inspection report is received by an
3 insurer, it shall promptly determine if the risk meets
4 reasonable underwriting standards at the applicable premium
5 rate, including approved surcharges for physical
6 characteristics, and shall promptly return to the industry
7 placement facility the inspection report and provide an
8 action report, both of which shall be kept on file with the
9 facility. The action report shall set forth:

10 (i) the amount of coverage it agrees to write and,
11 if the insurer agrees to write the coverage with an
12 approved surcharge, the improvements necessary before it
13 will provide coverage at an unsurcharged premium rate;

14 (ii) the amount of coverage it agrees to write if
15 certain improvements to the property specified in the
16 action report are made; or

17 (iii) the specific reasons for which it declines to
18 write coverage.

19 (5) If the insurer declines the risk or agrees to write
20 it on condition that the property be improved as specified,
21 the insurer shall, at the time of returning the inspection
22 and action reports to the facility, send a copy of both
23 reports to the applicant for insurance. The insurer shall
24 advise the applicant at the time of sending the reports to
25 him of his right to appeal the determination to the
26 department and shall advise the applicant of the means by
27 which to initiate an appeal.

28 (6) The inspection bureau shall submit to the department
29 periodic reports setting forth information by individual
30 insurers, including the number of risks inspected under the

1 plan, the number of risks accepted, the number of risks
2 conditionally accepted and reinspections made, the number of
3 risks declined and such other information as the department
4 may request.

5 (7) All policies written pursuant to the fair plan shall
6 be promptly written after inspection or reinspection and
7 shall be separately coded so that appropriate records may be
8 compiled for purposes of ratemaking and performing loss
9 prevention and other studies of the operation of the fair
10 plan.

11 (8) If any single insurer will underwrite only a portion
12 of the full insurable value of the property, the industry
13 placement facility shall assist the owner and his agent or
14 broker in obtaining the remaining coverage from other members
15 of the facility, except to the extent that deductibles,
16 percentage participation clauses and other accepted
17 underwriting devices are needed to meet special problems of
18 insurability.

19 (9) If no insurer to which an inspection report has been
20 forwarded pursuant to paragraph (3) agrees promptly to
21 provide basic property insurance for the property in
22 question, or if no insurer has been designated by the
23 applicant, the facility shall take appropriate action to
24 ascertain whether any member of the facility will provide
25 basic property insurance for the subject property at the
26 applicable premium rate, including approved surcharges for
27 physical characteristics.

28 (10) An insurer shall not direct any agent or broker or
29 other producer to avoid soliciting business through the fair
30 plan, and an agent, broker or other producer shall not be

1 penalized by an insurer for submitting applications for
2 insurance to it under the fair plan.

3 (11) Records of insurance procured under the fair plan
4 shall be maintained separately from other records of an
5 agent's or broker's business conducted with an insurer.

6 (12) Written notice will be given to any policyholder at
7 least 20 days prior to the cancellation or nonrenewal of any
8 risk eligible under the fair plan, except in the case of
9 nonpayment of premium or evidence of incendiarism, and the
10 insurer shall, in the notice of cancellation or nonrenewal,
11 explain to the policyholder the procedures for obtaining an
12 inspection under the plan.

13 (13) An agent or broker shall not be permitted to refuse
14 an application for basic property insurance within an urban
15 area if he is licensed to write and is actively engaged in
16 writing such insurance.

17 (14) A cooperative and continuing public education
18 program shall be undertaken by the department, the industry
19 placement facility and the members of the facility to assure
20 that the fair plan is given adequate publicity.

21 § 5713. Distribution of risks.

22 (a) Powers of facility.--The facility shall have the
23 following powers, on behalf of its members:

24 (1) To direct one or more of its members to issue
25 policies of basic property insurance to applicants.

26 (2) To assume reinsurance from its members.

27 (3) To cede reinsurance.

28 (b) Ceding of coverage.--Any member of the facility may cede
29 to the facility basic property insurance covering property in
30 urban areas to the extent and on the terms and conditions set

1 forth in the plan of operation of the facility.

2 (c) Determination by facility.--If the facility has been
3 unable to obtain basic property insurance for any property
4 through the voluntary action of its members pursuant to section
5 5712 (relating to fair plan), it shall promptly determine
6 whether the property is insurable and whether there is any
7 unpaid premium due from the applicant for prior insurance on the
8 property. Any hazardous environmental condition that might give
9 rise to loss under an insurance contract but which is beyond the
10 control of the property owners shall not be considered by the
11 facility in determining insurability. If the facility determines
12 that the property is insurable and that no unpaid premium is
13 due, it shall promptly cause one or more of its members to issue
14 a policy or policies of basic property insurance at the
15 applicable premium rate, including approved surcharges for
16 physical characteristics, in the full insurable value of the
17 property, for a term of one year, subject to total reinsurance
18 of the risk by the facility.

19 § 5714. Uninsurable risks.

20 If the facility finds that the property is not insurable, it
21 shall promptly supply to the applicant a written statement
22 setting forth the features or conditions of the property which
23 prevent it from constituting an insurable risk and the actions,
24 if any, which would make the property an insurable risk.

25 § 5715. Regulation by department.

26 THE DEPARTMENT MAY PROMULGATE REGULATIONS TO ASSURE THE
27 SUCCESSFUL OPERATION OF THE INDUSTRY PLACEMENT FACILITY,
28 INCLUDING THE FAIR PLAN, AND AS MAY BE NECESSARY FOR THE
29 ADMINISTRATION OF THIS CHAPTER. The operation of the inspection
30 bureau and the ~~industry placement~~ facility shall at all times be

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1 subject to the supervision and regulation of the department. The
2 department, or any person designated by it, shall have the power
3 of visitation of and examination into such operations at any
4 time in the discretion of the department. In connection
5 therewith, the department shall have the powers granted it by
6 section 512 (relating to powers with regard to examinations) and
7 the expenses of the examination shall be borne and paid as
8 provided in section 512.

9 § 5716. Annual and other statements.

10 The inspection bureau and the industry placement facility
11 shall each file with the department annually on or before March
12 1 a statement which shall contain information with respect to
13 its transactions, condition, operations and affairs during the
14 preceding year. This statement shall contain the information
15 prescribed by the department and shall be in the form approved
16 by it. The department may at any time require the bureau or
17 facility to furnish it with additional information with respect
18 to its transactions, condition, operations and affairs or any
19 matter connected therewith which it considers to be material and
20 which will assist it in evaluating their scope, operation and
21 experience.

22 § 5717. Privileged communications.

23 There shall be no liability on the part of, and no cause of
24 action shall arise against, insurers, the inspection bureau, the
25 industry placement facility, their agents or employees, or the
26 department or its authorized representatives, for any statements
27 made in good faith by them in any reports or communications
28 concerning the property to be insured, or in the course of any
29 hearings conducted in connection therewith, or in the findings
30 required by the provisions of this subchapter. The inspection

1 reports and communications of the inspection bureau and the
2 industry placement facility shall not be considered public
3 documents.

4 § 5718. Review.

5 Any applicant for insurance and any affected insurer may
6 appeal to the department within 30 days after any ruling, action
7 or decision by or on behalf of the inspection bureau or industry
8 placement facility. After a hearing upon not less than ten days'
9 written notice to the aggrieved person and the bureau or
10 facility, the department shall issue an order approving the
11 action or decision appealed from, disapproving such action or
12 decision or directing the bureau or facility to give further
13 consideration to the matter. All hearings, orders and decisions
14 of the department pursuant to this subchapter shall be subject
15 to Title 2 (relating to administrative law and procedure).

16 SUBCHAPTER C

17 PENNSYLVANIA CIVIL DISORDER AUTHORITY

18 Sec.

19 5721. Formation of authority.

20 5722. Board of directors.

21 5723. Powers of authority.

22 5724. Civil Disorder Authority Fund.

23 5725. Reimbursement payments to Federal reinsurance facility.

24 5726. Bonds of authority.

25 5727. Remedies of bondholder.

26 § 5721. Formation of authority.

27 In order to make available to insurers which participate in
28 the industry placement facility, the reinsurance afforded by the
29 Federal reinsurance facility against losses resulting from riots
30 and civil disorders, there shall be a separate and distinct body

1 corporate and politic which shall be known as the Pennsylvania
2 Civil Disorder Authority. The authority shall be an
3 instrumentality of the Commonwealth, and the exercise by the
4 authority of the powers conferred by this subchapter shall be
5 deemed an essential governmental function of the Commonwealth.
6 Bonds issued and other obligations incurred by the Pennsylvania
7 Civil Disorder Authority shall not be impaired by the
8 termination of the Federal reinsurance facility, and the
9 authority shall continue for the purpose of servicing these
10 bonds and performing these obligations.

11 § 5722. Board of directors.

12 (a) Composition.--The powers of the authority shall be
13 exercised by a board of directors composed of the Attorney
14 General, the Secretary of Revenue, the General Counsel and the
15 commissioner, who shall select from among themselves a chairman
16 and a vice chairman. The State Treasurer shall be the treasurer
17 of the authority.

18 (b) Bonds and obligations.--The members of the board shall
19 not be liable personally on the bonds or other obligations of
20 the authority, and the rights of creditors shall be solely
21 against the authority.

22 (c) Compensation and expenses.--The members of the board
23 shall receive no compensation for their services as members but
24 shall be entitled to reimbursement for all necessary expenses
25 incurred in connection with the performance of their duties as
26 members.

27 (d) Agents and employees.--The authority may employ a
28 secretary, an executive director, its own counsel and legal
29 staff and such technical experts and other agents and employees,
30 permanent or temporary, as it may require, and may determine the

1 qualifications and fix the compensation of such persons. The
2 authority may delegate to one or more of its agents or employees
3 such of its powers as it deems necessary to carry out the
4 purposes of this chapter, subject to its supervision and
5 control.

6 § 5723. Powers of authority.

7 The authority shall exercise public powers of the
8 Commonwealth as an agency thereof, including the following
9 powers in addition to those otherwise granted in this chapter:

10 (1) To cooperate with any government or municipality.

11 (2) To act as agent of any government agency for the
12 public purposes set out in this chapter.

13 (3) To borrow funds from private lenders or from the
14 Commonwealth or the Federal Government, as may be necessary
15 for the operation and work of the authority, and to carry out
16 the purposes and provisions of this chapter.

17 (4) To invest any funds held in reserves or sinking
18 funds or any funds not required for immediate disbursement,
19 in such investments as may be lawful for executors,
20 administrators, guardians, trustees and other fiduciaries
21 under the law of this Commonwealth.

22 (5) To sue and be sued.

23 (6) To adopt a seal and to alter the same at pleasure.

24 (7) To make and execute contracts and other instruments
25 necessary or convenient to the exercise of the powers of the
26 authority. Any contract or instrument when signed by the
27 chairman or vice chairman of the authority and by the
28 secretary or assistant secretary or treasurer or assistant
29 treasurer of the authority, or by an authorized use of their
30 facsimile signatures, shall be deemed properly executed for

1 and on its behalf.

2 (8) To make, amend and repeal bylaws, rules, regulations
3 and resolutions.

4 (9) To do all acts and things necessary or convenient to
5 carry out the powers granted to it by law, except that the
6 authority shall have no power to pledge the credit or taxing
7 power of the Commonwealth, nor shall any of its obligations
8 be deemed to be obligations of the Commonwealth.

9 § 5724. Civil Disorder Authority Fund.

10 (a) Purpose of fund.--The authority shall establish a Civil
11 Disorder Authority Fund which shall be available without fiscal
12 year limitation for the following purposes:

13 (1) To make such payments as may, from time to time, be
14 required by the Federal reinsurance facility.

15 (2) To pay proper administrative expenses of the
16 authority.

17 (3) To repay the obligations of the authority, including
18 interest thereon, incurred by the authority pursuant to the
19 provisions of this subchapter.

20 (b) Sources of revenue.--The fund shall be credited with:

21 (1) Such amounts as may be advanced to the fund from
22 whatever source in order to maintain the fund in a solvent
23 condition and able to satisfy its obligations.

24 (2) Interest which may be earned on investments of the
25 fund.

26 (3) Moneys borrowed by the authority and deposited in
27 the fund.

28 (4) Receipts from any other source which may, from time
29 to time, be credited to the fund.

30 (c) Deposits.--All moneys of the fund, from whatever source

1 derived, shall be paid to the treasurer of the authority and
2 deposited by him in one or more banks or trust companies, in one
3 or more special accounts. Each of the special accounts shall be
4 continuously secured by a pledge of direct obligations of the
5 United States or of the Commonwealth, having an aggregate market
6 value, exclusive of accrued interest, at all times at least
7 equal to the balance on deposit in the account. The securities
8 shall either be deposited with the treasurer or be held by a
9 trustee or agent satisfactory to the authority. All banks and
10 trust companies are authorized to give security for these
11 deposits. The moneys in these accounts shall be paid out on the
12 warrant or other order of the treasurer of the authority or of
13 such other person or persons as it may authorize to execute such
14 warrants or orders.

15 (d) Examination of records.--The Department of Revenue and
16 the Auditor General and their legally authorized representatives
17 may from time to time examine the accounts and books of the
18 authority and any other matters relating to its finances,
19 operations and affairs.

20 § 5725. Reimbursement payments to Federal reinsurance facility.

21 (a) Authority to pay.--Payments under section 5724(a)(1)
22 (relating to Civil Disorder Authority Fund) shall be made only
23 upon direction of the State Treasurer and after receipt by him
24 of a claim from the Federal reinsurance facility. Prior to
25 making the payment, the authority shall make such investigation
26 as it deems appropriate in order to verify the correctness of
27 the claim made by the Federal reinsurance facility.

28 (b) Limitation on amount.--The total amount of any such
29 payments made during any calendar year shall not exceed 5% of
30 the aggregate property insurance premiums earned in this

1 Commonwealth during the preceding calendar year on those lines
2 of insurance reinsured by the Federal reinsurance facility in
3 this Commonwealth during the current year.

4 § 5726. Bonds of authority.

5 (a) Determination of amount.--Within 30 days following
6 receipt of a direction from the State Treasurer to make payment
7 of a claim to the Federal reinsurance facility, the authority
8 shall make an offer to sell bonds. The aggregate principal
9 amount of these bonds shall be adequate to pay the total amount
10 of the claim received from the Federal reinsurance facility,
11 subject to the limitation contained in section 5725(b) (relating
12 to reimbursement payments to Federal reinsurance facility), plus
13 the reasonable expenses of the sale, due consideration having
14 been first given to the moneys in the fund and available for
15 payment of the claim of the Federal reinsurance facility.

16 (b) Disposition of proceeds.--The proceeds of the sale of
17 such bonds shall be paid into the fund and shall be used to
18 satisfy the claim of the Federal reinsurance facility which
19 occasioned the sale of the bonds. Any amount remaining after
20 satisfaction of the claim shall be held in the fund and may be
21 used for any of the purposes set forth in section 5724 (relating
22 to Civil Disorder Authority Fund).

23 (c) Form and delivery.--The bonds of the authority shall be
24 authorized by resolution of the board or by and pursuant to an
25 indenture of trust and shall be of the series, bear the date or
26 dates, be stated to mature at the time or times, not exceeding
27 30 years from their respective dates, be issued as serial or
28 term bonds, or as part serial and part term bonds, or any
29 combination thereof, or as a single bond payable in
30 installments, bear interest payable annually, semiannually or

1 quarterly, be in the denominations, be in the form, either as
2 negotiable commercial paper, or as investment securities in
3 bearer or registered form, carry the registration,
4 exchangeability and interchangeability privileges, be payable in
5 the medium of payment and at the place or places, be subject to
6 the terms of redemption at the prices not exceeding 106% of the
7 principal amount thereof, and be entitled to the priorities in
8 the revenues or receipts of authority as the resolution or
9 indenture may provide. The bonds shall be signed manually or by
10 facsimile by such officers as the authority shall determine, and
11 coupon bonds shall have attached thereto interest coupons
12 bearing the facsimile signature of the treasurer of the
13 authority, as may be prescribed in the resolution or indenture.
14 A bond shall not be issued or delivered without at least one
15 manual signature, which may be that of an officer of the fiscal
16 agent or of the trustee under the resolution or indenture. The
17 bonds may be issued and delivered notwithstanding that one or
18 more of the officers signing the bonds, or the treasurer whose
19 facsimile signature is upon the coupons or any thereof, has
20 ceased to hold the office when the bonds are delivered.

21 (d) Additional terms.--Any resolution or indenture
22 authorizing any bonds may contain provisions which shall be part
23 of the contract with the bondholders as to:

24 (1) Pledge of the full faith and credit of the
25 authority, but not of the Commonwealth or any political
26 subdivision thereof, for the bonds or restricting the same to
27 all or any of the revenues or receipts of the authority.

28 (2) The terms of the bonds.

29 (3) The setting aside of reserves or sinking funds and
30 the regulation and disposition thereof.

1 (4) Any terms for the security of the bonds or under
2 which the bonds may be issued.

3 (5) Any other or additional agreements with the holder
4 of the bonds.

5 (e) Sale.--The bonds shall be sold to the highest
6 responsible bidders proposing the lowest net interest cost to
7 the authority, determined by computing the interest on the bonds
8 to their stated maturity dates and adding the discount or
9 subtracting the premium specified in the bid. There shall be
10 public notice of the sale by two advertisements in not less than
11 three nor more than five newspapers of large general circulation
12 in different parts of this Commonwealth, the first advertisement
13 to be published not less than 20 days and the second not less
14 than five days before the day fixed for the opening of bids. The
15 advertisement of sale shall contain a general description of the
16 bonds, the manner, place and time of the sale, or the time limit
17 for the receipt of proposals, the name of the officer to whom,
18 or to whose designee, bids or proposals shall be delivered and a
19 statement of the terms and conditions of sale. The bonds may be
20 sold to the State Employees' Retirement Board, or to any other
21 custodial board or fund, or to the State Employees' Retirement
22 Fund, or by private placement with a group of not more than 25
23 ultimate investors who purchase for investment and not with a
24 view to distribution, without advertisement or competitive
25 bidding. Bonds shall not be sold if the net interest cost,
26 computed to stated maturity dates of the bonds, of the money
27 received for any issue of the bonds exceeds 6% a year. Pending
28 the preparation of the definitive bonds, interim receipts or
29 temporary bonds may be issued to the purchasers of the bonds and
30 may contain such terms and conditions as the authority may

1 determine.

2 (f) Agreements.--The authority may enter into any indentures
3 of trust or other agreements with any bank or trust company or
4 other person in the United States having power to enter into
5 such agreements, or may designate any such person as fiscal
6 agent under a bond resolution, in order to provide for the
7 security for such bonds, and may assign and pledge all or any of
8 its revenues or receipts thereunder. The indenture, resolution
9 or other agreement may contain such provisions as may be
10 customary in such instruments or as the authority may authorize,
11 including provisions as to:

12 (1) The application of funds and the safeguarding of
13 funds on hand, invested or on deposit.

14 (2) The rights and remedies of the trustees or fiscal
15 agent and the bondholders (which may include restrictions
16 upon the individual right of action of the bondholders).

17 (3) The terms and provisions of the bonds or the
18 resolutions or indentures authorizing their issuance.

19 § 5727. Remedies of bondholder.

20 (a) Remedies cumulative.--The rights and the remedies
21 conferred by this section upon or granted to the bondholders
22 shall be in addition to and not in limitation of any rights and
23 remedies lawfully granted to the bondholders by the resolution
24 or indenture providing for the issuance of bond.

25 (b) Appointment of trustee.--If the authority:

26 (1) defaults in the payment of the interest on any of
27 the bonds after it becomes due and the default continues for
28 30 days;

29 (2) defaults in the payment of principal after it
30 becomes due whether at maturity or upon any unrevoked call

1 for redemption;

2 (3) fails or refuses to comply with the provisions of
3 this chapter; or

4 (4) defaults in any agreement made with the holders of
5 the bonds;

6 the holders of 25% in aggregate principal amount of bonds then
7 outstanding under the indenture or bond resolution involved, by
8 instrument or instruments filed in the office of the Recorder of
9 Deeds of the County of Dauphin and proved or acknowledged in the
10 same manner as a deed to be recorded may, except as this right
11 is limited under any such indenture or other agreement, appoint
12 a trustee to represent the bondholders for the purposes provided
13 in this section.

14 (c) Powers of trustee.--The trustee or any trustee under an
15 indenture or the fiscal agent under resolution or other
16 agreement may, and upon written request of the holders of 25% in
17 principal amount of the bonds outstanding under the authorizing
18 indenture or resolution, or other percentage specified in any
19 resolution, indenture or other agreement, shall, in his or its
20 own name:

21 (1) by mandamus or other action or proceeding at law or
22 in equity, enforce all rights of the bondholders, including
23 the right to require the authority to carry out any agreement
24 as to, or pledge of, the revenues or receipts of the
25 authority and to require the authority to carry out any other
26 agreements with, or for the benefit of, the bondholders, and
27 to perform its duties under this chapter;

28 (2) bring suit upon the bonds;

29 (3) by action or suit in equity, require the authority
30 to account as if it were the trustees of an express trust for

1 the bondholders; or enjoin any acts or things which may be
2 unlawful or in violation of the rights of the bondholders; or

3 (4) by notice in writing to the authority, declare all
4 bonds due and payable and, if all defaults shall be made
5 good, then with the consent of the holders of 25% of the
6 principal amount of the bonds then outstanding, or other
7 percentage specified in any indenture, resolution or other
8 agreement aforesaid, annul the declaration and its
9 consequences.

10 SUBCHAPTER D

11 BASIC PROPERTY INSURANCE ASSESSMENT

12 Sec.

13 5731. Levy and amount of assessment.

14 5732. Payments to Pennsylvania Civil Disorder Authority.

15 5733. Reports and statements.

16 5734. Duration of assessment.

17 § 5731. Levy and amount of assessment.

18 In order to provide for the payment of the principal of and
19 interest on bonds of the authority, issued pursuant to section
20 5726 (relating to bonds of authority), an assessment shall be
21 levied on each insurer which is a member of the industry
22 placement facility. The amount of the assessment shall be 2% of
23 the aggregate gross premiums received by the insurer for
24 policies of basic property insurance or any component thereof,
25 including homeowners and commercial multiple peril policies,
26 written in this Commonwealth.

27 § 5732. Payments to Pennsylvania Civil Disorder Authority.

28 Every insurer shall, on or before April 15 of each year,
29 compute and pay to the treasurer of the Pennsylvania Civil
30 Disorder Authority the aggregate assessments due upon the gross

1 premiums received by it for basic property insurance written in
2 this Commonwealth during the calendar year immediately preceding
3 the payment date. The aggregate assessments shall bear interest
4 at the rate of 6% a year from the date due and payable to the
5 authority until payment is made.

6 § 5733. Reports and statements.

7 The department may at any time require any insurer to furnish
8 it with such information as it, in its discretion, deems
9 necessary in order to determine whether or not the insurer is
10 complying with this subchapter.

11 § 5734. Duration of assessment.

12 The assessment provided for under this subchapter shall be
13 collectible on all policies of basic property insurance or any
14 component thereof, including homeowners and commercial multiple
15 peril policies, written on and after the 30th day following
16 issuance by the authority of its bonds under section 5726
17 (relating to bonds of authority). The assessment shall remain in
18 full force and effect until all bonds issued by the Pennsylvania
19 Civil Disorder Authority have been retired, and shall thereafter
20 terminate at such time and upon such terms and conditions as
21 shall be specified by the board of the authority.

22 CHAPTER 59

23 FIRE AND MARINE INSURANCE

24 Subchapter

25 A. Insurers Generally

26 B. Stock Companies

27 C. Mutual Companies

28 SUBCHAPTER A

29 INSURERS GENERALLY

30 Sec.

1 5901. Resident agents for foreign or alien insurance entities.

2 5902. Examination of foreign or alien entities by department.

3 5903. Annual returns.

4 5904. Penalties and revocation of license.

5 5905. Reports of fires to Bureau of Fire Protection.

6 5906. Provisions of fire insurance policies.

7 5907. Penalties for issuing other than standard fire policies.

8 § 5901. Resident agents for foreign or alien insurance
9 entities.

10 (a) General rule.--An authorized foreign or alien stock or
11 mutual fire insurance entity authorized to transact business in
12 this Commonwealth shall not make, write or place, or cause to be
13 made, written or placed, any policy, duplicate policy, contract
14 of insurance or general or floating policy upon property located
15 in this Commonwealth except after the risk has been approved in
16 writing by an agent, who is a resident of or whose principal
17 place of business is in this Commonwealth and who is licensed to
18 transact insurance business in this Commonwealth. The agent
19 shall countersign all policies so issued and receive the
20 commission thereon when the premium is paid, so that the
21 Commonwealth may receive the taxes required to be paid on the
22 premiums collected for insurance on all property located in this
23 Commonwealth.

24 (b) Policies written at principal office.--The entity may
25 issue policies at its principal or department offices covering
26 property in this Commonwealth, if these policies are issued upon
27 applications procured and submitted to the entity by agents who
28 are residents of this Commonwealth and licensed to transact the
29 business of insurance in this Commonwealth, and who shall
30 receive the commission thereon when paid.

1 (c) Exclusions.--This section does not apply to direct
2 insurance covering the rolling stock of railroad corporations,
3 or property in transit while in the possession and custody of
4 railroad corporations or other common carriers nor to the
5 property of such common carriers used or employed by them in
6 their business as common carriers of freight, merchandise or
7 passengers, nor in the case of bid bonds issued in connection
8 with public or private contracts. Except as to payment of taxes,
9 this section does not apply to authorized foreign or alien
10 insurance exchanges maintaining no office in this Commonwealth
11 and paying no commissions to agents or representatives in this
12 Commonwealth.

13 § 5902. Examination of foreign or alien entities by department.

14 Whenever the department has information that any foreign or
15 alien insurance entity has violated section 5901 (relating to
16 resident agents for foreign or alien insurance entities), it
17 may, at the expense of the entity, examine all books, records
18 and papers of the entity and examine the officers, managers and
19 agents of the entity under oath as to any violation. The
20 examination may take place at the principal office or offices of
21 the entity located in the United States or in any foreign
22 country and at its other offices or agencies. The refusal of any
23 entity to submit to examination shall be presumptive evidence
24 that it has violated section 5901 and shall subject it to the
25 penalties prescribed and imposed by section 5904 (relating to
26 penalties and revocation of license).

27 § 5903. Annual returns.

28 Every foreign or alien stock and mutual fire insurance entity
29 shall, annually and at such other times as the department
30 requires, make a return to the department, in such form and

1 detail as shall be prescribed by it, of all insurance,
2 reinsurance or cessions of risks or liability contracted for or
3 effected by it, whether by issue of policy, entry on bordereau,
4 general participation agreement, excess loss reinsurance or any
5 other manner upon property located in this Commonwealth, or
6 covering any risk or liability upon property so located. The
7 return shall be certified:

8 (1) if a foreign entity, by the oath of its president
9 and secretary or attorney; or

10 (2) if an alien company or association, by the oath of
11 its managers in the United States, as to the reinsurance or
12 cessions effected through its branch office in the United
13 States, and by the oath of its president and secretary or by
14 officers corresponding thereto at its home office, as to
15 reinsurance or cessions as aforesaid contracted for or
16 effected through any office in a foreign county.

17 The refusal of any such entity to make the returns required
18 under this section shall be presumptive evidence that it is
19 guilty of violating section 5901 (relating to resident agents
20 for foreign or alien insurance entities) and shall subject it to
21 the penalties under section 5904 (relating to penalties and
22 revocation of license).

23 § 5904. Penalties and revocation of license.

24 (a) Penalty.--Any foreign or alien stock or mutual fire
25 insurance entity violating section 5901 (relating to resident
26 agents for foreign or alien insurance entities), 5902 (relating
27 to examination of foreign or alien entities by department) or
28 5903 (relating to annual returns) shall be subject to a penalty
29 of \$500 for each violation. This penalty may be imposed by the
30 department upon satisfactory evidence of the violation by any

1 such entity.

2 (b) Revocation of authority.--Any foreign or alien fire
3 insurance entity which neglects or refuses to pay the penalty
4 for 30 days after the imposition thereof shall have its
5 authority to transact business in this Commonwealth revoked by
6 the department for at least one year from the date of the
7 violation. A fire insurance entity whose authority to transact
8 business in this Commonwealth has been so revoked shall not be
9 again authorized to transact business until it has paid the
10 penalty, and has filed with the department a certificate, signed
11 by its president or other chief officer, stating that the
12 provisions of this chapter are accepted by it as a part of the
13 conditions of its authority to transact business.

14 (c) Administrative procedure.--Before the department takes
15 any action under this section, it shall give written notice to
16 the person accused of violating the law, stating specifically
17 the nature of the alleged violation and fixing a time and place,
18 at least ten days thereafter, when a hearing of the matter shall
19 be held. Proceedings under this section are subject to Title 2
20 (relating to administrative law and procedure).

21 § 5905. Reports of fires to Bureau of Fire Protection.

22 Every stock or mutual fire insurance entity transacting
23 business in this Commonwealth shall file with the Bureau of Fire
24 Protection in the Pennsylvania State Police annual and monthly
25 reports in writing, containing such information as is required
26 to be reported by the entities under the act of April 27, 1927
27 (P.L.450, No.291), relating to fire and fire prevention. Any
28 entity which fails to make that report shall forfeit its
29 authority to do business in this Commonwealth.

30 § 5906. Provisions of fire insurance policies.

1 (a) Standard provisions.--Except as provided in this
2 section, an insurance entity shall not issue a policy affording
3 fire insurance on property in this Commonwealth unless the
4 policy contains the following provisions as to such insurance:

5 (1) Introductory provisions.--In Consideration of the
6 Provisions and Stipulations herein or added hereto and of
7 Dollars Premium this company, for the
8 term of from the day of 19.., at
9 noon to the day of 19.., at noon, at (location
10 of property involved) to an amount not exceeding
11 Dollars, does insure
12 and legal representatives, to the extent
13 of the actual cash value of the property at the time of loss,
14 but not exceeding the amount which it would cost to repair or
15 replace the property with material of like kind and quality
16 within a reasonable time after such loss, without allowance
17 for any increased cost of repair or reconstruction by reason
18 of any ordinance or law regulating construction or repair,
19 and without compensation for loss resulting from interruption
20 of business or manufacture, nor in any event for more than
21 the interest of the insured, against all DIRECT LOSS BY FIRE,
22 LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE
23 PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER
24 PROVIDED, to the property described hereinafter while located
25 or contained as described in this policy, or pro rata for
26 five days at each proper place to which any of the property
27 shall necessarily be removed for preservation from the perils
28 insured against in this policy, but not elsewhere.

29 Assignment of this policy shall not be valid except with
30 the written consent of this Company.

1 This policy is made and accepted subject to the foregoing
2 provisions and stipulations and those hereinafter stated,
3 which are hereby made a part of this policy, together with
4 such other provisions, stipulations and agreements as may be
5 added hereto, as provided in this policy.

6 IN WITNESS WHEREOF, this Company has executed and
7 attested these presents: but this policy shall not be valid
8 unless countersigned by the duly authorized agent of this
9 Company at Secretary. President.

10 Countersigned this day of 19 ... Agent.

11 (2) Concealment and fraud.--This entire policy shall be
12 void if, whether before or after a loss, the insured has
13 willfully concealed or misrepresented any material fact or
14 circumstance concerning this insurance or the subject
15 thereof, or the interest of the insured therein, or in case
16 of any fraud or false swearing by the insured relating
17 thereto.

18 (3) Uninsurable and excepted property.--This policy
19 shall not cover accounts, bills, currency, deeds, evidences
20 of debt, money or securities; nor, unless specifically named
21 hereon in writing, bullion or manuscripts.

22 (4) Perils not included.--This Company shall not be
23 liable for loss by fire or other perils insured against in
24 this policy caused, directly or indirectly, by:

25 (i) enemy attack by armed forces, including action
26 taken by military, naval or air forces in resisting an
27 actual or an immediately impending enemy attack;

28 (ii) invasion;

29 (iii) insurrection;

30 (iv) rebellion;

1 (v) revolution;

2 (vi) civil war;

3 (vii) usurped power;

4 (viii) order of any civil authority except acts of
5 destruction at the time of and for the purpose of
6 preventing the spread of fire, if the fire did not
7 originate from any of the perils excluded by this policy;

8 (ix) neglect of the insured to use all reasonable
9 means to save and preserve the property at and after a
10 loss, or when the property is endangered by fire in
11 neighboring premises; or

12 (x) theft.

13 (5) Other insurance.--Other insurance may be prohibited
14 or the amount of insurance may be limited by endorsement
15 attached hereto.

16 (6) Conditions suspending or restricting insurance.--
17 Unless otherwise provided in writing added hereto this
18 Company shall not be liable for loss occurring:

19 (i) While the hazard is increased by any means
20 within the control or knowledge of the insured.

21 (ii) While a described building, whether intended
22 for occupancy by owner or tenant, is vacant or unoccupied
23 beyond a period of 60 consecutive days.

24 (iii) As a result of explosion or riot, unless fire
25 ensues, and in that event for loss by fire only.

26 (7) Other perils or subjects.--Any other peril to be
27 insured against or subject of insurance to be covered in this
28 policy shall be by endorsement in writing hereon or added
29 hereto.

30 (8) Added provisions.--The extent of the application of

1 insurance under this policy and of the contribution to be
2 made by this Company in case of loss, and any other provision
3 or agreement not inconsistent with the provisions of this
4 policy, may be provided for in writing added hereto, but no
5 provision may be waived except such as by the terms of this
6 policy is subject to change.

7 (9) Waiver provisions.--No permission affecting this
8 insurance shall exist, or waiver of any provision be valid,
9 unless granted herein or expressed in writing added hereto.
10 No provision, stipulation or forfeiture shall be held to be
11 waived by any requirement or proceeding on the part of this
12 Company relating to appraisal or to any examination provided
13 for herein.

14 (10) Cancellation of policy.--This policy shall be
15 canceled at any time at the request of the insured, in which
16 case this Company shall, upon demand and surrender of this
17 policy, refund the excess of paid premium above the customary
18 short rates for the expired time. This policy may be canceled
19 at any time by this Company by giving to the insured a five
20 days' written notice of cancellation with or without tender
21 of the excess of paid premium above the pro rata premium for
22 the expired time, which excess, if not tendered, shall be
23 refunded on demand. Notice of cancellation shall state that
24 the excess premium (if not tendered) will be refunded on
25 demand.

26 (11) Mortgagee interests and obligations.--If loss
27 hereunder is made payable, in whole or in part, to a
28 designated mortgagee not named herein as the insured, such
29 interest in this policy may be canceled by giving to the
30 mortgagee a ten days' written notice of cancellation. If the

1 insured fails to render proof of loss, the mortgagee, upon
2 notice, shall render proof of loss in the form herein
3 specified within 60 days thereafter and shall be subject to
4 the provisions hereof relating to appraisal and time of
5 payment and of bringing suit. If this Company shall claim
6 that no liability existed as to the mortgagor or owner, it
7 shall, to the extent of payment of loss to the mortgagee, be
8 subrogated to all the mortgagee's rights of recovery, but
9 without impairing mortgagee's right to sue; or it may pay off
10 the mortgage debt and require an assignment thereof and of
11 the mortgage. Other provisions relating to the interests and
12 obligations of such mortgagee may be added hereto by
13 agreement in writing.

14 (12) Pro rata liability.--This Company shall not be
15 liable for a greater proportion of any loss than the amount
16 hereby insured shall bear to the whole insurance covering the
17 property against the peril involved, whether collectible or
18 not.

19 (13) Requirements in case loss occurs.--The insured
20 shall give immediate written notice to this Company of any
21 loss, protect the property from further damage, forthwith
22 separate the damaged and undamaged personal property, put it
23 in the best possible order, furnish a complete inventory of
24 the destroyed, damaged and undamaged property, showing in
25 detail quantities, costs, actual cash value and amount of
26 loss claimed; and within 60 days after the loss, unless such
27 time is extended in writing by this Company, the insured
28 shall render to this Company a proof of loss, signed and
29 sworn to by the insured, stating the knowledge and belief of
30 the insured as to the following: the time and origin of the

1 loss, the interest of the insured and of all others in the
2 property, the actual cash value of each item thereof and the
3 amount of loss thereto, all encumbrances thereon, all other
4 contracts of insurance, whether valid or not, covering any of
5 the property, any changes in the title, use, occupation,
6 location, possession or exposures of the property since the
7 issuing of this policy, by whom and for what purpose any
8 building herein described and the several parts thereof were
9 occupied at the time of loss and whether or not it then stood
10 on leased ground, and shall furnish a copy of all the
11 descriptions and schedules in all policies and, if required,
12 verified plans and specifications of any building, fixtures
13 or machinery destroyed or damaged. The insured, as often as
14 may be reasonably required, shall exhibit to any person
15 designated by this Company all that remains of any property
16 herein described, and submit to examinations under oath by
17 any person named by this Company, and subscribe the same;
18 and, as often as may be reasonably required, shall produce
19 for examination all books of account, bills, invoices and
20 other vouchers, or certified copies thereof if originals be
21 lost, at such reasonable time and place as may be designated
22 by this Company or its representative, and shall permit
23 extracts and copies thereof to be made.

24 (14) Appraisal.--In case the insured and this Company
25 shall fail to agree as to the actual cash value or the amount
26 of loss, then, on the written demand of either, each shall
27 select a competent and disinterested appraiser and notify the
28 other of the appraiser selected within 20 days of such
29 demand. The appraisers shall first select a competent and
30 disinterested umpire; and failing for 15 days to agree upon

1 such umpire, then, on request of the insured or this Company,
2 such umpire shall be selected by a judge of a court of record
3 in the state in which the property covered is located. The
4 appraisers shall then appraise the loss, stating separately
5 actual cash value and loss to each item; and, failing to
6 agree, shall submit their differences, only, to the umpire.
7 An award in writing, so itemized, of any two when filed with
8 this Company shall determine the amount of actual cash value
9 and loss. Each appraiser shall be paid by the party selecting
10 him and the expenses of appraisal and umpire shall be paid by
11 the parties equally.

12 (15) Company's options.--It shall be optional with this
13 Company to take all, or any part, of the property at the
14 agreed or appraised value, and also to repair, rebuild or
15 replace the property destroyed or damaged with other of like
16 kind and quality within a reasonable time, on giving notice
17 of its intention so to do within 30 days after the receipt of
18 the proof of loss herein required.

19 (16) Abandonment.--There can be no abandonment to this
20 Company of any property.

21 (17) When loss payable.--The amount of loss for which
22 this Company may be liable shall be payable 60 days after
23 proof of loss, as herein provided, is received by this
24 Company and ascertainment of the loss is made either by
25 agreement between the insured and this Company expressed in
26 writing or by the filing with this Company of an award as
27 herein provided.

28 (18) Suit.--No suit or action on this policy for the
29 recovery of any claim shall be sustainable in any court of
30 law or equity unless all the requirements of this policy

1 shall have been complied with, and unless commenced within
2 twelve months next after inception of the loss.

3 (19) Subrogation.--This Company may require from the
4 insured an assignment of all right of recovery against any
5 party for loss to the extent that payment therefor is made by
6 this Company.

7 (b) Designation.--There may be printed upon the face of a
8 policy which contains the provisions set forth in subsection (a)
9 the words "Standard Fire Insurance Policy of the State of
10 Pennsylvania" and including the name of any other states which
11 adopt this form of policy.

12 (c) Applicability.--Subsections (a) and (b) do not apply to
13 policies of perpetual insurance, policies of reinsurance,
14 policies of an all-risk type, policies insuring aircraft,
15 automobile or other motor vehicles against loss by fire, or
16 policies insuring against loss by fire resulting directly or
17 indirectly from bombardment, invasion, insurrection, riot, civil
18 war, commotion or military or usurped power or by order of civil
19 authority.

20 (d) Approved modifications.--A policy affording fire
21 insurance may, subject to the approval of the department as
22 provided in section 3515 (relating to approval of contracts by
23 department), include any other insurances which the insurer is
24 authorized to make, and the wording set out in subsection (a)
25 may be modified in conformity with the provisions thereof or to
26 accommodate additional property coverages and perils.

27 (e) Exceptions.--Notwithstanding any other provisions of
28 this section:

29 (1) An insurer may print on its policy its name, such
30 device or devices as the insurer issuing the policy may

1 desire, the location of its principal office, the date of its
2 formation, plan of operation, the amount of its paid-up
3 capital, if any, the name of its officers and agents, the
4 number and date of the policy, and, if it is issued through
5 an agent, the words: "This policy shall not be valid unless
6 countersigned by the duly authorized agent of the company at
7 "

8 (2) An insurer may print in its policies any provisions
9 which it is authorized or required by law to insert therein,
10 and a foreign or alien insurer may, with the approval of the
11 department, so print any provisions required by its charter
12 or deed of settlement or by the laws of its own State or
13 country not contrary to the law of this Commonwealth.

14 (3) An insurer may add, either upon the face of the
15 policy or on the riders or endorsements to be attached
16 thereto, printed or written forms of description and
17 specification or schedules of the property covered by any
18 particular policy and any other matter necessary to express
19 clearly all the facts and conditions of insurance on any
20 particular risk. Insurers issuing the standard policy defined
21 in subsection (a) may affix thereto or include therein a
22 written statement that the policy does not cover loss or
23 damage caused by nuclear reaction or nuclear radiation or
24 radioactive contamination, whether directly or indirectly
25 resulting from an insured peril under the policy. This
26 subsection does not prohibit the attachment to any such
27 policy of an endorsement or endorsements specifically
28 assuming coverage for such loss or damage. Any endorsements
29 or riders so attached must be signed by officers or agents of
30 the company so issuing them.

(4) Binders or other contracts for temporary insurance including fire insurance may be made orally or in writing, for a period which shall not exceed 30 days, and shall be deemed to include all the provisions of subsection (a) and all applicable endorsements approved by the department as may be designated in the contract of temporary insurance, except that the cancellation clause and the clause specifying the hour of the day at which the insurance shall commence may be provided by the express terms of the contract of temporary insurance.

(5) Appropriate forms of supplemental contracts or extended coverage endorsements whereby the interest in the property described in a policy affording fire insurance shall be insured against one or more of the other perils which the insurer is empowered to assume may be approved by the department, and their use in connection with the fire insurance policy may be authorized by it. A form of policy affording fire insurance may be arranged to provide space for the listing of amounts of insurance, with insurance rates and premiums for the basic coverage insured thereunder, and for additional coverages or perils insured under endorsements attached, and such other data as may be conveniently included for duplication on daily reports for office records.

(f) Printing on form.--The form of policy, including fire insurance, upon property in this Commonwealth shall be plainly printed, and no portion thereof shall be in type smaller than seven point.

(g) Statement of location.--A foreign fire insurance company shall not issue a policy affording fire insurance on property in this Commonwealth unless the policy contains the exact name of

1 the municipal corporation in which the insured property is
2 located and the mailing address for each insured property.

3 (h) Definition.--As used in this section the term "fire
4 insurance" means insurance against loss by fire, lightning or
5 removal, as specified in section 3302(b)(1) (relating to
6 authorized classes of insurance) and does not include insurance
7 of the kind specified in any other portion of section 3302
8 whether or not the risks of fire, lightning or removal are
9 included.

10 § 5907. Penalties for issuing other than standard fire
11 policies.

12 (a) Civil penalties.--Upon satisfactory evidence that any
13 person, corporation or insurance entity has issued, or caused to
14 be issued, any policy or contract of fire insurance on property
15 situated in this Commonwealth contrary to the provisions of
16 section 5906 (relating to provisions of fire insurance
17 policies), the department may take against the offending party
18 any one or more of the following courses of actions:

19 (1) Suspend or revoke his or its license.

20 (2) Refuse, for a period not exceeding one year
21 thereafter, to issue him or it a new license.

22 (3) Impose a penalty of not more than \$1,000 for each
23 violation.

24 (b) Criminal penalties.--Any person, corporation or
25 insurance entity that, either as principal or agent, willfully
26 issues, or causes to be issued, any policy or contract of fire
27 insurance on property in this Commonwealth in violation of
28 section 5906 commits a summary offense.

29 (c) Construction of contract.--Any policy issued in
30 violation of section 5906 shall nevertheless be construed in

1 accordance with its provisions.

2 SUBCHAPTER B

3 STOCK COMPANIES

4 Sec.

5 5921. Capital of foreign or alien companies.

6 5922. Authorized investment of capital.

7 5923. Investment of surplus.

8 5924. Treasury stock.

9 5925. Estimation of surplus for dividends.

10 5926. Authorized holdings of real estate.

11 5927. Procedure when capital impaired.

12 § 5921. Capital of foreign or alien companies.

13 A foreign or alien stock fire, stock marine and stock fire
14 and marine insurance company shall not be authorized in this
15 Commonwealth to transact any of the classes of business referred
16 to in section 3302(b) (relating to authorized classes of
17 insurance) unless it has a paid-up and safely invested capital,
18 if a foreign company, or a deposit in the United States, if an
19 alien company, of not less than \$200,000. The company shall not
20 be authorized to do all of the classes of business referred to
21 in section 3302(b) unless it has a paid-up capital or deposit of
22 not less than \$400,000.

23 § 5922. Authorized investment of capital.

24 Every domestic stock fire, stock marine or stock fire and
25 marine insurance company shall invest and keep invested all its
26 capital in sound investments within the classes described in
27 section 5503 (relating to investment of capital), except such
28 cash as is required in the transaction of its business.

29 § 5923. Investment of surplus.

30 Any money over and above the capital of any stock fire, stock

1 marine and stock fire and marine insurance company, may be
2 invested in:

3 (1) The securities authorized for investment of capital.

4 (2) Any investment described in section 5505(a)(1) or

5 (3) (relating to investment of surplus).

6 (3) The stock or other evidence of indebtedness of any
7 solvent corporation created under the law of the United

8 States or any state, foreign country or political subdivision
9 thereof, or loaned upon the pledge of such a corporation.

10 The total investments made by such company in stocks of other
11 insurance companies which have invested in or loaned its funds
12 on the stock of the first investing company shall not exceed 5%
13 of the gross assets of the first investing company. The total
14 investments hereafter made by such company in the stocks or
15 other evidence of indebtedness of solvent alien corporations
16 shall not exceed 10% of the moneys of such company over and
17 above its capital and the reserves which it is required to
18 maintain under the law of this Commonwealth. The current market
19 value of securities shall at the time of any loan thereon be at
20 least 20% more than the sum loaned. The insurance company shall
21 not invest any of its funds in any unincorporated business or
22 enterprise or the stocks or evidence of indebtedness of any
23 corporation, if the owners or holders of its securities are or
24 may become liable on account thereof to any assessment, except
25 for taxes. The funds of such a company shall not be loaned on
26 personal security except for defraying the expenses of an
27 employee transferred or about to be transferred to a new place
28 of employment with the company. Not more than 20% of its capital
29 shall be invested in a single mortgage. If any investment or
30 loan is made or held which is not authorized by this section,

1 the officers and directors making or authorizing the investment
2 or loan shall be personally liable for any loss occasioned
3 thereby, and no value as an asset shall be allowed for the
4 investment or loan.

5 § 5924. Treasury stock.

6 Any stock fire, stock marine or stock fire and marine
7 insurance company may, with the approval of its board of
8 directors, acquire, retain, cancel or dispose of shares of its
9 own capital stock, but no such company shall acquire such stock
10 without the prior approval of the department, reduce its capital
11 stock without complying with law or directly or indirectly vote
12 shares of its own stock held by it.

13 § 5925. Estimation of surplus for dividends.

14 (a) General rule.--In estimating the surplus of a stock
15 fire, stock marine and stock fire and marine insurance company,
16 for the purpose of making any dividend upon its capital stock,
17 there shall be reserved from its admitted assets a sum equal to
18 the unearned premiums on unexpired risks and policies and all
19 outstanding liabilities. A company may not declare dividends to
20 the stockholders exceeding 10% on its capital stock in any one
21 year unless, in addition to the amount of its capital stock, the
22 dividend, all outstanding liabilities and the amount of all
23 unearned premiums on unexpired risks and policies, it has a
24 surplus to an amount equalling 30% of its unearned premiums or
25 50% of its capital stock, whichever is greater.

26 (b) Penalties.--Any dividend declared and paid contrary to
27 this section shall make the directors of the company voting in
28 favor of the dividend jointly and severally liable to the
29 creditors of the company to the extent of the dividend. Each
30 stockholder receiving the dividend shall be liable to the

1 creditors of the company to the extent of the dividend received,
2 in addition to any other penalties prescribed by law.

3 § 5926. Authorized holdings of real estate.

4 A domestic stock fire, stock marine or stock fire and marine
5 insurance company shall not purchase, hold or convey real
6 estate, except as authorized for domestic stock casualty
7 insurance companies under section 5506 (relating to authorized
8 holdings of real estate).

9 § 5927. Procedure when capital impaired.

10 Any stock fire, stock marine and stock fire and marine
11 insurance company, receiving notice from the department that its
12 capital is impaired, shall proceed as prescribed for stock
13 casualty insurance companies by section 5509 (relating to
14 procedure when capital impaired).

15 SUBCHAPTER C

16 MUTUAL COMPANIES

17 Sec.

18 5931. Licensing of foreign mutual companies.

19 5932. Rechartering of companies.

20 5933. Cash premium policies.

21 5934. Cash premiums.

22 5935. Surplus.

23 § 5931. Licensing of foreign mutual companies.

24 (a) Old companies.--A foreign mutual fire, mutual marine or
25 mutual fire and marine insurance company which was originally
26 licensed to transact business in this Commonwealth prior to and
27 was transacting business in this Commonwealth on June 23, 1931,
28 may be relicensed to transact the class of business referred to
29 in section 3302(b)(1) (relating to authorized classes of
30 insurance) if it has a surplus over all liabilities, including

1 unearned premiums, computed in accordance with the law of this
2 Commonwealth of not less than \$100,000, or has continuously
3 transacted business for not less than five years and has such a
4 surplus not less than \$50,000. To be relicensed to transact the
5 classes of business referred to in section 3302(b)(2) and (3),
6 the surplus shall be not less than \$250,000.

7 (b) More recent companies.--Any other foreign mutual fire,
8 mutual marine or mutual fire and marine insurance company may be
9 licensed and relicensed to transact the class of business
10 referred to in section 3302(b)(1) if it has a surplus over all
11 liabilities, including unearned premiums, computed in accordance
12 with the law of this Commonwealth of not less than \$150,000. To
13 be licensed or relicensed to transact the classes of business
14 referred to:

15 (1) in either section 3302(b)(2) or (3), the surplus
16 shall be of not less than \$200,000;

17 (2) in section 3302(b)(1) and in either section
18 3302(b)(2) or (3), the surplus shall be not less than
19 \$350,000;

20 (3) in both section 3302(b)(2) and (3), the surplus
21 shall be not less than \$400,000; or

22 (4) in section 3302(b)(1), (2) and (3), the surplus
23 shall be not less than \$550,000.

24 § 5932. Rechartering of companies.

25 Any domestic mutual fire or mutual fire and marine insurance
26 company, whose charter is about to expire, may call a special
27 meeting of the members. Notice of the object of this meeting
28 shall be given by advertisement for four weeks preceding, in at
29 least two daily or weekly newspapers published in the city or
30 county where the principal office of the company is located, or

1 by circular mailed to the address of each member. If at the
2 meeting two-thirds of the votes cast in person or by proxy favor
3 a resolution agreeing that the corporation shall hold its
4 charter subject to the provisions of the Constitution of
5 Pennsylvania, setting forth at length the sections of its
6 existing charter which it desires to retain and agreeing to be
7 subject to the provisions of this title so far as not
8 inconsistent with the charter, the resolution and the number of
9 votes cast for and against it at the special meeting shall be
10 stated in the records of the company. A certified copy of the
11 record shall be forwarded to the department, which shall submit
12 the same to the Attorney General. If the Attorney General
13 approves the resolution, he shall certify his approval to the
14 Governor, who shall cause letters patent to issue certifying the
15 company as a corporation under this title.

16 § 5933. Cash premium policies.

17 Any domestic mutual fire insurance company organized prior to
18 May 1, 1876, having a surplus not less than the minimum capital
19 required for the organization of a domestic stock fire insurance
20 company and an unearned premium reserve computed upon the same
21 basis as that required of domestic stock fire insurance
22 companies, may issue policies for a cash premium without any
23 contingent liability for assessment.

24 § 5934. Cash premiums.

25 Any domestic mutual fire insurance company, incorporated by a
26 special act of the General Assembly prior to May 1, 1876, and
27 having a surplus and unearned premium reserve as required in
28 section 5933 (relating to cash premium policies) may, instead of
29 collecting the deposit money as provided under its charter,
30 charge a cash premium in advance, on which no dividend or return

shall be due or accrue, other than return premiums on canceled policies, if its charter provides:

(1) for a premium deposit, which shall remain as a pledge for the performance of the depositor's covenants, which deposit, under the provision of the charter, shall be returned to the depositor at the expiration of the policy, together with a proportional dividend of the profits after deducting losses and incidental charges; and

(2) that the net profit, arising by interest or otherwise, shall be ascertained yearly to every member in proportion to his deposit for which the member shall have credit on the company's books, payable at the cancellation of the policy.

§ 5935. Surplus.

The surplus of any domestic mutual fire insurance companies issuing policies in accordance with section 5933 (relating to cash premium policies) or 5934 (relating to cash premiums) shall be held as a reserve for the payment of losses and expenses. In the event of dissolution of the company, this surplus shall be divided pro rata among the policyholders whose policies are in force at the time of dissolution, but no policyholder, other than a loss claimant, shall receive more than the amount of the unearned cash premium last paid to the company for the current term of such policy. Any balance remaining shall escheat to the Commonwealth.

CHAPTER 61

ELIGIBILITY FOR MOTOR VEHICLE INSURANCE

Sec.

6101. Definitions.

6102. General provisions.

1 6103. Insufficient grounds for failure to insure.

2 6104. Grounds for cancellation.

3 6105. Premium increase or surcharge.

4 6106. Notice of refusal.

5 6107. Exclusions.

6 6108. Information regarding refusal to insure.

7 6109. Request for review.

8 6110. Review procedure.

9 6111. Powers of department.

10 6112. Penalty.

11 § 6101. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Insurer." Any insurance entity authorized to transact the
16 business of automobile insurance in this Commonwealth.

17 "Nonpayment of premium." Failure of the named insured to
18 discharge when due any of his obligations in connection with the
19 payment of premiums on a policy, or any installment of the
20 premium, whether the premium is payable directly to the insurer
21 or its agent or indirectly under any premium finance plan or
22 extension of credit.

23 "Policy." A policy of motor vehicle insurance delivered or
24 issued for delivery in this Commonwealth insuring a natural
25 person as named insured or one or more related individuals
26 resident of the same household, and under which the insured
27 vehicles therein designated are of the following types only:

28 (1) A motor vehicle of the private passenger or station
29 wagon type that is not used as a public or livery conveyance
30 for passengers and is not rented to others.

1 (2) Any other four-wheel motor vehicle with a gross
2 weight not exceeding 9,000 pounds which is not principally
3 used in the occupation, profession or business of the insured
4 other than farming.

5 "Renewal" or "to renew." The issuance and delivery by an
6 insurer of a policy superseding at the end of the policy period
7 a policy previously issued and delivered by the same insurer, if
8 the renewal policy provides types and limits of coverage at
9 least equal to those contained in the policy being superseded,
10 or the issuance and delivery of a certificate or notice
11 extending the term of a policy beyond its policy period or term
12 with types and limits of coverage at least equal to those
13 contained in the policy being extended.

14 § 6102. General provisions.

15 (a) Term of certain policies.--Any policy with a policy
16 period or term of less than 12 months or any period with no
17 fixed expiration date shall for purposes of this chapter be
18 considered as if written for successive policy periods or terms
19 of 12 months.

20 (b) Applicability to policies.--This chapter applies only to
21 that portion of a policy providing bodily injury and property
22 damage liability, comprehensive and collision coverages and to
23 the provisions in the policy relating to medical payments and
24 uninsured motorists coverage.

25 § 6103. Insufficient grounds for failure to insure.

26 (a) Prohibited grounds.--An insurer shall not cancel or
27 refuse to write or renew a policy for one or more of the
28 following reasons:

29 (1) Age.

30 (2) Residence or operation of a motor vehicle in a

specific geographic area.

(3) Race.

(4) Color.

(5) Creed.

(6) National origin.

(7) Ancestry.

(8) Marital status.

(9) Sex.

(10) Lawful occupation (including military service).

(11) The refusal of another insurer to write a policy, or the cancellation or refusal to renew an existing policy by another insurer.

(12) Illness or permanent or temporary disability, where the insured can medically document that the illness or disability will not impair his ability to operate a motor vehicle. Failure to provide this documentation shall be proper reason for the insurer to amend the policy of the named insured to exclude the disabled insured from coverage under the policy while operating a motor vehicle after the effective date of the policy amendment, but shall not be proper reason to cancel or refuse to write or renew the policy. This paragraph does not affect the excluded individual's eligibility for coverage under the named insured's policy for any injury sustained while not operating a motor vehicle. Illness or permanent or temporary disability on the part of any insured shall not be proper reason for canceling the policy of the named insured.

(13) Any accident which occurred under any of the following circumstances:

(i) The motor vehicle was lawfully parked, except

1 that if the vehicle rolled from the parked position, any
2 accident shall be charged to the person who parked the
3 auto.

4 (ii) The applicant, owner or other resident operator
5 was reimbursed by, or on behalf of, a person who was
6 responsible for the accident or had a judgment against
7 such a person.

8 (iii) The vehicle was struck in the rear by another
9 vehicle and the applicant or other resident operator was
10 not convicted of a moving traffic violation in connection
11 with the accident.

12 (iv) The operator of the other vehicle involved in
13 the accident was convicted of a moving traffic violation,
14 and the applicant or resident operator was not convicted
15 of a moving traffic violation in connection with the
16 accident.

17 (v) The vehicle operated by the applicant or any
18 resident operator was struck by a "hit-and-run" vehicle,
19 if the accident was reported to the proper authority
20 within 24 hours by the applicant or resident operator.

21 (vi) The accident involved damage by contact with
22 animals or fowl.

23 (vii) The accident involved physical damage caused
24 by flying gravel, missiles or falling objects.

25 (viii) The accident occurred when using the vehicle
26 in response to any emergency if the operator of the
27 vehicle at the time of the accident was a paid or
28 volunteer member of any police or fire department, first
29 aid squad or any law enforcement agency, but not after
30 the auto ceased to be used in response to the emergency.

1 (ix) The accident occurred more than 36 months prior
2 to the later of the inception of the insurance policy or
3 the upcoming anniversary date of the policy.

4 (14) Any claim under the comprehensive portion of the
5 policy unless the loss was intentionally caused by the
6 insured.

7 ~~(15) Any one accident occurring within the 36 month~~ <—
8 ~~period prior to the upcoming anniversary date of the policy.~~

9 (A.1) SINGLE RECENT ACCIDENT.--AN INSURER SHALL NOT CANCEL <—
10 OR REFUSE TO RENEW A POLICY ON THE BASIS OF ANY ONE ACCIDENT
11 OCCURRING WITHIN THE 36-MONTH PERIOD PRIOR TO THE UPCOMING
12 ANNIVERSARY DATE OF THE POLICY.

13 (b) Terminated agent within one year.--For a period 12
14 months after notice of termination given to an agent, an insurer
15 shall not cancel or refuse to renew existing policies written
16 through the terminated agent because of the termination, unless
17 the action could have been taken had the agency relationship
18 continued. An insurer shall pay commissions for the policies
19 that are continued or renewed through the terminated agent,
20 except where:

21 (1) the insurer retained ownership of the expirations of
22 such policies; or

23 (2) the agent has misappropriated funds or property of
24 the insurer, has failed to remit to the insurer funds due it
25 promptly upon demand, has been terminated for insolvency,
26 abandonment or gross and willful misconduct or has had his
27 license suspended or revoked.

28 (c) Terminated agent after one year.--Subsequent to the 12-
29 month period after notice of termination given to an agent, an
30 insurer shall not cancel or refuse to renew existing policies

1 written through the terminated agent without offering to cover
2 the insured on a direct basis or refer the insured to one or
3 more new agents if the terminated agent could not find a
4 suitable insurer acceptable to the policyholder. The offer need
5 not be made if the insurer could have canceled or failed to
6 renew the policy had the agency relationship continued. If the
7 insurer retains ownership of the expirations of the policies,
8 the insurer is not required to offer a new agent.

9 (d) Accumulation of points.--An insurer shall not cancel or
10 refuse to renew a policy for two or fewer moving violations in
11 any jurisdiction or jurisdictions during a 24-month period when
12 the operator's record indicates that the named insured presently
13 bears five points or fewer under Title 75 (relating to
14 vehicles). However, this subsection does not apply under the
15 following conditions:

16 (1) All five points are incurred from one violation.

17 (2) The driver's license or motor vehicle registration
18 of the named insured has been suspended or revoked at any
19 time during the 24-month period.

20 (e) Other insureds.--The applicability of subsection (d) to
21 an individual, other than the named insured, who either is a
22 resident in the same household or who customarily operates a
23 vehicle insured under the policy shall be proper reason for the
24 insurer excluding the individual from coverage under the policy,
25 but not for canceling the policy.

26 (F) REGULATIONS.--THE DEPARTMENT SHALL ADOPT APPROPRIATE
27 REGULATIONS TO IMPLEMENT AND ENFORCE THIS SECTION.

28 § 6104. Grounds for cancellation.

29 An insurer shall not cancel a policy except for one or more
30 of the following reasons:

1 (1) Nonpayment of premium.

2 (2) The driver's license or motor vehicle registration
3 of the named insured has been under suspension or revocation
4 at any time during the policy period. The applicability of
5 this reason to one who either is a resident in the same
6 household or who customarily operates a vehicle insured under
7 the policy shall be proper reason for the insurer excluding
8 the individual from coverage under the policy, but not for
9 canceling the policy.

10 (3) A determination that the insured has concealed a
11 fact, has made an allegation contrary to fact or has made a
12 misrepresentation of a fact if the fact concealed, alleged or
13 misrepresented was material to the acceptance of the risk by
14 the insurer.

15 § 6105. Premium increase or surcharge.

16 An insurer shall not increase an individual insured's premium
17 or assess a premium surcharge on the basis of any moving traffic
18 violation records, any revocation or suspension records or any
19 accident records, if the insured establishes that the records
20 are erroneous or inaccurate.

21 § 6106. Notice of refusal.

22 A cancellation or refusal to renew by an insurer of a policy
23 shall not be effective unless the insurer delivers or mails to
24 the named insured at the address shown in the policy a written
25 notice of the cancellation or refusal to renew. The notice
26 shall:

27 (1) Be approved as to form by the department prior to
28 use.

29 (2) State the date, not less than 30 days after the date
30 of such mailing or delivering, on which the cancellation or

1 refusal to renew shall become effective, except that the
2 effective date may be 15 days from the date of mailing or
3 delivery when it is being canceled or not renewed for the
4 reasons set forth in section 6104(1) or (2) (relating to
5 grounds for cancellation).

6 (3) State the specific reasons of the insurer for
7 cancellation or refusal to renew.

8 (4) Advise the insured of his right to request in
9 writing, within 20 days of the receipt of the notice of
10 cancellation or intention not to renew, that the department
11 review the action of the insurer.

12 (5) Either in the notice or in an accompanying
13 statement, advise the insured of his possible eligibility for
14 insurance through the automobile assigned risk plan.

15 (6) Advise the insured that he must obtain COMPULSORY <—
16 automobile insurance coverage ~~or otherwise comply with~~ <—
17 ~~Chapter 63 (relating to motor vehicle financial~~
18 ~~responsibility)~~ if he operates or registers a motor vehicle
19 in this Commonwealth and that the insured shall notify the
20 Department of Transportation that he has replaced such
21 coverage.

22 § 6107. Exclusions.

23 This chapter does not apply:

24 (1) If the insurer has manifested its willingness to
25 renew by issuing or offering to issue a renewal policy,
26 certificate or other evidence of renewal, or has manifested
27 such intention by any other means.

28 (2) If the named insured has demonstrated by some overt
29 action to the insurer or its agent that he wishes the policy
30 to be canceled or that he does not wish the policy to be

1 renewed.

2 (3) To any policy which has been in effect less than 60
3 days, unless it is a renewal policy, except that no insurer
4 shall decline to continue in force such a policy on the basis
5 of the grounds set forth in section 6103(a)(1) through (14) <—
6 (relating to insufficient grounds for failure to insure) and
7 except that, if an insurer cancels a policy in the first 60
8 days, the insurer shall supply the insured with a written
9 statement of the reason for cancellation.

10 (4) To any policy issued under an automobile assigned
11 risk plan.

12 (5) To any policy insuring more than four automobiles.

13 (6) To any policy covering the hazards of operation of a
14 garage, automobile sales agency repair shop, service station
15 or public parking place.

16 § 6108. Information regarding refusal to insure.

17 (a) Immunity.--A cause of action shall not arise against the
18 department, any insurer, the authorized representatives, agents
19 and employees of either or any firm, person or corporation
20 furnishing to the insurer information as to reasons for
21 cancellation or refusal to write or renew for making any
22 statement in complying with this chapter or for providing
23 information pertaining thereto.

24 (b) Notification to insured.--The insurer shall furnish the
25 insured the notification required by the Fair Credit Reporting
26 Act (Public Law 91-508, 15 U.S.C. § 1681 et seq.) at the time of
27 the cancellation or refusal to write or renew.

28 (c) Records of insurer.--Each insurer shall maintain records
29 of the numbers of cancellations and refusals to write or renew
30 policies and the reasons therefor and shall supply to the

1 department such information therefrom as it may request.

2 § 6109. Request for review.

3 (a) Cancellation or failure to renew.--Any insured may
4 within 20 days of the receipt by the insured of notice of
5 cancellation or notice of intention not to renew request the
6 department in writing to review the action of the insurer.

7 (b) Refusal to write policy.--Any applicant for a policy who
8 is refused the policy by an insurer shall be given a written
9 notice of refusal to write by the insurer, which shall state the
10 specific reasons for the refusal. Within 20 days of the receipt
11 of the notice, the applicant may request the department in
12 writing to review the action of the insurer.

13 § 6110. Review procedure.

14 (a) Notice of hearing.--If, upon receipt of a request for
15 review or if as a result of investigation, the department has
16 good cause to believe that an insurer is violating this chapter,
17 the department shall notify the insurer thereof and shall review
18 the matter to determine whether the cancellation or refusal to
19 renew or to write was in violation of this chapter. The
20 department shall within 40 days of the receipt of the request
21 either order the policy written or reinstated or uphold the
22 cancellation or refusal to renew. If either of the parties
23 disputes the department's findings, the party shall have the
24 right to a hearing. If a hearing is requested, the department
25 shall immediately issue notice of the hearing, stating the time
26 and place, which shall not be less than 30 days from the date of
27 the notice.

28 (b) Hearing procedure.--The hearing shall be held at the
29 time and place fixed for the hearing in the notice. The insurer
30 may show cause why an order should not be made by the department

1 to cease and desist from acts constituting a violation of this
2 chapter. Upon good cause shown, the department shall permit any
3 person to intervene, appear and be heard at the hearing, in
4 person or by counsel. The department may administer oaths,
5 examine and cross-examine witnesses, receive oral and
6 documentary evidence and subpoena witnesses, compel their
7 attendance and require the production of books, papers, records
8 or other documents which it deems relevant to the hearing. The
9 department shall cause a record to be kept of all evidence and
10 all proceedings at the hearing.

11 (c) Order.--Following the hearing, the department shall
12 issue a written order resolving the factual issues presented at
13 the hearing and stating what remedial action, if any, is
14 required. The department shall send a copy of the order to the
15 persons participating in the hearing. In the case of a
16 cancellation of or refusal to renew a policy, the policy shall
17 remain in effect until the conclusion of the review or the date
18 referred to in section 6106(2) (relating to notice of refusal),
19 whichever is later, except for review of cancellations by reason
20 of nonpayment of premium, in which case the policy shall
21 terminate as of the date provided in the notice under of section
22 6106(2), unless the cancellation or refusal to renew is upheld
23 or the policy reinstated.

24 (d) Applicability of Title 2.--The review by the department
25 under this chapter shall not be subject to 2 Pa.C.S. Ch. 5
26 Subch. A (relating to practice and procedure of Commonwealth
27 agencies). The decision of the department shall be subject to
28 appeal in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to
29 judicial review of Commonwealth agency action).

30 § 6111. Powers of department.

1 (a) Regulations.--The department shall promulgate
2 regulations necessary for the administration of this chapter.

3 (b) Filing fee.--The department may provide in these
4 regulations for the establishment of a filing fee not exceeding
5 \$15, to accompany the request for review. If the department
6 decides the appeal in favor of the insured, the filing fee shall
7 be returned immediately and the fee shall be paid by the
8 insurer.

9 (c) Cease and desist order.--Upon a determination that this
10 chapter has been violated, the department may issue an order
11 requiring the insurer to cease and desist from engaging in the
12 violation, and may enforce the order by an action for
13 injunction, regardless of whether the insurer is licensed by the
14 department.

15 § 6112. Penalty.

16 Any individual or insurer who violates this chapter ~~commits a~~ <—
17 ~~misdemeanor of the second degree~~ IS SUBJECT TO A PENALTY, WHICH <—
18 SHALL NOT EXCEED \$5,000.

19 CHAPTER 63

20 MOTOR VEHICLE FINANCIAL RESPONSIBILITY

21 Subchapter

22 A. General Provisions

23 B. Motor Vehicle Liability Insurance First Party Benefits

24 C. Uninsured and Underinsured Motorist Coverage

25 D. Assigned Risk Plan

26 E. Assigned Claims Plan

27 F. Catastrophic Loss Trust Fund

28 G. Nonpayment of Judgments

29 H. Proof of Financial Responsibility

30 I. Miscellaneous Provisions

1 SUBCHAPTER A

2 GENERAL PROVISIONS

3 Sec.

4 6301. Short title of chapter.

5 6302. Definitions.

6 6303. Applicability of chapter.

7 6304. Administration of chapter.

8 § 6301. Short title of chapter.

9 This chapter shall be known and may be cited as the Motor
10 Vehicle Financial Responsibility Law.

11 § 6302. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Benefits" or "first party benefits." Medical benefits,
16 income loss benefits, accidental death benefits and funeral
17 benefits.

18 "Financial responsibility." The ability to respond in
19 damages for liability on account of accidents arising out of the
20 maintenance or use of a motor vehicle in the amount of \$15,000
21 because of injury to one person in any one accident, in the
22 amount of \$30,000 because of injury to two or more persons in
23 any one accident and in the amount of \$5,000 because of damage
24 to property of others in any one accident. The financial
25 responsibility shall be in a form acceptable to the Department
26 of Transportation.

27 "Injury." Accidentally sustained bodily harm to an
28 individual and that individual's illness, disease or death
29 resulting therefrom.

30 "Insured." Any of the following:

1 (1) An individual identified by name as an insured in a
2 policy of motor vehicle liability insurance.

3 (2) If residing in the household of the named insured:

4 (i) a spouse or other relative of the named insured;

5 or

6 (ii) a minor in the custody of either the named

7 insured or relative of the named insured.

8 "Insurer" or "insurance company." A motor vehicle liability
9 insurer subject to the requirements of this chapter.

10 "Self-insurer." An entity providing benefits and qualified
11 in the manner set forth in section 6387 (relating to self-
12 insurance).

13 "Underinsured motor vehicle." A motor vehicle for which the
14 limits of available liability insurance and self-insurance are
15 insufficient to pay losses and damages.

16 "Uninsured motor vehicle." Any of the following:

17 (1) A motor vehicle for which there is no liability
18 insurance or self-insurance applicable at the time of the
19 accident.

20 (2) A motor vehicle for which the insurance company
21 denies coverage or the insurance company is or becomes
22 involved in insolvency proceedings in any jurisdiction.

23 (3) An unidentified motor vehicle that causes an
24 accident resulting in injury provided the accident is
25 reported to the police or proper governmental authority and
26 claimant notifies his insurer within 30 days, or as soon as
27 practicable thereafter, that the claimant or his legal
28 representative has a legal action arising out of the
29 accident.

30 § 6303. Applicability of chapter.

1 This chapter does not apply with respect to any motor vehicle
2 owned by the Federal Government.

3 § 6304. Administration of chapter.

4 (a) General rule.--Except as provided in subsection (b), the
5 Department of Transportation shall administer and enforce this
6 chapter and may make rules and regulations necessary for that
7 purpose.

8 (b) Insurance matters.--The department shall administer and
9 enforce those provisions of this chapter as to matters under its
10 jurisdiction as determined by this chapter or other statute and
11 may make rules and regulations necessary for that purpose.

12 SUBCHAPTER B

13 MOTOR VEHICLE LIABILITY INSURANCE

14 FIRST PARTY BENEFITS

15 Sec.

16 6311. Required benefits.

17 6312. Availability of benefits.

18 6312.1. LIMITATION ON EXCLUSION OF BENEFITS.

<—

19 6313. Source of benefits.

20 6314. Ineligible claimants.

21 6315. Availability of adequate limits.

22 6316. Payment of benefits.

23 6317. Stacking of benefits.

24 6318. Exclusion from benefits.

25 6318.1. Certain nonexcludable conditions.

26 6319. Coordination of benefits.

27 6320. Subrogation.

28 6321. Statute of limitations.

29 6322. Preclusion of recovering required benefits.

30 6323. Reporting requirements.

1 § 6311. Required benefits.

2 An insurer issuing or delivering liability insurance policies
3 covering any motor vehicle of the type required to be registered
4 under Title 75 (relating to vehicles), except recreational
5 vehicles not intended for highway use, motorcycles, motor-driven
6 cycles or motorized pedalcycles or like type vehicles,
7 registered and operated in this Commonwealth, shall include
8 coverage providing a medical benefit in the amount of \$10,000,
9 an income loss benefit up to a monthly maximum of \$1,000 up to a
10 maximum benefit of \$5,000 and a funeral benefit in the amount of
11 \$1,500, as defined in section 6312 (relating to availability of
12 benefits), with respect to injury arising out of the maintenance
13 or use of a motor vehicle. The income loss benefit provided
14 under this section may be expressly waived by the named insured
15 provided the named insured has no expectation of actual income
16 loss due to age, disability or lack of employment history.

17 § 6312. Availability of benefits.

18 An insurer issuing or delivering liability insurance policies
19 covering any motor vehicle required to be covered under section
20 6311 (relating to required benefits) shall make available for
21 purchase first party benefits with respect to injury arising out
22 of the maintenance or use of a motor vehicle as follows:

23 (1) Medical benefit.--Coverage to provide for reasonable
24 and necessary medical treatment and rehabilitative services,
25 including, but not limited to, hospital, dental, surgical,
26 psychiatric, psychological, osteopathic, ambulance,
27 chiropractic, licensed physical therapy, nursing services,
28 vocational rehabilitation and occupational therapy, speech
29 pathology and audiology, optometric services, medications,
30 medical supplies and prosthetic devices, all without

1 limitation as to time in cases where within 18 months from
2 the date of the accident causing injury, it is ascertainable
3 with reasonable medical probability that further expenses may
4 be incurred as a result of the injury. Benefits under this
5 paragraph may include any nonmedical remedial care and
6 treatment rendered in accordance with a recognized religious
7 method of healing.

8 (2) Income loss benefit.--Includes the following:

9 (i) Eighty percent of actual loss of gross income.

10 (ii) Reasonable expenses actually incurred for
11 hiring a substitute to perform self-employment services
12 thereby mitigating loss of gross income or for hiring
13 special help thereby enabling a person to work and
14 mitigate loss of gross income.

15 Income loss does not include loss of expected income for any
16 period following the death of an individual or expenses
17 incurred for services performed following the death of an
18 individual. Income loss shall not commence until five working
19 days have been lost after the date of the accident.

20 (3) Accidental death benefit.--A death benefit paid to
21 the personal representative of the insured, if injury
22 resulting from a motor vehicle accident causes death within
23 24 months from the date of the accident.

24 (4) Funeral benefit.--Expenses directly related to the
25 funeral, burial, cremation or other form of disposition of
26 the remains of a deceased individual, incurred as a result of
27 the death of the individual as a result of the accident and
28 within 24 months from the date of the accident.

29 (5) Combination benefit.--A combination of benefits
30 described in paragraphs (1) through (4) as an alternative to

1 the separate purchase of those benefits.

2 § 6312.1. LIMITATION ON EXCLUSION OF BENEFITS. <—

3 (A) GENERAL RULE.--A MOTOR VEHICLE RENTED FROM ANY LOCATION
4 IN THIS COMMONWEALTH MAY NOT BE COVERED BY AN INSURANCE POLICY
5 OR SELF-INSURANCE ARRANGEMENT WHICH WOULD EXCLUDE BENEFITS IF
6 THE LESSEE OR ANY OTHER AUTHORIZED DRIVER WERE INVOLVED IN A
7 VEHICULAR ACCIDENT WHILE UNDER THE INFLUENCE OF DRUGS OR
8 INTOXICATING BEVERAGES AT THE TIME OF THE ACCIDENT.

9 (B) DUTY OF MOTOR VEHICLE LESSOR.--THE LESSOR OF A MOTOR
10 VEHICLE SHALL ENSURE THAT, IF THE RENTED MOTOR VEHICLE IS NOT
11 RETURNED DURING THE CONTRACTED RENTAL PERIOD, ALL LIABILITY OR
12 FIRST PARTY COVERAGE CONTINUES UNTIL THE MOTOR VEHICLE IS
13 REPORTED TO THE POLICE AS STOLEN.

14 (C) LIABILITY OF MOTOR VEHICLE LESSOR.--FAILURE OF A PERSON
15 ENGAGED IN THE RENTAL OF MOTOR VEHICLES TO COMPLY WITH
16 SUBSECTIONS (A) AND (B) SHALL, AS A MATTER OF LAW, RENDER THE
17 PERSON RESPONSIBLE FOR THE MANDATED MINIMUM LIMITS OF FINANCIAL
18 RESPONSIBILITY AS SET FORTH IN THIS CHAPTER WITH RESPECT TO ANY
19 LIABILITY ARISING OUT OF THE USE OF THE MOTOR VEHICLE FOR WHICH
20 THE LESSEE WOULD OTHERWISE BE RESPONSIBLE.

21 (D) EFFECT OF VIOLATION.--A VIOLATION OF THIS SECTION
22 CONSTITUTES A VIOLATION OF THE ACT OF DECEMBER 17, 1968
23 (P.L.1224, NO.387), KNOWN AS THE UNFAIR TRADE PRACTICES AND
24 CONSUMER PROTECTION LAW.

25 § 6313. Source of benefits.

26 (a) General rule.--Except as provided in section 6314
27 (relating to ineligible claimants), a person who suffers injury
28 arising out of the maintenance or use of a motor vehicle shall
29 recover first party benefits against applicable insurance
30 coverage in the following order of priority:

1 (1) For a named insured, the policy on which he is the
2 named insured.

3 (2) For an insured, the policy covering the insured.

4 (3) For the occupants of an insured motor vehicle, the
5 policy on that motor vehicle.

6 (4) For a person who is not the occupant of a motor
7 vehicle, the policy on any motor vehicle involved in the
8 accident. For the purpose of this paragraph, a parked and
9 unoccupied motor vehicle is not deemed to be involved in an
10 accident unless it was parked so as to cause unreasonable
11 risk of injury.

12 (b) Multiple sources of equal priority.--The insurer against
13 whom a claim is asserted first under the priorities set forth in
14 subsection (a) shall process and pay the claim as if wholly
15 responsible. The insurer may thereafter recover contribution pro
16 rata from any other insurer for the benefits paid and the costs
17 of processing the claim. If contribution is sought among
18 insurers responsible under subsection (a)(4), proration shall be
19 based on the number of involved motor vehicles.

20 § 6314. Ineligible claimants.

21 An owner of a currently registered motor vehicle who does not
22 have financial responsibility or an operator or occupant of a
23 recreational vehicle not intended for highway use, motorcycle,
24 motor-driven cycle, motorized pedalcycle or like type vehicle
25 required to be registered under Title 75 (relating to vehicles)
26 cannot recover first party benefits.

27 § 6315. Availability of adequate limits.

28 (a) General rule.--An insurer shall make available for
29 purchase first party benefits as follows:

30 (1) For medical benefits, up to at least \$100,000.

1 (2) For income loss benefits, up to at least \$2,500 per
2 month up to a maximum benefit of at least \$50,000.

3 (3) For accidental death benefits, up to at least
4 \$25,000.

5 (4) For funeral benefits, \$2,500.

6 (5) For combination of benefits enumerated in paragraphs
7 (1) through (4) and subject to a limit on the accidental
8 death benefit of up to \$25,000 and a limit on the funeral
9 benefit of \$2,500, up to at least \$277,500 of benefits in the
10 aggregate or benefits payable up to three years from the date
11 of the accident, whichever occurs first.

12 (b) Higher or lower limits and additional benefits.--

13 Insurers may make available higher or lower limits or benefits
14 in addition to those enumerated in subsection (a).

15 (c) Restriction on providing first party benefits.--An
16 insurer shall not issue or deliver a policy providing first
17 party benefits in accordance with this subchapter unless the
18 policy also contains coverage for liability in amounts at least
19 equal to the limits required for financial responsibility.

20 § 6316. Payment of benefits.

21 Benefits are overdue if not paid within 30 days after the
22 insurer receives reasonable proof of the amount of the benefits.

23 If reasonable proof is not supplied as to all benefits, the
24 portion supported by reasonable proof is overdue if not paid
25 within 30 days after the proof is received by the insurer.

26 Overdue benefits shall bear interest at the rate of 12% a year
27 from the date the benefits become due. If the insurer is found
28 to have acted in an unreasonable manner in refusing to pay the
29 benefits when due, the insurer shall pay, in addition to the
30 benefits owed and the interest thereon, a reasonable attorney

1 fee based upon actual time expended.

2 § 6317. Stacking of benefits.

3 First party benefits shall not be increased by stacking the
4 limits of coverage of:

5 (1) multiple motor vehicles covered under the same
6 policy of insurance; or

7 (2) multiple motor vehicle policies covering the
8 individual for the same loss.

9 § 6318. Exclusion from benefits.

10 (a) General rule.--An insurer shall exclude from benefits
11 any insured, or his personal representative, under a policy
12 described in section 6311 (relating to required benefits) or
13 6312 (relating to availability of benefits), when the conduct of
14 the insured contributed to the injury sustained by the insured
15 in any of the following ways:

16 (1) While intentionally injuring himself or another or
17 attempting to intentionally injure himself or another.

18 (2) While committing a felony.

19 (3) While seeking to elude lawful apprehension or arrest
20 by a law enforcement official.

21 (b) Conversion of vehicle.--A person who knowingly converts
22 a motor vehicle is ineligible to receive first party benefits
23 from any source other than a policy of insurance under which he
24 is an insured for any injury arising out of the maintenance or
25 use of the converted vehicle.

26 (c) Named driver exclusion.--An insurer may exclude any
27 insured or his personal representative from benefits under a
28 policy described in section 6311 or 6312 when the insured is
29 excluded from coverage while operating a motor vehicle in
30 accordance with Chapter 61 (relating to eligibility for motor

1 vehicle insurance).

2 § 6318.1. Certain nonexcludable conditions.

3 (a) General rule.--Insurance benefits may not be denied
4 solely because the driver of the insured motor vehicle is
5 determined to be under the influence of drugs or intoxicating
6 beverages at the time of the accident for which benefits are
7 sought.

8 (b) Contract exclusions.--Provisions of an insurance policy
9 which exclude insurance benefits if the insured causes a
10 vehicular accident while under the influence of drugs or
11 intoxicating beverages at the time of the accident are void.

12 § 6319. Coordination of benefits.

13 (a) General rule.--Except for workmen's compensation, a
14 policy of insurance issued or delivered pursuant to this
15 subchapter shall be primary. Any program, group contract or
16 other arrangement for payment of benefits such as described in
17 section 6311 (relating to required benefits), 6312(1) and (2)
18 (relating to availability of benefits) or 6315 (relating to
19 availability of adequate limits) shall be construed to contain a
20 provision that all benefits provided therein shall be in excess
21 of and not in duplication of any valid and collectible first
22 party benefits provided under section 6311, 6312 or 6315 or
23 workmen's compensation.

24 (b) Definition.--As used in this section the term "program,
25 group contract or other arrangement" includes, but is not
26 limited to, benefits payable by a hospital plan corporation or a
27 professional health service corporation subject to Chapter 75
28 (relating to hospital plan corporations) or 77 (relating to
29 professional health services plan corporations).

30 § 6320. Subrogation.

1 In actions arising out of the maintenance or use of a motor
2 vehicle, there shall be no right of subrogation or reimbursement
3 from a claimant's tort recovery with respect to workmen's
4 compensation benefits, benefits available under section 6311
5 (relating to required benefits), 6312 (relating to availability
6 of benefits) or 6315 (relating to availability of adequate
7 limits) or benefits in lieu thereof paid or payable under
8 section 6319 (relating to coordination of benefits).

9 § 6321. Statute of limitations.

10 (a) General rule.--If benefits have not been paid, an action
11 for first party benefits shall be commenced within four years
12 from the date of the accident giving rise to the claim. If first
13 party benefits have been paid, an action for further benefits
14 shall be commenced within four years from the date of the last
15 payment. The benefits claimed in the action may not include
16 expenses incurred more than four years before the date the
17 action is commenced.

18 (b) Minors.--For minors entitled to benefits described in
19 section 6311 (relating to required benefits) or 6312 (relating
20 to availability of benefits), an action for benefits shall be
21 commenced within four years from the date on which the injured
22 minor attains 18 years of age.

23 § 6322. Preclusion of recovering required benefits.

24 In any action for damages against a tortfeasor arising out of
25 the maintenance or use of a motor vehicle, a person who is
26 eligible to receive benefits under the coverages set forth in
27 section 6311 (relating to required benefits) may not plead,
28 introduce into evidence or recover the amount of benefits paid
29 or payable under section 6311.

30 § 6323. Reporting requirements.

1 Beginning December 31, 1986, and each year thereafter, each
2 insurance company writing automobile insurance in this
3 Commonwealth shall file with the department the number of its
4 insureds, the number of its insureds who have purchased first
5 party medical benefits in excess of the minimum required by
6 section 6311 (relating to required benefits) and the number of
7 insureds who have purchased first party medical benefits in the
8 amount of \$100,000. The department shall furnish this
9 information to the General Assembly annually.

10 SUBCHAPTER C

11 UNINSURED AND UNDERINSURED MOTORIST COVERAGE

12 Sec.

13 6331. Scope and amount of coverage.

14 6332. Limits of coverage.

15 6333. Priority of recovery.

16 6334. Request for lower or higher limits of coverage.

17 6335. Workmen's compensation benefits.

18 6336. Coverage in excess of required amounts.

19 § 6331. Scope and amount of coverage.

20 (a) General rule.--A motor vehicle liability insurance
21 policy shall not be delivered or issued for delivery in this
22 Commonwealth, with respect to any motor vehicle registered or
23 principally garaged in this Commonwealth, unless uninsured
24 motorist and underinsured motorist coverages are provided
25 therein or supplemental thereto in amounts equal to the bodily
26 injury liability coverage except as provided in section 6334
27 (relating to request for lower or higher limits of coverage).

28 (b) Uninsured motorist coverage.--Uninsured motorist
29 coverage shall provide protection for persons who suffer injury
30 arising out of the maintenance or use of a motor vehicle and are

1 legally entitled to recover damages therefor from owners or
2 operators of uninsured motor vehicles.

3 (c) Underinsured motorist coverage.--Underinsured motorist
4 coverage shall provide protection for persons who suffer injury
5 arising out of the maintenance or use of a motor vehicle and are
6 legally entitled to recover damages therefor from owners or
7 operators of underinsured motor vehicles.

8 (d) Limitation on recovery.--A person who recovers damages
9 under uninsured motorist coverage or coverages cannot recover
10 damages under underinsured motorist coverage or coverages for
11 the same accident.

12 § 6332. Limits of coverage.

13 Coverages offered under section 6331 (relating to scope and
14 amount of coverage) shall be written for the same limits. A
15 change shall not be made in the limits of one of these coverages
16 without an equal change in the limits of the other coverage.

17 § 6333. Priority of recovery.

18 Where multiple policies apply, payment shall be made in the
19 following order of priority:

20 (1) A policy covering a motor vehicle occupied by the
21 injured person at the time of the accident.

22 (2) A policy covering a motor vehicle not involved in
23 the accident with respect to which the injured person is an
24 insured.

25 § 6334. Request for lower or higher limits of coverage.

26 A named insured may request in writing the issuance of
27 coverages under section 6331 (relating to scope and amount of
28 coverage) in amounts less than the limits of liability for
29 bodily injury, but not less than the amounts required by this
30 chapter for bodily injury. If the named insured has selected

1 uninsured and underinsured motorist coverage in connection with
2 a policy previously issued to him by the same insurer under
3 section 6331, the coverages offered need not be provided in
4 excess of the limits of liability previously issued for
5 uninsured and underinsured motorist coverage unless the named
6 insured requests in writing higher limits of liability for those
7 coverages.

8 § 6335. Workmen's compensation benefits.

9 The coverages required by this subchapter shall not be made
10 subject to an exclusion or reduction in amount because of any
11 workmen's compensation benefits payable as a result of the same
12 injury.

13 § 6336. Coverage in excess of required amounts.

14 The coverages provided under this subchapter may be offered
15 by insurers in amounts higher than those required by this
16 chapter but may not be greater than the limits of liability
17 specified in the bodily injury liability provisions of the
18 insured's policy.

19 SUBCHAPTER D

20 ASSIGNED RISK PLAN

21 Sec.

22 6341. Establishment of assigned risk plan.

23 6342. Scope of assigned risk plan.

24 6343. Rates.

25 6344. Termination of policies.

26 § 6341. Establishment of assigned risk plan.

27 The department shall, after consultation with the insurers
28 licensed to write motor vehicle liability insurance in this
29 Commonwealth, adopt a reasonable assigned risk plan for the
30 equitable apportionment among those insurers of applicants for

1 motor vehicle liability insurance who are entitled to procure
2 insurance through ordinary methods, but are unable to do so.
3 When the plan has been adopted, all motor vehicle liability
4 insurers shall subscribe thereto and shall participate in the
5 plan. The plan may provide reasonable means for the transfer of
6 individuals insured thereunder into the ordinary market, at the
7 same or lower rates, pursuant to regulations established by the
8 department.

9 § 6342. Scope of assigned risk plan.

10 The assigned risk plan shall include rules for the
11 classification of risks and rates therefor and shall provide for
12 the installment payment of premiums subject to customary terms
13 and conditions.

14 § 6343. Rates.

15 All rates for the assigned risk plan shall be subject to the
16 provisions of Chapter 19 (relating to insurance rates) which are
17 applicable to the classes of insurance described in section
18 1902(a) (relating to scope of chapter) and shall not be
19 inadequate, excessive or unfairly discriminatory.

20 § 6344. Termination of policies.

21 Cancellation, refusal to renew and other termination of
22 policies issued under the assigned risk plan shall be in
23 accordance with the rules of the plan.

24 SUBCHAPTER E

25 ASSIGNED CLAIMS PLAN

26 Sec.

27 6351. Organization of assigned claims plan.

28 6352. Eligible claimants.

29 6353. Benefits available.

30 6354. Additional coverage.

1 6355. Coordination of benefits.

2 6356. Subrogation.

3 6357. Statute of limitations.

4 § 6351. Organization of assigned claims plan.

5 Insurers providing financial responsibility as required by
6 law shall organize and maintain an assigned claims plan, subject
7 to approval and regulation by the department, and adopt rules
8 for the operation and for the assessment of costs on a fair and
9 equitable basis.

10 § 6352. Eligible claimants.

11 (a) General rule.--A person may recover benefits from the
12 assigned claims plan if the person:

13 (1) is a resident of this Commonwealth;

14 (2) is injured as the result of a motor vehicle accident
15 occurring in this Commonwealth;

16 (3) is not an owner of a motor vehicle required to be
17 registered under 75 Pa.C.S. Ch. 13 (relating to registration
18 of vehicles);

19 (4) is not the operator or occupant of a motor vehicle
20 owned by the Federal Government;

21 (5) is not the operator or occupant of a motor vehicle
22 owned by a self-insurer or by an individual or entity who or
23 which is immune from liability or is not required to provide
24 benefits or uninsured and underinsured motorist coverage;

25 (6) is otherwise not entitled to receive any first party
26 benefits under section 6311 (relating to required benefits)
27 or 6312 (relating to availability of benefits) applicable to
28 the injury arising from the accident; and

29 (7) is not the operator or occupant of a recreational
30 vehicle not intended for highway use, motorcycle, motor-

1 driven cycle or motorized pedalcycle or other like type
2 vehicle required to be registered under Title 75 (relating to
3 vehicles) and involved in the accident.

4 (b) Grounds for ineligibility.--A person otherwise
5 qualifying as an eligible claimant under subsection (a) ~~may~~ <—
6 SHALL nevertheless ~~not~~ BE INELIGIBLE TO recover benefits from <—
7 the assigned claims plan if that person contributed to his own
8 injury in any of the following ways:

9 (1) While intentionally injuring himself or another or
10 attempting to intentionally injure himself or another.

11 (2) While committing a felony.

12 (3) While seeking to elude lawful apprehension or arrest
13 by a law enforcement official.

14 (4) While knowingly converting a motor vehicle.

15 § 6353. Benefits available.

16 An eligible claimant may recover medical benefits, as
17 described in section 6312(1) (relating to availability of
18 benefits), up to a maximum of \$5,000. An income loss benefit or
19 accidental death benefit shall not be payable under this
20 subchapter. Funeral expenses, as described in section 6312(4),
21 in the amount of \$1,500 shall be recoverable as an offset to the
22 maximum amount of medical benefits available under this section.

23 § 6354. Additional coverage.

24 An eligible claimant who has no other source of applicable
25 uninsured motorist coverage and is otherwise entitled to recover
26 in an action in tort against a party who has failed to comply
27 with this chapter may recover for losses or damages suffered as
28 a result of the injury up to \$15,000 subject to an aggregate
29 limit for all claims arising out of any one motor vehicle
30 accident of \$30,000. If a claimant recovers medical benefits

1 under section 6353 (relating to benefits available), the amount
2 of medical benefits recovered or recoverable up to \$5,000 shall
3 be set off against any amount recoverable under this section.

4 § 6355. Coordination of benefits.

5 (a) Workmen's compensation.--All benefits, less reasonably
6 incurred collection costs, that an eligible claimant receives or
7 is entitled to receive from workmen's compensation and from any
8 other like source under local, state or Federal law shall be
9 subtracted from any benefits available in section 6353 (relating
10 to benefits available) unless the law authorizing or providing
11 for those benefits makes them excess or secondary to the
12 benefits payable under this subchapter.

13 (b) Accident and health benefits.--All benefits an eligible
14 claimant receives or is entitled to receive as a result of
15 injury from any available source of accident and health benefits
16 shall be subtracted from those benefits available in section
17 6353.

18 § 6356. Subrogation.

19 The assigned claims plan or its assignee may, in accordance
20 with the tort liability law of this Commonwealth, recover
21 reimbursement for benefits or coverages paid, loss adjustment
22 costs and any other sums paid to an eligible claimant under this
23 subchapter.

24 § 6357. Statute of limitations.

25 (a) General rule.--An action by an eligible claimant to
26 recover benefits or coverages from the assigned claims plan
27 shall be commenced within four years from the date of the
28 accident.

29 (b) Minors.--For minors entitled to benefits under section
30 6353 (relating to benefits available) or 6354 (relating to

1 additional coverage), an action to recover these benefits or
2 coverages shall be commenced within four years from the date on
3 which the injured minor attains 18 years of age.

4 SUBCHAPTER F

5 CATASTROPHIC LOSS TRUST FUND

6 Sec.

7 6361. Definitions.

8 6362. Funding.

9 6363. Enforcement.

10 6364. Catastrophic Loss Trust Fund.

11 6365. Catastrophic Loss Trust Fund Board.

12 6366. Benefits.

13 6367. Annual reports.

14 6368. Appeals.

15 6369. Miscellaneous provisions.

16 § 6361. Definitions.

17 The following words and phrases when used in this subchapter
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Administrator." The administrator designated by the
21 Catastrophic Loss Trust Fund Board.

22 "Board." The Catastrophic Loss Trust Fund Board.

23 "Catastrophic loss." An injury, arising out of the
24 maintenance or use of a motor vehicle, for which the reasonable
25 and necessary expenses for medical treatment and rehabilitative
26 services, as described in section 6312(1) (relating to
27 availability of benefits), exceed \$100,000.

28 "Catastrophic loss benefit." Payments by the Catastrophic
29 Loss Trust Fund for those reasonable and necessary expenses only
30 for medical treatment and rehabilitative services which, as

1 described in section 6312(1), exceed \$100,000, subject to the
2 limitations provided in section 6366 (relating to benefits).
3 Catastrophic loss benefits shall not duplicate any other
4 payments for medical treatment and rehabilitative services.

5 "Eligible claimant." Except as provided in the definition of
6 ineligible claimant, includes a resident of this Commonwealth
7 who suffers injury arising out of the maintenance or use of a
8 motor vehicle in the United States, its territories or
9 possessions and Canada. The estate of an eligible claimant shall
10 be entitled to receive catastrophic loss benefits pursuant to
11 section 6366 to the extent that financial obligations for
12 reasonable and necessary medical treatment and rehabilitative
13 services were incurred by the eligible claimant prior to the
14 death of that person.

15 "Executive director." The executive director of the
16 Catastrophic Loss Trust Fund Board.

17 "Fund." The Catastrophic Loss Trust Fund.

18 "Fund charge." The fund charge established under this
19 subchapter.

20 "Ineligible claimant." Any of the following:

21 (1) A person who is the owner of a motor vehicle who has
22 not complied with the registration requirements of 75 Pa.C.S.
23 Ch. 13 (relating to registration of vehicles).

24 (2) A person who is the driver or occupant of a
25 recreational vehicle not intended for highway use, a
26 motorcycle, a motorized pedalcycle, a motor-driven cycle or
27 like type vehicle required to be registered under Title 75
28 (relating to vehicles), but not subject to the charge levied
29 in section 6362 (relating to funding).

30 "Manager." The manager designated by the Catastrophic Loss

1 Trust Fund Board.

2 § 6362. Funding.

3 The Catastrophic Loss Trust Fund shall be funded by levying
4 an initial charge of \$5 upon all motor vehicles required to be
5 registered under 75 Pa.C.S. Ch. 13 (relating to registration of
6 vehicles) except trailers, recreational vehicles not intended
7 for highway use, motorcycles, motor-driven cycles, motorized
8 pedalcycles or like type vehicles. This charge shall be remitted
9 to an insurance company or other party as designated by the
10 department. Upon receipt of the charge, the insurance company or
11 other designated party shall remit it to the department for
12 deposit in the trust fund. The Catastrophic Loss Trust Fund
13 Board shall, by regulation, determine by January 1 of each
14 calendar year the amount of the fund charge for each
15 registration year subsequent to the initial registration year
16 and shall notify the department which shall notify the insurance
17 companies or other designated parties of the amount of the
18 charge.

19 § 6363. Enforcement.

20 The Department of Transportation shall refuse registration or
21 renewal or transfer of registration to the owner of any motor
22 vehicle to be charged under section 6362 (relating to funding)
23 until there is proof that the charge was paid.

24 § 6364. Catastrophic Loss Trust Fund.

25 (a) Establishment.--A Catastrophic Loss Trust Fund shall be
26 established to provide funds necessary to pay catastrophic loss
27 benefits.

28 (b) Composition.--The fund shall be composed of moneys
29 contributed under section 6362 (relating to funding) and funds
30 earned by the investment and reinvestment of such moneys. The

1 fund shall be held in trust, be deposited in a separate account
2 and be the exclusive source of funding for the payment of
3 catastrophic loss benefits and the administration of the fund.

4 (c) Separation from General Fund and Motor License Fund.--
5 The fund and all income earned by it shall not become part of
6 the General Fund or Motor License Fund, and no obligations or
7 expense of or claim against the fund shall constitute a debt of
8 the Commonwealth or a charge against the General Fund or Motor
9 License Fund.

10 (d) Expenses in collecting fund charge.--Any expense
11 incurred by the Commonwealth in the collection of the fund
12 charge shall be paid by the fund. The department may determine a
13 formula to provide for the reimbursement by the fund for
14 expenses incurred by insurance companies or others in collecting
15 the fund charge.

16 § 6365. Catastrophic Loss Trust Fund Board.

17 (a) Composition.--The fund shall be under the general
18 supervision of a board of directors. The board shall be a
19 departmental administrative board in the department and shall be
20 composed of nine persons as follows:

21 (1) Four members of the General Assembly appointed for
22 two years as follows:

23 (i) One appointed by the Majority Leader of the
24 Senate.

25 (ii) One appointed by the Minority Leader of the
26 Senate.

27 (iii) One appointed by the Majority Leader of the
28 House of Representatives.

29 (iv) One appointed by the Minority Leader of the
30 House of Representatives.

1 (2) Four public members appointed by the Governor for
2 two years.

3 (3) The commissioner, who shall serve as chairman.

4 (b) Compensation.--Public members of the board shall receive
5 no compensation for their services but shall be reimbursed from
6 the fund for reasonable expenses incurred in carrying out their
7 duties.

8 (c) Powers and duties.--

9 (1) The board shall employ and fix the compensation of
10 an executive director which shall carry out the decisions of
11 the board. The executive director in consultation with the
12 commissioner and subject to the approval of the board shall
13 promulgate rules and regulations necessary to carry out the
14 purposes of the fund.

15 (2) The board shall contract with an administrator
16 approved as qualified by the department to provide eligible
17 claimants with catastrophic loss benefits. The contract shall
18 not be for a term in excess of two years. Contracts shall be
19 let pursuant to the bidding procedures of the Commonwealth.

20 (3) The board shall contract with a manager approved as
21 qualified by the commissioner and the State Treasurer to
22 manage the moneys of the fund, including their investment and
23 reinvestment, subject to the regulations of the fund.

24 (4) The board shall contract for providers of other
25 professional services, including, but not limited to,
26 accountants, quality control auditors and actuaries,
27 necessary to ensure contract compliance by the administrator
28 and manager, and determine future fund charges.

29 (5) The board may purchase on behalf of the fund
30 insurance and reinsurance as necessary to preserve the

1 financial solvency of the fund.

2 (6) Annually, the board shall consult with the
3 administrator, the manager and an actuary to determine the
4 fund charge. The charge shall be sufficient to ensure that
5 the fund is able to pay all claims and expenses for the
6 succeeding year and to develop actuarially sound reserves for
7 incurred claims.

8 (d) Duties of executive director.--The executive director
9 shall perform the following duties:

10 (1) Receive all claims for catastrophic loss benefits,
11 forward them to the administrator for handling and monitor
12 their progress.

13 (2) Assist any party with whom the board has contracted
14 under this section in the performance of its duties.

15 (3) Establish a program to assure continuing publicity
16 to the residents of this Commonwealth with respect to the
17 existence of the fund, the coverages afforded thereby and the
18 manner of the presentation of claims thereto.

19 (4) Employ, subject to the approval of the board,
20 clerical staff as necessary to perform his duties.

21 (e) Duties of administrator.--The administrator shall
22 perform the following duties:

23 (1) Determine the eligibility of the claimant, upon
24 receipt of a claim for catastrophic loss benefits.

25 (2) Establish a mechanism whereby payments to the
26 provider for reasonable and necessary medical treatment and
27 rehabilitative services shall be promptly made in amounts not
28 in excess of the limitations set forth in this subchapter.

29 (3) Evaluate, not less than annually, the medical
30 treatment and rehabilitative services being provided eligible

claimants to assure that these represent the most prudent expenditure of funds.

(f) Duties of manager.--The manager shall accept all moneys collected for the fund and may invest and reinvest the moneys of the fund in the type of investments and in a manner as determined by the commissioner based upon investments by law and investment policies for similar fiduciaries.

§ 6366. Benefits.

(a) General rule.--Subject to the limitations set forth in subsection (b), the Catastrophic Loss Trust Fund shall provide catastrophic loss benefits to eligible claimants only for the payment of expenses for medical treatment and rehabilitative services in excess of \$100,000. NO PAYMENT SHALL BE MADE BY THE FUND FOR THE FIRST \$100,000 OF EXPENSES FOR MEDICAL TREATMENT AND REHABILITATIVE SERVICES INCURRED BY AN ELIGIBLE CLAIMANT.

(b) Maximum benefit.--The maximum catastrophic loss benefit which shall be paid by the fund on behalf of any one eligible claimant shall be \$50,000 a year and \$1,000,000 lifetime aggregate. During the first 18 months of eligibility, the administrator may approve payments on behalf of a claimant without regard to the \$50,000 a year limit but subject to the \$1,000,000 lifetime aggregate.

(c) Effect of other benefits.--Except for workmen's compensation, catastrophic loss benefits paid or payable by the fund shall be primary to any other available source of accident or health benefits including any program, group contract or other private or public source of benefits unless the law authorizing or providing those benefits makes the benefits primary to the benefits provided under this subchapter.

(d) Structured settlements.--The administrator may enter

1 into structured settlements to pay benefits under this
2 subchapter. Where it appears the settlement will be both cost
3 effective to the fund and in the best interest of the claimant,
4 the restrictions in subsection (b) shall not apply to this
5 subsection, but the cost of the structured settlement shall not
6 exceed the present value of the future annual payments up to the
7 maximum lifetime aggregate benefit remaining calculated at 6%
8 simple interest.

9 (e) Preclusion of recovering benefits.--In any action for
10 damages against a tortfeasor arising out of the maintenance or
11 use of a motor vehicle, a person who is eligible to receive
12 catastrophic loss benefits shall not plead, introduce into
13 evidence or recover the amount of medical and rehabilitative
14 expenses for which catastrophic loss benefits were paid or are
15 payable.

16 (f) Subrogation.--There shall be no subrogation or
17 reimbursement from a claimant's tort recovery with respect to
18 catastrophic loss benefits.

19 § 6367. Annual reports.

20 By March 1 of each year, the department shall prepare and
21 provide to the Governor and to the General Assembly a written
22 report of the status and activities of the Catastrophic Loss
23 Trust Fund. In its second annual report and in every second
24 annual report thereafter, the department shall include in this
25 report findings and recommendations with respect to the
26 operation of the fund and the actuarial soundness of the fund.
27 Each annual report shall also include an audit by the Auditor
28 General of the amounts paid to each eligible person so as to
29 avoid duplication, error or fraud.

30 § 6368. Appeals.

1 When any person making a claim for benefits from the
2 Catastrophic Loss Trust Fund disputes a determination of the
3 administrator concerning eligibility for benefits, allowance of
4 benefits or otherwise, the person may request that the
5 department review the determination of the administrator. The
6 department shall provide the person so claiming and the
7 administrator the opportunity to present statements or other
8 documents and, at the election of either of these individuals,
9 the opportunity for a hearing pursuant to Title 2 (relating to
10 administrative law and procedure).

11 § 6369. Miscellaneous provisions.

12 (a) Sunset review.--This subchapter shall be subject to
13 periodic evaluation, review and termination or continuation
14 under the act of December 22, 1981 (P.L.508, No.142), known as
15 the Sunset Act, every six years commencing with an initial
16 termination date of December 31, 1990.

17 (b) Nonseverability.--The provisions of this subchapter are
18 nonseverable. If any provision of this subchapter or its
19 application to any person or circumstance is held invalid, the
20 remaining provisions or applications of this subchapter are
21 void.

22 SUBCHAPTER G

23 NONPAYMENT OF JUDGMENTS

24 Sec.

25 6371. Court reports on nonpayment of judgments.

26 6372. Suspension for nonpayment of judgments.

27 6373. Duration of suspension.

28 6374. Satisfaction of judgments.

29 6375. Installment payment of judgments.

30 § 6371. Court reports on nonpayment of judgments.

1 (a) General rule.--Whenever any person fails within 60 days
2 to satisfy any judgment arising from a motor vehicle accident,
3 the judgment creditor may forward to the Department of
4 Transportation a certified copy of the judgment.

5 (b) Notice to state of nonresident defendant.--If the
6 defendant named in any certified copy of a judgment reported to
7 the Department of Transportation is a nonresident, the
8 Department of Transportation shall transmit a certified copy of
9 the judgment to the official in charge of the issuance of
10 licenses and registration certificates of the state of which the
11 defendant is a resident.

12 § 6372. Suspension for nonpayment of judgments.

13 (a) General rule.--The Department of Transportation, upon
14 receipt of a certified copy of a judgment, shall suspend the
15 operating privilege of each person against whom the judgment was
16 rendered except as otherwise provided in this section and in
17 section 6375 (relating to installment payment of judgments).

18 (b) Nonsuspension with consent of judgment creditor.--If the
19 judgment creditor consents in writing, in such form as the
20 Department of Transportation may prescribe, that the judgment
21 debtor's operating privilege be retained or restored, the
22 Department of Transportation shall not suspend or shall restore
23 the operating privilege until the consent is revoked in writing,
24 notwithstanding default in the payment of the judgment or of any
25 installment thereof prescribed in section 6375, provided the
26 judgment debtor furnishes proof of financial responsibility.

27 (c) Financial responsibility in effect at time of
28 accident.--Any person whose operating privilege has been
29 suspended, or is about to be suspended or become subject to
30 suspension, under this chapter shall be relieved from the effect

1 of the judgment as prescribed in this chapter if the person
2 files evidence satisfactory to the Department of Transportation
3 that financial responsibility was in force at the time of the
4 accident resulting in the judgment and is or should be available
5 for the satisfaction of the judgment. If insurance already
6 obtained is not available because the insurance company has gone
7 into receivership or bankruptcy, the person shall only be
8 required to present to or file with the Department of
9 Transportation proper evidence that an insurance policy was in
10 force at the time of the accident.

11 § 6373. Duration of suspension.

12 A person's operating privilege shall remain suspended and
13 shall not be renewed in the name of that person until every
14 judgment is stayed or satisfied in full or to the extent
15 provided in this subchapter, and until the person furnishes
16 proof of financial responsibility as required.

17 § 6374. Satisfaction of judgments.

18 (a) General rule.--For the purpose of this chapter only,
19 judgments shall be deemed satisfied upon the occurrence of one
20 of the following:

21 (1) When \$15,000 has been credited upon any judgment or
22 judgments rendered in excess of that amount because of injury
23 to one person as the result of any one accident.

24 (2) When \$30,000 has been credited upon any judgment or
25 judgments rendered in excess of that amount because of injury
26 to two or more persons as the result of any one accident.

27 (3) When \$5,000 has been credited upon any judgment or
28 judgments rendered in excess of that amount because of damage
29 to property of others as the result of any one accident.

30 (b) Credit for payment under settlement.--Payments made in

1 settlement of any claims because of bodily injury or property
2 damage arising from a motor vehicle accident shall be credited
3 in reduction of the amounts provided for in this section.

4 (c) Escrow deposit by judgment debtor.--When the judgment
5 creditor cannot be found, the judgment debtor may deposit in
6 escrow with the prothonotary of the court where the judgment was
7 entered an amount equal to the amount of the judgment, subject
8 to the limits set forth in subsection (a), interest to date and
9 record costs, whereupon the prothonotary shall notify the
10 Department of Transportation and the judgment shall be deemed
11 satisfied. The amount deposited shall be retained by the
12 prothonotary for a period of five years from the date of the
13 deposit, after which, if it has not been claimed by the judgment
14 creditor, it shall be returned to the judgment debtor. When the
15 deposit is made, the prothonotary shall notify the judgment
16 creditor and his counsel, if any, by certified or registered
17 mail at his last known address. Interest shall not run on any
18 judgment with respect to the amount deposited with the
19 prothonotary under this subsection.

20 § 6375. Installment payment of judgments.

21 (a) Order authorizing installment payment.--A judgment
22 debtor, upon notice to the judgment creditor, may apply to the
23 court in which the judgment was rendered for the privilege of
24 paying the judgment in installments and the court, in its
25 discretion and without prejudice to any other remedies which the
26 judgment creditor may have, may so order and fix the amounts and
27 times of payment of the installments.

28 (b) Suspension prohibited during compliance with order.--The
29 Department of Transportation shall not suspend a driver's
30 operating privilege and shall restore any operating privilege

1 suspended following nonpayment of a judgment when the judgment
2 debtor obtains an order permitting payment of the judgment in
3 installments and while the payment of any installment is not in
4 default, if the judgment debtor furnishes proof of financial
5 responsibility.

6 (c) Suspension for default in payment.--If the judgment
7 debtor fails to pay any installment as specified by the order,
8 then, upon notice of the default, the Department of
9 Transportation shall suspend the operating privilege of the
10 judgment debtor until the judgment is satisfied as provided in
11 this chapter.

12 SUBCHAPTER H

13 PROOF OF FINANCIAL RESPONSIBILITY

14 Sec.

15 6381. Notice of sanction for not evidencing financial
16 responsibility.

17 6382. Manner of providing proof of financial responsibility.

18 6383. Proof of financial responsibility before restoring
19 operating privilege or registration.

20 6384. Proof of financial responsibility following violation.

21 6385. Proof of financial responsibility following accident.

22 6386. Self-certification of financial responsibility.

23 6387. Self-insurance.

24 § 6381. Notice of sanction for not evidencing financial
25 responsibility.

26 An applicant for registration of a vehicle shall acknowledge
27 on a form developed by the Department of Transportation that the
28 applicant knows he may lose his operating privilege or vehicle
29 registrations if he fails to evidence financial responsibility
30 for the purposes described in section 6372 (relating to

1 suspension for nonpayment of judgments), 6383 (relating to proof
2 of financial responsibility before restoring operating privilege
3 or registration), 6384 (relating to proof of financial
4 responsibility following violation) or 6385 (relating to proof
5 of financial responsibility following accident).

6 § 6382. Manner of providing proof of financial responsibility.

7 (a) General rule.--Proof of financial responsibility may be
8 furnished by filing evidence satisfactory to the Department of
9 Transportation that all motor vehicles registered in the
10 person's name are covered by motor vehicle liability insurance
11 or by a program of self-insurance as provided by section 6387
12 (relating to self-insurance) or other reliable financial
13 arrangements, deposits, resources or commitments acceptable to
14 the Department of Transportation.

15 (b) Nonresident.--The nonresident owner of a motor vehicle
16 not registered in this Commonwealth may give proof of financial
17 responsibility by filing with the Department of Transportation a
18 written certificate or certificates of an insurance company
19 authorized to transact business in the state in which the motor
20 vehicle or motor vehicles described in the certificate are
21 registered or, if the nonresident does not own a motor vehicle,
22 then evidence satisfactory to the Department of Transportation
23 that the person does not own a motor vehicle. The Department of
24 Transportation shall accept the certificate if the insurance
25 company complies with the following provisions with respect to
26 the policies so certified:

27 (1) The insurance company executes a power of attorney
28 authorizing the Department of Transportation to accept
29 service on its behalf or process in any action arising out of
30 a motor vehicle accident in this Commonwealth.

1 (2) The insurance company agrees in writing that the
2 policies shall be deemed to conform with the law of this
3 Commonwealth relating to the terms of motor vehicle liability
4 policies issued in this Commonwealth.

5 (c) Default by foreign insurance company.--If any insurance
6 company not authorized to transact business in this
7 Commonwealth, which has qualified to furnish proof of financial
8 responsibility, defaults in any undertakings or agreements, the
9 Department of Transportation shall not thereafter accept as
10 proof any certificate of the company whether theretofore filed
11 or thereafter tendered as proof as long as the default
12 continues.

13 § 6383. Proof of financial responsibility before restoring
14 operating privilege or registration.

15 Whenever the Department of Transportation suspends or revokes
16 the operating privilege of any person or the registration of any
17 vehicle under section 6372 (relating to suspension for
18 nonpayment of judgments), 6384 (relating to proof of financial
19 responsibility following violation) or 6385 (relating to proof
20 of financial responsibility following accident) or 75 Pa.C.S. §
21 1532 (relating to revocation or suspension of operating
22 privilege) or 1542 (relating to revocation of habitual
23 offender's license) or upon receiving the record of a conviction
24 or forfeiture of bail, the Department of Transportation shall
25 not restore the operating privilege or the applicable
26 registration until the person furnishes proof of financial
27 responsibility.

28 § 6384. Proof of financial responsibility following violation.

29 A defendant who is convicted of a traffic offense that
30 requires a court appearance, other than a parking offense, shall

1 be required to show proof of financial responsibility covering
2 the operation of the vehicle at the time of the offense. If the
3 defendant fails to show proof of financial responsibility, the
4 court shall notify the Department of Transportation of that
5 fact. Upon receipt of the notice, the Department of
6 Transportation shall revoke the registration of the vehicle. If
7 the defendant is the owner of the vehicle, the Department of
8 Transportation shall also suspend the operating privilege of the
9 defendant.

10 § 6385. Proof of financial responsibility following accident.

11 If the Department of Transportation determines that the owner
12 of a motor vehicle involved in an accident requiring notice to a
13 police department under 75 Pa.C.S. § 3746 (relating to immediate
14 notice of accident to police department) did not maintain
15 financial responsibility on the motor vehicle at the time of the
16 accident, the Department of Transportation shall suspend the
17 operating privilege of the owner, where applicable, and shall
18 revoke the registration of the vehicle.

19 § 6386. Self-certification of financial responsibility.

20 The Department of Transportation shall require that each
21 motor vehicle registrant certify that the registrant is
22 financially responsible at the time of registration or renewal
23 thereof. The Department of Transportation shall refuse to
24 register or renew the registration of a vehicle for failure to
25 comply with this requirement or falsification of self-
26 certification.

27 § 6387. Self-insurance.

28 (a) General rule.--Self-insurance is effected by filing with
29 the Department of Transportation, in satisfactory form, evidence
30 that reliable financial arrangements, deposits, resources or

commitments exist such as will satisfy the Department of
Transportation that the self-insurer will:

(1) Provide the benefits required by section 6311
(relating to required benefits), subject to Subchapter B
(relating to motor vehicle liability insurance first party
benefits), except the additional benefits and limits provided
in sections 6312 (relating to availability of benefits) and
6315 (relating to availability of adequate limits).

(2) Make payments sufficient to satisfy judgments as
required by section 6374 (relating to satisfaction of
judgments).

(3) Provide uninsured motorist coverage up to the limits
set forth in section 6374.

(b) Stacking limits prohibited.--Any recovery of uninsured
motorist benefits under this section only shall not be increased
by stacking the limits provided in section 6374, in
consideration of the ownership or operation of multiple vehicles
or otherwise.

(c) Assigned Risk and Assigned Claims Plans.--Self-insurers
shall not be required to accept assigned risks under Subchapter
D (relating to Assigned Risk Plan) or contribute to the Assigned
Claims Plan under Subchapter E (relating to Assigned Claims
Plan).

(d) Catastrophic Loss Trust Fund.--Self-insurers shall
contribute to the Catastrophic Loss Trust Fund in the manner
provided in Subchapter F (relating to Catastrophic Loss Trust
Fund).

(e) Promulgation of regulations.--The Department of
Transportation may, jointly with the department, promulgate
regulations for reviewing and establishing the financial

1 eligibility of self-insurers.

2 SUBCHAPTER I

3 MISCELLANEOUS PROVISIONS

4 Sec.

5 6391. Notice of available benefits and limits.

6 6392. Availability of certain coverage.

7 6393. Premiums.

8 ~~6394. Jurisdictional limit on judicial arbitration.~~

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9 6394. (RESERVED).

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10 6395. Insurance fraud reporting immunity.

11 6396. Mental or physical examinations.

12 6397. Customary charges for treatment.

13 6398. Attorney fees and costs.

14 § 6391. Notice of available benefits and limits.

15 It shall be presumed that the insured has been advised of the
16 benefits and limits available under this chapter if the
17 following notice in bold print of at least ten-point type is
18 given to the applicant at the time of application for original
19 coverage or at the time of the first renewal after October 1,
20 1984:

21 IMPORTANT NOTICE

22 Insurance companies operating in the Commonwealth of
23 Pennsylvania are required by law to make available for
24 purchase the following benefits for you, your spouse or
25 other relatives or minors in your custody or in the
26 custody of your relatives, residing in your household,
27 occupants of your motor vehicle or persons struck by your
28 motor vehicle:

29 (1) Medical benefits, up to at least \$100,000.

30 (2) Income loss benefits, up to at least \$2,500 a

month up to a maximum benefit of at least \$50,000.

(3) Accidental death benefits, up to at least \$25,000.

(4) Funeral benefits, \$2,500.

(5) As an alternative to paragraphs (1) through (4), a combination benefit, up to at least ~~\$177,500~~ \$277,500 <— of benefits in the aggregate or benefits payable up to three years from the date of the accident, whichever occurs first, subject to a limit on accidental death benefit of up to \$25,000 and a limit on funeral benefit of \$2,500.

(6) Uninsured, underinsured and bodily injury liability coverage up to at least \$100,000 because of injury to one person in any one accident and up to at least \$300,000 because of injury to two or more persons in any one accident or, at the option of the insurer, up to at least \$300,000 in a single limit for these coverages, except for policies issued under the Assigned Risk Plan. Also, at least \$5,000 for damage to property of others in any one accident.

Additionally, insurers may offer higher benefit levels than those enumerated above as well as additional benefits. However, an insured may elect to purchase lower benefit levels than those enumerated above. Your signature on this notice or your payment of any renewal premium evidences your actual knowledge and understanding of the availability of these benefits and limits as well as the benefits and limits you have selected.

§ 6392. Availability of certain coverage.

Except for policies issued under Subchapter D (relating to

1 Assigned Risk Plan), an insurer issuing a policy of bodily
2 injury liability coverage pursuant to this chapter shall make
3 available for purchase higher limits of uninsured, underinsured
4 and bodily injury liability coverages up to at least \$100,000
5 because of injury to one person in any one accident and up to at
6 least \$300,000 because of injury to two or more persons in any
7 one accident or, at the option of the insurer, up to at least
8 \$300,000 in a single limit for these coverages. Additionally, an
9 insurer shall make available for purchase at least \$5,000
10 because of damage to property of others in any one accident.
11 However, the exclusion of availability relating to the Assigned
12 Risk Plan shall not apply to damage to property of others in any
13 one accident.

14 § 6393. Premiums.

15 (a) Limitation on premium increases.--

16 (1) An insurer shall not increase the premium rate of an
17 owner of a policy of insurance subject to this chapter solely
18 because one or more of the insureds under the policy made a
19 claim under the policy and was paid thereon unless it is
20 determined that the insured was at fault in contributing to
21 the accident giving rise to the claim.

22 (2) An insurer shall not charge an insured who has been
23 convicted of a violation of an offense enumerated in 75
24 Pa.C.S. § 1535 (relating to schedule of convictions and
25 points) a higher rate for a policy of insurance solely on
26 account of the conviction. An insurer may charge an insured a
27 higher rate for a policy of insurance if a claim is made
28 under paragraph (1).

29 (b) Surcharge disclosure plan.--All insurers shall provide
30 to the insured a surcharge disclosure plan. The insurer

1 providing the surcharge disclosure plan shall detail the
2 provisions of the plan, including, but not limited to:

3 (1) A description of conditions that would assess a
4 premium surcharge to an insured along with the estimated
5 increase of the surcharge per policy period per policyholder.

6 (2) The number of years any surcharge will be in effect.
7 The surcharge disclosure plan shall be delivered to each insured
8 by the insurer at least once annually. Additionally, the
9 surcharge information plan shall be given to each prospective
10 insured at the time application is made for motor vehicle
11 insurance coverage.

12 (c) Return of premiums of canceled policies.--When an
13 insurer cancels a motor vehicle insurance policy which is
14 subject to section 6107(3) (relating to exclusions), the insurer
15 shall within 30 days of canceling the policy return to the
16 insured all premiums paid under the policy less any proration
17 for the period the policy was in effect. Premiums are overdue if
18 not paid to the insured within 30 days after canceling the
19 policy. Overdue return premiums shall bear interest at the rate
20 of 12% a year from the date the return premium became due.

21 (d) Rules and regulations.--The department shall promulgate
22 rules and regulations establishing guidelines and procedures for
23 determining fault of an insured for the purpose of subsection
24 (a) and guidelines for the content and format of the surcharge
25 disclosure plan.

26 ~~§ 6394. Jurisdictional limit on judicial arbitration.~~

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27 ~~Beginning January 1, 1987, the monetary limit under 42~~
28 ~~Pa.C.S. § 7361(b)(2)(i) (relating to compulsory arbitration) for~~
29 ~~the submission of matters to judicial arbitration in judicial~~
30 ~~districts embracing first and second class counties shall be~~

1 ~~\$25,000 for actions arising from the maintenance or use of a~~
2 ~~motor vehicle.~~

3 § 6394. (RESERVED). <—

4 § 6395. Insurance fraud reporting immunity.

5 (a) General rule.--An insurance company, and any agent,
6 servant or employee acting in the course and scope of his
7 employment, shall be immune from civil or criminal liability
8 arising from the supply or release of written or oral
9 information to any duly authorized Federal or state law
10 enforcement agency, including the department, if the following
11 conditions ~~obtain~~ EXIST: <—

12 (1) The information is supplied to the agency in
13 connection with an allegation of fraudulent conduct on the
14 part of any person relating to the filing or maintenance of a
15 motor vehicle insurance claim for bodily injury or property
16 damage.

17 (2) The insurance company, agent, servant or employee
18 has probable cause to believe that the information supplied
19 is reasonably related to the allegation of fraud.

20 (b) Notice to policyholder.--The insurance company shall
21 send written notice to the policyholder or policyholders about
22 whom the information pertains unless the insurance company
23 receives notice that the authorized agency finds, based on
24 specific facts, that there is reason to believe that the
25 information will result in any of the following:

26 (1) Endangerment to the life or physical safety of any
27 person.

28 (2) Flight from prosecution.

29 (3) Destruction of or tampering with evidence.

30 (4) Intimidation of any potential witness or witnesses.

(5) Obstruction of or serious jeopardy to an investigation.

The insurance company shall send written notice not sooner than 45 days nor more than 60 days from the time the information is furnished to an authorized agency, except when the agency specifies that a notice should not be sent in accordance with the exceptions enumerated in this subsection, in which event the insurance company shall send written notice to the policyholder not sooner than 180 days nor more than 190 days following the date the information is furnished.

(c) Immunity for sending notice.--An insurance company or authorized agency and any person acting on behalf of an insurance company or authorized agency complying with or attempting in good faith to comply with subsection (b) shall be immune from civil liability arising out of any acts or omissions in so doing.

(d) Effect.--This section does not create any rights to privacy or causes of action on behalf of policyholders that were not in existence as of October 1, 1984.

§ 6396. Mental or physical examinations.

(a) General rule.--Whenever the mental or physical condition of a person is material to any claim for medical, income loss or catastrophic loss benefits, a court of competent jurisdiction or the administrator of the Catastrophic Loss Trust Fund for catastrophic loss claims may order the person to submit to a mental or physical examination by a physician. The order may only be made upon motion for good cause shown. The order shall give the person to be examined adequate notice of the time and date of the examination and shall state the manner, conditions and scope of the examination and the physician by whom it is to

1 be performed. If a person fails to comply with an order to be
2 examined, the court or the administrator may order that the
3 person be denied benefits until compliance.

4 (b) Report of examination.--If requested by the person
5 examined, a party causing an examination to be made shall
6 promptly deliver to the person examined a copy of every written
7 report concerning the examination at least one of which shall
8 set forth the physician's findings and conclusions in detail.
9 Upon failure to promptly provide copies of these reports, the
10 court or the administrator shall prohibit the testimony of the
11 examining physician in any proceeding to recover benefits.

12 § 6397. Customary charges for treatment.

13 A person or institution providing treatment, accommodations,
14 products or services to an injured person for an injury covered
15 by medical or catastrophic loss benefits shall not make a charge
16 for the treatment, accommodations, products or services in
17 excess of the amount the person or institution customarily
18 charges for like treatment, accommodations, products and
19 services in cases involving no insurance.

20 § 6398. Attorney fees and costs.

21 (a) Basis for reasonable fee.--No attorney fee for
22 representing a claimant in connection with a claim for first
23 party benefits provided under Subchapter B (relating to motor
24 vehicle liability insurance first party benefits) or a claim for
25 catastrophic loss benefits under Subchapter F (relating to
26 Catastrophic Loss Trust Fund) shall be calculated, determined or
27 paid on a contingent fee basis, nor shall any attorney fees be
28 deducted from the benefits enumerated in this subsection which
29 are otherwise due such claimant. An attorney may charge a
30 claimant a reasonable fee based upon actual time expended.

(b) Unreasonable refusal to pay benefits.--If an insurer is found to have acted unreasonably in refusing to pay the benefits enumerated in subsection (a) when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended.

(c) Payment by fund.--The Catastrophic Loss Trust Fund may award the claimant's attorney a reasonable fee based upon actual time expended if a claimant is unable to otherwise pay the fees and costs.

(d) Fraudulent or excessive claims.--If, in any action by a claimant to recover benefits under this chapter, the court determines that the claim, or a significant part thereof, is fraudulent or unreasonably excessive, the court may award the insurer's attorney a reasonable fee based upon actual time expended. The court may direct that the fee shall be paid by the claimant or that the fee may be treated in whole or in part as an offset against any benefits due or to become due the claimant.

CHAPTER 65

CREDIT INSURANCE

Sec.

6501. General provisions.

6502. Definitions.

6503. Forms.

6504. Amount of insurance.

6505. Term of insurance.

6506. Disclosure to debtors.

6507. Review of forms and premium rates.

6508. Premiums and refunds.

6509. Issuance of policies.

1 6510. Claims.

2 6511. Choice of insurer.

3 6512. ~~Enforcement~~ REGULATIONS AND ENFORCEMENT.

<—

4 6513. Judicial review.

5 6514. Penalties.

6 § 6501. General provisions.

7 (a) Short title of chapter.--This chapter shall be known and
8 may be cited as the Model Act for the Regulation of Credit Life
9 Insurance and Credit Accident and Health Insurance.

10 (b) Purpose.--The purpose of this chapter is to promote the
11 public welfare by regulating credit life insurance and credit
12 accident and health insurance. This chapter is not intended to
13 prohibit or discourage reasonable competition.

14 (c) Construction.--The provisions of this chapter shall be
15 liberally construed.

16 (d) Scope of chapter.--All life insurance and all accident
17 and health insurance in connection with loans or other credit
18 transactions shall be subject to this chapter, except the
19 following types of health and accident insurance:

20 (1) Insurance in connection with a loan or other credit
21 transaction or more than 20 years' duration.

22 (2) Insurance in connection with a first real estate
23 mortgage, but if the mortgage is secured by a new or used
24 mobile home or dwelling trailer the insurance shall be
25 subject to the provisions of this chapter, regardless of the
26 duration of the underlying loan or other credit transaction.

27 (3) Insurance issued as an isolated transaction on the
28 part of the insurer not related to an agreement or a plan for
29 insuring debtors of the creditor.

30 § 6502. Definitions.

1 The following words and phrases when used in this chapter
2 shall have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Credit accident and health insurance." Insurance on a
5 debtor to provide indemnity for payments becoming due on a
6 specific loan or other credit transaction while the debtor is
7 disabled as defined in the policy.

8 "Credit insurance." Credit life insurance and credit
9 accident and health insurance.

10 "Credit life insurance." Insurance on the life of a debtor
11 pursuant to or in connection with a specific loan or other
12 credit transaction.

13 "Creditor." The lender of money or vendor or lessor of
14 goods, services, property rights or privileges for which payment
15 is arranged through a credit transaction or any successor to the
16 right, title or interest of any such lender, vendor or lessor
17 and an affiliate, associate or subsidiary of any of them.

18 "Debtor." A borrower of money or a purchaser or lessee of
19 goods, services, property rights or privileges for which payment
20 is arranged through a credit transaction.

21 "Dwelling trailer." Any portable dwelling structure or
22 movable dwelling unit designed, constructed and equipped for
23 human use with a chassis or undercarriage as an integral part
24 thereof, with or without independent motive power, capable of
25 being drawn or driven upon highways.

26 "Indebtedness." The total amount payable by a debtor to a
27 creditor in connection with a loan or other credit transaction.

28 "Mobile home." Any portable structure or movable unit
29 equipped to be drawn or travel on the highways that is used
30 either temporarily or permanently as a residence home, dwelling

1 unit, apartment or other housing accommodation or as an office.

2 § 6503. Forms.

3 Credit insurance shall be issued only in the following forms:

4 (1) Individual policies of life insurance to insure the
5 lives of debtors on the term plan.

6 (2) Individual policies of accident and health insurance
7 to insure debtors on a term plan or disability benefit
8 provisions in individual policies of credit life insurance.

9 (3) Group policies of life insurance issued for delivery
10 to creditors providing insurance upon the lives of debtors on
11 the term plan.

12 (4) Group policies of accident and health insurance
13 issued for delivery to creditors on a term plan insuring
14 debtors or disability benefit provisions in group credit life
15 insurance policies to provide such coverage.

16 § 6504. Amount of insurance.

17 (a) General rule.--The initial amount of credit life
18 insurance shall not exceed the total amount repayable under the
19 contract of indebtedness. Where an indebtedness repayable in
20 substantially equal installments is secured by an individual
21 policy of credit life insurance, the amount of insurance shall
22 not exceed the scheduled amount of indebtedness or the amount of
23 unpaid indebtedness, whichever is the greater, and where secured
24 by a group policy of credit life insurance shall not exceed the
25 amount of unpaid indebtedness.

26 (b) Exceptions.--Notwithstanding any other provisions of
27 this chapter, insurance on agricultural credit transaction
28 commitments not exceeding one year in duration may be written up
29 to the amount of the loan commitment on a nondecreasing or level
30 term plan. Notwithstanding any other provisions of this title,

1 insurance on educational credit transaction commitments may be
2 written for the amount of the portion of the commitment that has
3 not been advanced by the creditor.

4 (c) Periodic indemnity.--The total amount of periodic
5 indemnity payable by credit accident and health insurance in the
6 event of disability as defined in the policy shall not exceed
7 the aggregate of the periodic scheduled unpaid installments of
8 the indebtedness, and the amount of each periodic indemnity
9 payment shall not exceed the original indebtedness divided by
10 the number of periodic installments.

11 § 6505. Term of insurance.

12 The term of any credit insurance shall, subject to acceptance
13 by the insurer, commence on the date when the debtor becomes
14 obligated to the creditor or the date from which interest or
15 finance charges accrue if later, except that when a group policy
16 provides coverage with respect to existing obligations, the
17 insurance on a debtor with respect to the indebtedness shall
18 commence on the effective date of the policy. When evidence of
19 insurability is required and is furnished more than 30 days
20 after the date when the debtor becomes obligated to the
21 creditor, the term of the insurance may commence on the date on
22 which the insurance company determines the evidence to be
23 satisfactory and shall make an appropriate refund or adjustment
24 of any charge to the debtor for insurance. The term of credit
25 insurance shall not extend more than 15 days beyond the
26 scheduled maturity date of the indebtedness, except when
27 extended without additional cost to the debtor. If the
28 indebtedness is discharged due to renewal or refinancing prior
29 to the scheduled maturity date, the insurance in force shall be
30 terminated before any new insurance may be issued in connection

1 with the renewed or refinanced indebtedness. In all cases of
2 termination prior to scheduled maturity, a refund shall be paid
3 or credited as provided in section 6508 (relating to premiums
4 and refunds).

5 § 6506. Disclosure to debtors.

6 (a) Policies and certificates.--All credit insurance shall
7 be evidenced by an individual policy or in the case of group
8 insurance by a certificate of insurance, which policy or
9 certificate shall be delivered to the debtor within 30 days
10 after the date the indebtedness is incurred. Each individual
11 policy or group certificate of credit insurance shall, in
12 addition to other requirements of law, include:

13 (1) The name and home office address of the insurer.

14 (2) The name or names of the debtor or in the case of a
15 certificate under a group policy the identity by name or
16 otherwise of the debtor.

17 (3) The rate or amount of payment, if any, by the debtor
18 separately for credit life insurance and credit accident and
19 health insurance.

20 (4) A description of the amount, term and coverage,
21 including any exceptions, limitations or restrictions.

22 (5) A statement that the benefits shall be paid to the
23 creditor to reduce or extinguish the unpaid indebtedness and
24 that, if the amount of insurance exceeds the unpaid
25 indebtedness, the excess shall be payable to a beneficiary
26 other than the creditor named by the debtor or to his estate.

27 (b) Preliminary disclosures.--If a separate identifiable
28 charge is made to the debtor for the insurance and an individual
29 policy or group certificate of insurance is not delivered to the
30 debtor at the time the indebtedness is incurred, a copy of the

1 application for the policy or a notice of proposed insurance
2 shall be delivered to the debtor at that time, which shall
3 include the following:

4 (1) The identity by name or otherwise of the person or
5 persons insured.

6 (2) The rate or amount of payment by the debtor
7 separately for credit life insurance and credit accident and
8 health insurance.

9 (3) A statement that, subject to acceptance by the
10 insurer and within 30 days, there will be delivered to the
11 debtor a policy or certificate of insurance naming the
12 insurer and fully describing the insurance.

13 The copy of the application for or notice of proposed insurance
14 shall also refer exclusively to insurance coverage and shall be
15 separate and apart from the loan, sale or other credit statement
16 of account, instrument or agreement, unless the information
17 required by this subsection is prominently set forth therein.

18 The application or notice of proposed insurance shall state
19 that, upon acceptance by the insurer, the insurance shall become
20 effective as provided in section 6505 (relating to term of
21 insurance). Upon acceptance of the insurance by the insurer and
22 within 30 days of the date upon which the indebtedness is
23 incurred, the insurer shall deliver an individual policy or
24 group certificate of insurance under subsection (a).

25 (c) Refusal of risk.--If the named insurer does not accept
26 the risk, the debtor shall promptly receive a policy or
27 certificate of insurance setting forth the name and home office
28 address of the substituted insurer and the amount of the premium
29 to be charged and, if the amount of premium is less than that
30 set forth in the notice of proposed insurance, an appropriate

1 refund shall be made.

2 § 6507. Review of forms and premium rates.

3 (a) Review by department.--All policies, certificates of
4 insurance, notices of proposed insurance, applications for
5 insurance, endorsements and riders delivered or issued for
6 delivery in this Commonwealth, together with the premium rates
7 therefor, shall be filed with the department for approval. Forms
8 and rates so filed shall be deemed approved at the expiration of
9 30 days after filing unless earlier approved or disapproved by
10 the department. The department by written notice to the insurer
11 may, with the 30-day period, extend the period for approval or
12 disapproval for an additional 30 days. A form subject to this
13 section or premium rate shall not be issued or used until the
14 expiration of the time for the consideration by the department,
15 unless the department has given its written approval thereto.

16 (b) Disapproval.--The department shall disapprove any form
17 or premium rate if the table of premium rates appears by
18 reasonable assumptions to be excessive in relation to benefits,
19 or if the form contains provisions which are unfair, unjust,
20 misleading, deceptive or are contrary to law. In determining
21 whether to disapprove any such form or premium rates, the
22 department shall give due consideration to past and prospective
23 loss experience in and outside this Commonwealth, to
24 underwriting practice and judgment, to a reasonable margin for
25 underwriting profit and contingencies, to past and prospective
26 expenses in and outside this Commonwealth and to all other
27 relevant factors. If the form or premium rate is disapproved,
28 the insurer shall not issue or use the form or rates.

29 (c) Notice of disapproval.--The department shall promptly
30 give notice to the insurer of its disapproval of a form or

1 premium rate under subsection (b). In the notice, the department
2 shall specify the reason for its disapproval and state that a
3 hearing will be granted within 20 days after request in writing
4 by the insurer.

5 (d) Withdrawal of approval.--The department may, at any time
6 after a hearing held not less than 20 days after written notice
7 to the insurer, withdraw its approval of any such form or
8 premium rate on any ground set forth in subsection (b). The
9 written notice of the hearing shall state the reason for the
10 proposed withdrawal. The insurer shall not issue or use such
11 forms or rates after the effective date of the withdrawal.

12 (e) Judicial review.--Any order or final determination of
13 the department after a hearing under this section shall be
14 subject to judicial review.

15 (f) Group policies.--With regard to group policies of credit
16 insurance delivered in this Commonwealth before November 1,
17 1961, or delivered in another state at any time, the insurer
18 shall be required to file only the group certificate and notice
19 of proposed insurance, delivered or issued for delivery in this
20 Commonwealth as specified in section 6506 (relating to
21 disclosure to debtors). These forms shall be approved by the
22 department if they contain the information specified therein and
23 if the schedules of premium rates applicable to the insurance
24 evidenced by the certificate or notice are not in excess of the
25 insurer's schedules of premium rates on file with the
26 department.

27 § 6508. Premiums and refunds.

28 (a) Revision of rates.--Any insurer may revise its schedules
29 of premium rates from time to time and shall file such revised
30 schedules with the department. An insurer shall not issue any

1 credit insurance policy for which the premium rate exceeds that
2 determined by the schedules of the insurer as then on file with
3 the department.

4 (b) Refunds.--Each individual policy or group certificate
5 shall provide that, in the event of termination of the insurance
6 prior to the scheduled maturity date of the indebtedness, any
7 refund of an amount paid by the debtor for insurance shall be
8 paid or credited promptly to the person entitled thereto, except
9 that the department shall prescribe a minimum refund, and no
10 refund which would be less than such minimum need be made. The
11 formula to be used in computing the refund shall be filed with
12 and approved by the department.

13 (c) Payments required by creditor.--If a creditor requires a
14 debtor to make any payment for credit insurance and an
15 individual policy or group certificate of insurance is not
16 issued, the creditor shall immediately give written notice to
17 the debtor and shall promptly make an appropriate credit to the
18 account.

19 (d) Limitation on charges.--The amount charged to a debtor
20 for any credit insurance shall not exceed the aggregate of the
21 premiums to be charged by the insurer as computed at the time
22 the charge to the debtor is determined.

23 (e) Payments under other law.--This chapter does not
24 authorize any payments for credit insurance now prohibited under
25 any statute or regulation thereunder governing credit
26 transactions, except that when payment for credit insurance is
27 not prohibited under any statute or rule thereunder governing
28 credit transactions, the commissions, dividends or other returns
29 to the creditor therefrom shall not be deemed a violation of
30 law.

1 § 6509. Issuance of policies.

2 All policies of credit life insurance and credit accident and
3 health insurance shall be delivered or issued for delivery in
4 this Commonwealth only by an insurer authorized to do an
5 insurance business in this Commonwealth and shall be issued only
6 through holders of licenses or authorizations issued by the
7 department.

8 § 6510. Claims.

9 (a) Method of payment.--All claims shall be paid either by
10 draft drawn upon the insurer or by check of the insurer to the
11 order of the claimant to whom payment of the claim is due
12 pursuant to the policy provisions or upon direction of the
13 claimant to one specified.

14 (b) Authority to settle claims.--A plan or arrangement shall
15 not be used whereby any person, firm or corporation other than
16 the insurer or its designated claim representative are
17 authorized to settle or adjust claims. The creditor shall not be
18 designated as claim representative for the insurer in adjusting
19 claims, except that a group policyholder may, by arrangement
20 with the group insurer, draw drafts or checks in payment of
21 claims due to the group policyholder subject to audit and review
22 by the insurer.

23 § 6511. Choice of insurer.

24 When credit insurance is required as additional security for
25 any indebtedness, the debtor may, upon request to the creditor,
26 furnish the required amount of insurance through existing
27 policies of insurance owned or controlled by him or of procuring
28 and furnishing the required coverage through any insurer
29 authorized to transact an insurance business in this
30 Commonwealth.

1 § 6512. ~~Enforcement~~ REGULATIONS AND ENFORCEMENT. <—

2 THE DEPARTMENT MAY, AFTER A PUBLIC HEARING, PROMULGATE SUCH <—

3 REGULATIONS AS IT FINDS TO BE APPROPRIATE AND NECESSARY FOR THE

4 SUPERVISION OF THIS CHAPTER. Whenever the department finds that

5 there has been a violation of this chapter or any ~~rules and~~ <—

6 regulations promulgated thereunder, after written notice thereof

7 and hearing given to the insurer or other person authorized or

8 licensed by the department, it shall set forth the details of

9 its findings, together with an order for compliance by a

10 specified date. The order shall be binding on the person so

11 ordered on the date specified unless the order is withdrawn by

12 the department or a stay is ordered by a court.

13 § 6513. Judicial review.

14 Any party to a proceeding affected by an order of the

15 department shall be entitled to judicial review.

16 § 6514. Penalties.

17 (a) Monetary penalties.--Any insurer or any person who

18 violates an order of the department after it has become final

19 and while the order is in effect shall, upon proof thereof to

20 the satisfaction of the court, pay to the Commonwealth a sum not

21 to exceed \$250 which may be recovered in a civil action. If the

22 violation is found to be willful, the penalty shall be a sum not

23 to exceed \$1,000.

24 (b) Licensure penalties.--The department may revoke or

25 suspend the license or certificate of authority of the insurer

26 or the person guilty of such a violation.

27 CHAPTER 67

28 TITLE INSURANCE

29 Subchapter

30 A. General Provisions

- B. Business Operations
- C. Investment and Reserves
- D. Rate Regulation
- E. Penalties and Procedures

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

6701. Definitions.

6702. Applicability of chapter.

6703. Applicability of other provisions of title.

6704. REGULATIONS.

§ 6701. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Applicant for insurance." Includes approved attorneys, real estate brokers, real estate salesmen, attorneys at law and all others who from time to time apply to a title insurance company or to an agent of a title insurance company, for title insurance, and who at the time of the application are not agents for a title insurance company.

"Approved attorney." An attorney at law in good standing upon whose examination of title and report of title thereon a title insurance company may issue a policy of title insurance.

"Business of title insurance."

(1) The making as insurer, guarantor or surety, or proposing to make as insurer, guarantor or surety, of any contract or policy of title insurance.

(2) The transacting, or proposing to transact, any phase of title insurance, including solicitation, negotiation

1 preliminary to execution, execution of a contract of title
2 insurance, insuring and transacting matters subsequent to the
3 execution of the contract and arising out of it, including
4 reinsurance.

5 (3) The doing, or proposing to do, any business in
6 substance equivalent to any of the foregoing in a manner
7 designed to evade the provisions of this chapter.

8 "Fee." The premium, the examination and settlement or
9 closing fees, and every other charge, whether denominated
10 premium or otherwise, made by a title insurance company, agent
11 of a title insurance company or an approved attorney of a title
12 insurance company to an insured or to an applicant for
13 insurance, for any policy or contract for the issuance of, or an
14 application for title insurance. The term does not include any
15 charges paid by an insured or by an applicant for insurance for
16 any policy or contract, to an attorney at law acting as an
17 independent contractor and retained by such attorney at law,
18 whether or not he is acting as an agent of or an approved
19 attorney of a title insurance company, or any charges made for
20 special services not constituting title insurance, even though
21 performed in connection with a title insurance policy or
22 contract.

23 "Title insurance."

24 (1) Insuring, guaranteeing or indemnifying against loss
25 or damage suffered by owners of real property or by
26 mortgagees or others interested therein by reason of liens,
27 encumbrances upon, defects in or the unmarketability of the
28 title to the real property.

29 (2) Guaranteeing, warranting or otherwise insuring the
30 correctness of searches relating to the title to real

1 property, and doing any business in substance equivalent to
2 any of the foregoing in a manner designed to evade this
3 chapter.

4 "Title insurance company."

5 (1) A domestic company organized under the provisions of
6 this chapter for the purpose of insuring titles to real
7 estate.

8 (2) A title insurance company organized under the laws
9 of another state or a foreign government and licensed to
10 insure titles to real estate in this Commonwealth pursuant to
11 section 6719 (relating to licensure of foreign insurers).

12 (3) A domestic or foreign company, including any
13 domestic bank or trust company, which has the power and is
14 authorized to insure titles to real estate in this
15 Commonwealth as of September 1, 1963, and which is not
16 disqualified under section 6715 (relating to loss of power to
17 transact title insurance).

18 § 6702. Applicability of chapter.

19 This chapter applies to all title insurance companies, title
20 rating organizations, title insurance agents, applicants for
21 title insurance and policyholders and to all persons and
22 business entities engaged in the business of title insurance.

23 § 6703. Applicability of other provisions of title.

24 In addition to the provisions of this chapter, only the
25 following provisions of this title, except as they are
26 inconsistent with this chapter, shall apply to the business of
27 title insurance and to title insurance companies, which shall be
28 considered as within the class of insurance companies regulated
29 by those provisions solely for the purpose of being subject to
30 such provisions:

1 Chapter 1 (relating to general provisions).
2 Chapter 3 (relating to general provisions).
3 Chapter 5 (relating to Insurance Department).
4 Subchapter E of Chapter 7 (relating to title insurance).
5 Section 901 (relating to deposit of securities with
6 department).
7 Section 904 (relating to actions in equity regarding
8 deposits).
9 Sections 1102 (relating to certification of agents)
10 through 1107 (relating to penalty for soliciting for
11 nonexistent company).
12 ~~Section 1142 (relating to theft offense).~~ <—
13 Sections 1145 (relating to offering rebates and
14 inducements) through 1149 (relating to penalties imposed by
15 department).
16 Subchapter E of Chapter 11 (relating to managers and
17 exclusive general agents).
18 Chapter 15 (relating to unfair insurance practices).
19 Sections 1705 (relating to reports of financial
20 condition) and 1706 (relating to additional reports from
21 foreign or alien entities).
22 Sections 3101 (relating to scope of part) through 3104
23 (relating to power of General Assembly regarding charters).
24 Section 3106 (relating to judicial proceedings).
25 Sections 3303 (relating to articles of agreement) through
26 3305 (relating to capital stock).
27 Sections 3307 (relating to officers and directors) and
28 3308 (relating to subscriptions).
29 ~~Subchapter B of Chapter 33 (relating to promotion).~~ <—
30 Subchapter C of Chapter 33 (relating to authorization).

Section 3351 (relating to valuation of securities).

Sections 3501 (relating to use of company name) through 3508 (relating to execution of insurance policies).

Sections 3510 (relating to incorporation of documents in policy) through 3516 (relating to mortgage insurance).

Sections 3531 (relating to annual meetings) through 3533 (relating to election of directors and trustees).

Sections 3535 (relating to voting by stockholders and members) through 3539 (relating to directors and trustees).

Subchapter C of Chapter 35 (relating to fundamental changes).

Sections 3565 (relating to protection of competition) through 3571 (relating to dissolution for failure to do business).

Subchapter E of Chapter 35 (relating to foreign or alien companies).

Section 3581 (relating to embezzlement by officers or agents) through 3587 (relating to buying proxies).

Section 3589 (relating to fraud in obtaining licenses or certificates).

Chapter 39 (relating to suspension of business and dissolution).

Sections 5507 (relating to dividends), 5508 (relating to reduction and withdrawal of capital stock) and 5510 (relating to resident agents for foreign or alien insurance entities).

§ 6704. REGULATIONS.

←

THE DEPARTMENT SHALL ENFORCE AND CARRY OUT, BY REGULATIONS, ORDERS OR OTHERWISE, THIS CHAPTER. THE DEPARTMENT MAY MAKE SUCH REASONABLE REGULATIONS, NOT INCONSISTENT WITH THIS CHAPTER, AS MAY BE NECESSARY OR PROPER IN THE EXERCISE OF ITS POWERS OR FOR

1 THE PERFORMANCE OF ITS DUTIES UNDER THIS CHAPTER.

2 SUBCHAPTER B

3 BUSINESS OPERATIONS

4 Sec.

5 6711. Powers of title insurance companies.

6 6712. Corporate form.

7 6713. Title examination and records.

8 6714. Prohibition of guaranteeing mortgages.

9 6715. Loss of power to transact title insurance.

10 6716. Primary retained liability.

11 6717. Power to reinsure.

12 6718. Special reinsurance.

13 6719. Licensure of foreign or alien insurers.

14 6720. Resident agents for foreign or alien insurers.

15 6721. Regulation of agents.

16 6722. Commissions.

17 6723. Mergers and consolidations.

18 6724. Other corporate acquisitions.

19 6725. Change in corporate control.

20 § 6711. Powers of title insurance companies.

21 Only a title insurance company as defined in section 6701
22 (relating to definitions) may underwrite or issue a policy of
23 title insurance. A person shall not engage in the business of
24 title insurance in this Commonwealth unless authorized to
25 transact such a business by this chapter. A title insurance
26 company shall not transact, underwrite or issue any kind of
27 insurance other than title insurance.

28 § 6712. Corporate form.

29 A title insurance company shall be organized as a stock
30 corporation as provided in sections 3303 (relating to articles

1 of agreement), 3304 (relating to name of company), 3305
2 (relating to capital stock), 3307 (relating to officers and
3 directors) and 3308 (relating to subscriptions) and authorized
4 under Subchapter C of Chapter 33 (relating to authorization),
5 except as prescribed in this chapter, to do the kind of
6 insurance business, with incidental powers, specified in this
7 chapter.

8 § 6713. Title examination and records.

9 A policy of title insurance, excluding reinsurance, shall not
10 be written unless the title insurance company, through its own
11 employees, agents or approved attorneys, has conducted a
12 reasonable examination of the record title or has caused such an
13 examination to be conducted. The abstract of title or the report
14 of the examination thereof shall be in writing and shall be kept
15 on file by the title insurance company, its agent or an approved
16 attorney for a period of not less than 20 years after the policy
17 of title insurance has been issued. In lieu of retaining the
18 original copy, the title insurance company, its agent or the
19 approved attorney may record, copy or reproduce all or some of
20 these documents.

21 § 6714. Prohibition of guaranteeing mortgages.

22 A title insurance company shall not guarantee the payment of
23 the principal or the interest of bonds or other obligations
24 secured by mortgages upon real property.

25 § 6715. Loss of power to transact title insurance.

26 (a) Break in use of power.--Every title insurance company
27 which does not exercise for any period of 12 months the power to
28 insure owners of real property, mortgagees and others interested
29 in real property from loss by reason of defective titles, liens
30 and encumbrances, shall be forever barred from the exercise of

1 such power.

2 (b) Banking powers.--Any title insurance company which
3 possesses the further powers to receive deposits or otherwise to
4 engage in a banking business, and which does not exercise any of
5 these powers for any consecutive period of one year, upon
6 exercising either of these powers again, shall make no further
7 contracts or policies of title insurance.

8 (c) Fiduciary powers.--Any title insurance company which
9 possesses the further powers to act as trustee, guardian,
10 executor or administrator or in any similar fiduciary capacity,
11 and which does not exercise these powers for any consecutive
12 period of one year, upon exercising again any of such further
13 powers shall make no further contracts or policies of title
14 insurance.

15 § 6716. Primary retained liability.

16 (a) Limit of net primary retention.--A title insurance
17 company shall not issue a policy of title insurance for a single
18 transaction, the net primary retained liability under which
19 shall exceed an amount which is equal to its assets, not
20 including agency and escrow funds, less an amount equal to the
21 sum of the minimum capital required by this chapter for a title
22 insurance company, unearned premium reserve and the value of
23 title plant. One or more title insurance companies may assume
24 the liability on a single policy jointly with another title
25 insurance company or companies in excess of this amount if the
26 total amount of insurance does not exceed the aggregate maximum
27 net primary retentions of all companies liable under the
28 insurance, and if none of the companies exceeds the limit of its
29 net primary retention for a single transaction.

30 (b) Primary liability.--A title insurance company shall not

1 issue a policy of title insurance for a single transaction under
2 which its primary liability as coinsurer exceeds the limit of
3 net primary retention prescribed in subsection (a).

4 (c) Secondary liability.--A title insurance company shall
5 not issue a policy of title insurance for a single transaction
6 under which its secondary liability as reinsurer exceeds the
7 limit of net primary retention prescribed in subsection (a),
8 except that if the ceding company or companies retain primary
9 liability at least equal to 10% of the total amount at risk, a
10 title insurance company may issue a policy of reinsurance for a
11 single transaction under which its secondary liability exceeds
12 the limit of net primary retention prescribed in subsection (a).
13 The total amount of its secondary liability for a single
14 transaction shall not exceed an amount which is equal to its
15 assets, not including agency or escrow funds, less an amount
16 equal to the sum of the unearned premium reserve and the value
17 of title plant. One or more title insurance companies may assume
18 the liability on a single policy jointly with another title
19 insurance company or companies in excess of this amount, if the
20 total amount of insurance does not exceed the aggregate maximum
21 net retentions of all companies liable under the insurance and
22 if none of the companies exceeds the limit of its net retention
23 for a single transaction.

24 § 6717. Power to reinsure.

25 Any authorized title insurance company may reinsure all or
26 any part of its liability under one or more of its policy
27 contracts with any authorized title insurance company or
28 companies authorized to insure titles to real estate in any
29 state, if the reinsuring company at all times remains of the
30 same standard of solvency and complies with all other

1 requirements fixed by the law of this Commonwealth for
2 authorized title insurance companies. Any authorized title
3 insurance company shall pay to this Commonwealth taxes required
4 on all business taxable in this Commonwealth and reinsured under
5 this section with any foreign company not authorized to do
6 business in this Commonwealth.

7 § 6718. Special reinsurance.

8 If the risk of a single transaction involving a parcel of
9 real estate situated in this Commonwealth exceeds the total net
10 retention, both primary and secondary, permitted by this chapter
11 for all authorized title insurance companies, and the total
12 reinsurance available from companies authorized to reinsure
13 risks by section 6717 (relating to power to reinsure),
14 reinsurance may be obtained from companies not authorized to
15 reinsure risks in this Commonwealth with the prior approval in
16 writing of the department.

17 § 6719. Licensure of foreign or alien insurers.

18 Any foreign or alien insurance company shall be licensed to
19 transact the business of title insurance in this Commonwealth
20 only if the company is and remains of the same standard of
21 solvency and complies with other requirements under this title
22 for title insurance companies organized and authorized to
23 transact the business of title insurance pursuant to the laws of
24 this Commonwealth. The company shall not be licensed to transact
25 any business in this Commonwealth until it complies with the
26 requisites for doing business under section 3577 (relating to
27 conditions for authorization of foreign or alien companies).

28 § 6720. Resident agents for foreign or alien insurers.

29 A foreign or alien company licensed to do a title insurance
30 business in this Commonwealth shall transact such business only

1 through resident agents in the manner prescribed in section 5510
2 (relating to resident agents for foreign or alien insurance
3 entities).

4 § 6721. Regulation of agents.

5 (a) Disqualifications.--A bank, trust company, bank and
6 trust company or other lending institution, mortgage service,
7 mortgage brokerage or mortgage guaranty company or any officer
8 or employee of any of the foregoing, may not act as an agent of
9 a title insurance company; nor shall any appointed attorney or
10 officer or salaried employee of any title insurance company act
11 as such an agent.

12 (b) Certification.--Every title insurance company shall
13 certify to the department as it shall direct the names of all
14 agents appointed by the company in this Commonwealth.

15 (c) Licensure.--Agents of a title insurance company shall be
16 licensed in the manner provided for agents of insurance
17 companies in section 1103 (relating to licenses of agents). If
18 an applicant for an agent's license is an agent of a title
19 insurer or a licensed insurance broker or an attorney at law,
20 the applicant shall not be required to take an examination to
21 qualify for such license. Licenses of title insurance agents
22 shall expire annually at midnight of June 30, unless sooner
23 terminated as the result of severance of business relations
24 between the company and the agent, or unless revoked by the
25 department for cause.

26 (d) Records.--Every agent of a title insurance company shall
27 keep his books, records, accounts and vouchers pertaining to the
28 business of title insurance in such manner that the department
29 may readily ascertain, from time to time, whether or not the
30 agent has complied with this title. Failure to comply with this

1 section shall be a ground for revocation of the agent's license.

2 (e) Replies to inquiries by department.--Every agent of a
3 title insurance company shall promptly reply in writing to any
4 inquiry of the department relative to the agent's conduct of the
5 business of title insurance, and failure to reply shall be a
6 ground for revocation of the agent's license.

7 (f) Prohibited names.--An agent of a title insurance company
8 shall not adopt a firm name containing the words "title," "title
9 company," "title insurance company," "guaranty," "guarantee,"
10 "guaranty company," "guarantee company" or similar combination
11 thereof.

12 (g) Definition.--As used in this section the term "agent"
13 means a person authorized in writing by a title insurance
14 company directly or indirectly:

15 (1) to solicit risks and collect premiums, and to issue
16 or countersign policies in its behalf; or

17 (2) to solicit risks and collect premiums in its behalf.

18 § 6722. Commissions.

19 (a) Attorneys and brokers.--A title insurance company or an
20 agent of a title insurance company may pay a cash commission to
21 an attorney at law in good standing, or a real estate broker
22 licensed in this Commonwealth, for procuring a title insurance
23 for a client in a real estate transaction. A commission may not
24 be paid to an attorney at law in any transaction in which he
25 acts as an approved attorney. An attorney at law or a licensed
26 real estate broker may credit his commission to the account of
27 the client for whom the policy of title insurance was obtained
28 without violating the rebate provisions of this chapter. The
29 cash commission paid by a title insurance company or an agent of
30 a title insurance company shall not exceed the amount set forth

1 in the schedule of commissions filed with the department by the
2 title insurance company.

3 (b) Applicants for title insurance.--A title insurance
4 company or agent or approved attorney of a title insurance
5 company shall not pay, give or award to an applicant for title
6 insurance any other compensation, consideration, benefit or
7 remuneration, directly or indirectly.

8 § 6723. Mergers and consolidations.

9 (a) General rule.--Subject to the provisions of this
10 section, a domestic title insurance company may merge or
11 consolidate with one or more domestic or foreign title insurance
12 companies authorized to transact title insurance in this
13 Commonwealth, by complying with Article IX of the act of May 5,
14 1933 (P.L.364, No.106), known as the Business Corporation Law,
15 relating to merger or consolidation.

16 (b) Approval by department.--A merger or consolidation shall
17 not be effected unless in advance thereof the plan and agreement
18 therefor have been filed with the department. The department
19 shall examine the terms and conditions of the merger or
20 consolidation, and of any exchange of shares or securities
21 pursuant thereto, after holding a hearing at which all persons
22 to whom it is proposed to issue shares or securities in the
23 exchange may appear. After the hearing, the department shall
24 either approve or disapprove the terms and conditions of
25 exchange. The department shall approve within a reasonable time
26 after the filing unless it finds that the plan or agreement:

27 (1) is contrary to law;

28 (2) is inequitable to the stockholders of any title
29 insurance company; or

30 (3) would substantially reduce the security of and

services to be rendered to policyholders of the domestic title insurance company in this Commonwealth or elsewhere.

(c) Disclosure of consideration.--A director, officer, agent or employee of a title insurance company party to a merger or consolidation shall not receive any fee, commission or other valuable consideration for aiding, promoting or assisting therein except as set forth in the plan or agreement.

(d) Notice of disapproval.--If the department does not approve a plan or agreement, it shall notify the title insurance company in writing, specifying its objections in detail.

§ 6724. Other corporate acquisitions.

(a) General rule.--A domestic title insurance company may issue stock in exchange for all or substantially all the assets or stock of a domestic or foreign title insurance or abstract company if a plan or agreement of acquisition has been filed with the department.

(b) Approval by department.--The department shall examine the terms and conditions of the plan or agreement and of any exchange of shares or securities pursuant thereto, after holding a hearing at which all persons to whom it is proposed to issue shares or securities in the exchange may appear. After the hearing, the department shall either approve or disapprove the terms and conditions of exchange. The department shall approve within a reasonable time after the filing unless it finds that the plan or agreement:

(1) is contrary to law;

(2) is inequitable to the stockholders of any title insurance or abstract company involved; or

(3) would substantially reduce the security of and service to be rendered to policyholders of the domestic title

1 insurance company in this Commonwealth or elsewhere.

2 (c) Disclosure of consideration.--A director, officer, agent
3 or employee of a title insurance company or abstract company
4 party to an acquisition shall not receive any fee, commission or
5 other valuable consideration for aiding, promoting or assisting
6 therein except as set forth in the plan or agreement.

7 (d) Notice of disapproval.--If the department does not
8 approve a plan or agreement, it shall notify the title insurance
9 company in writing specifying its objections in detail.

10 § 6725. Change in corporate control.

11 (a) Approval by department.--If any person proposes to
12 acquire the controlling capital stock of any domestic title
13 insurance company and thereby change the control of the company,
14 he shall first apply to the department for approval of the
15 change of control. The change in control shall not be effective
16 unless so approved. The application shall contain the name and
17 address of the proposed new owners of the controlling stock.

18 (b) Criteria for approval.--The department shall approve the
19 proposed change of control only after it determines that the
20 proposed new owners of the controlling stock are qualified by
21 character, experience and financial responsibility to control
22 and operate the company in a lawful and proper manner and that
23 the interest of the company stockholders and policyholders and
24 the interest of the public generally will not be jeopardized by
25 the proposed change in ownership and management.

26 (c) Procedure.--If the department does not approve or
27 disapprove the proposed change within 30 days after the date the
28 application was filed with it, the proposed change shall be
29 deemed to be approved as of the expiration of the 30-day period.
30 If the department disapproves the proposed change in control, it

1 shall give written notice thereof to the persons so applying for
2 approval, setting forth its objections.

3 SUBCHAPTER C

4 INVESTMENT AND RESERVES

5 Sec.

6 6731. Financial requirements.

7 6732. Procedure when capital impaired.

8 6733. Unearned premium reserve.

9 6734. Amount of unearned premium reserve.

10 6735. Maintenance of unearned premium reserve.

11 6736. Use of unearned premium reserve.

12 6737. Reserves for unpaid losses and loss expenses.

13 6738. Investment of capital.

14 6739. Investment of surplus.

15 6740. Investment of unearned premium reserve.

16 6741. Other reserves.

17 § 6731. Financial requirements.

18 Every title insurance company shall have a minimum capital,
19 which shall be paid in and maintained, of not less than \$250,000
20 and, in addition, paid-in initial surplus at least equal to 50%
21 of its capital.

22 § 6732. Procedure when capital impaired.

23 If the capital of a title insurance company becomes impaired,
24 the title insurance company shall immediately give written
25 notice thereof to the department and shall make no further
26 policies or contracts or reinsurance agreements of title
27 insurance while the impairment exists. The title insurance
28 company shall immediately call upon its stockholders for such
29 amounts as will restore its capital to an amount prescribed by
30 the department. If any stockholder fails to pay the amount

1 called for, after notice personally given or by advertisement,
2 at the time and in the manner the department approves, the title
3 insurance company shall require the return of the original
4 certificates of stock held by the stockholder or issue new
5 certificates in the proportion, as determined by the department,
6 that the ascertained value of the assets bears to the capital
7 existing immediately prior to the impairment, the title
8 insurance company paying for any fractional parts of shares. The
9 directors of the title insurance company, with the prior consent
10 and approval of the department, may create new stock and issue
11 certificates therefor, and dispose of this stock at not less
12 than par for an amount sufficient to make up the original
13 capital, or the department may permit the company to reduce its
14 capital and the par value of its shares in proportion to the
15 extent of the impairment, but the capital shall at no time be
16 reduced to an amount less than that required by law for the
17 organization of the company. In fixing the reduced capital, not
18 more than 50% of the original capital shall be deducted from the
19 assets on hand to be retained as surplus funds, nor shall any
20 part of assets be distributed to stockholders. When the amount
21 of capital prescribed by the department has been restored, the
22 title insurance company shall notify the department which, upon
23 being satisfied that the impairment no longer exists and is not
24 likely to recur, shall authorize the title insurance company in
25 writing to again issue policies or contracts or reinsurance
26 agreements of title insurance.

27 § 6733. Unearned premium reserve.

28 (a) Establishment of reserve.--Every title insurance company
29 shall, in addition to other reserves, establish and maintain a
30 reserve to be known as the "unearned premium reserve" for title

1 insurance, which shall constitute the unearned portions of
2 premiums due or received and shall be charged as a reserve
3 liability of the title insurance company in determining its
4 financial condition.

5 (b) Purpose.--The unearned premium reserve shall be retained
6 by the title insurance company for the protection of the
7 policyholders' interest in policies which have not expired.

8 (c) Distribution.--Except as provided in section 6736
9 (relating to use of unearned premium reserve), assets equal to
10 the amount of the reserve shall not be subject to distribution
11 among depositors or other creditors or stockholders of the title
12 insurance company until all claims of its policyholders or
13 holders of its other title insurance contracts or agreements
14 have been paid in full and all liability on the policies or
15 other title insurance contracts or agreements, whether
16 contingent or actual, has been discharged or lawfully reinsured.
17 Income from the investment of the reserve shall be the
18 unrestricted property of the title insurance company.

19 § 6734. Amount of unearned premium reserve.

20 (a) General rule.--The unearned premium reserve of every
21 title insurance company shall consist of the amount of the
22 unearned premium reserve held as of September 1, 1963, plus all
23 additions required to be made to the reserve by this section,
24 less the withdrawals therefrom as permitted by this section.

25 (b) Additions.--Except as otherwise provided in this
26 subsection, a title insurance company shall add to its unearned
27 premium reserve, in respect to each policy or contract or
28 reinsurance agreement issued by it, a sum of money out of the
29 fees due or received for the title insurance made by it, equal
30 to \$1 for each policy or contract or agreement, plus 10¢ for

1 each \$1,000 face amount of net retained liability. The company
2 shall each year separately report the amounts so set aside in
3 respect to policies, contracts or agreements written in that
4 year. If substantially the entire outstanding liability of the
5 company is reinsured, the unearned premium reserve of the
6 reinsurer shall be equal in amount to the reserve of the ceding
7 title insurance company in respect to the outstanding liability
8 so reinsured.

9 (c) Relation to net profit.--The amounts set aside as
10 additions to the unearned premium reserve shall be deducted in
11 determining the net profit of any title insurance company.

12 (d) Date assumed.--For the purposes of determining the
13 amounts of the unearned premium reserve that may be withdrawn
14 and the interest of the policyholders therein under section 6736
15 (relating to use of unearned premium reserve), all policies,
16 contracts or reinsurance agreements of title insurance shall be
17 deemed as dated on July 1 in the year of issue.

18 (e) Withdrawals from reserve.--Additions to the unearned
19 premium reserve which have been held for a period of 20 years
20 shall be withdrawn from the unearned premium reserve and shall
21 constitute a part of net profit for the year in which the
22 withdrawal is made.

23 § 6735. Maintenance of unearned premium reserve.

24 If by reason of depreciation in the market value of
25 investments or other cause, the amount of the assets eligible
26 for investment of the unearned premium reserve is on any date
27 less than the amount required to be maintained by law in the
28 reserve, and the deficiency is not promptly cured, the title
29 insurance company shall immediately give written notice thereof
30 to the department. The company shall make no further policies,

1 contracts or reinsurance agreements of title insurance until the
2 amounts of the eligible investments have been restored and until
3 it has received written approval from the department authorizing
4 it to again issue such policies, contracts or agreements.

5 § 6736. Use of unearned premium reserve.

6 (a) General rule.--If a title insurance company becomes
7 insolvent, or is in the process of liquidation or dissolution,
8 or in the possession of the department, such amount of the
9 assets of the title insurance company, equal to the unearned
10 premium reserve as is necessary, shall be used with the written
11 approval of the department to pay for reinsurance of the
12 outstanding liability of the title insurance company upon all
13 policies, contracts or reinsurance agreements of title insurance
14 in force as to which claims for losses by the holders are not
15 then pending. The balance of the unearned premium reserve fund
16 shall be transferred to the general assets of the title
17 insurance company. The assets other than the unearned premium
18 reserve shall be available to pay claims for losses sustained by
19 holders of policies then pending or arising up to the time
20 reinsurance is affected. If claims for losses are in excess of
21 these assets, claims shall be paid out of the assets
22 attributable to the unearned premium reserve.

23 (b) Reinsurance.--The department may enter into a contract
24 with one or more title insurance companies to reinsure all the
25 obligations under outstanding policies of the title insurance
26 company subject to this section in accordance with their terms,
27 covenants and conditions, the cost of the reinsurance to be paid
28 out of the assets of that company.

29 (c) Reinsurance unavailable.--If reinsurance is unavailable,
30 the unearned premium reserve and assets constituting minimum

1 capital remaining after outstanding claims have been paid shall
2 constitute a trust fund, which shall be held by the department
3 for 20 years, out of which claims of policyholders shall be paid
4 as they arise. The balance of this fund shall, at the expiration
5 of 20 years, revert to the general assets of the title insurance
6 company, after reasonable charges for administration of the fund
7 have been charged against the balance by the department.

8 § 6737. Reserves for unpaid losses and loss expenses.

9 Each title insurance company shall establish and maintain, in
10 addition to other reserves, reserves against unpaid losses and
11 against loss expense. The company shall calculate these reserves
12 by making a careful estimate in each case of the loss and loss
13 expense likely to be incurred, by reason of every claim
14 presented or that may be presented, pursuant to notice from or
15 on behalf of the insured, of a title defect in or lien or
16 adverse claim against the title insured, that may result in a
17 loss ~~of~~ OR cause expense to be incurred for the proper <—
18 disposition of the claim. The amounts so estimated shall be
19 revised as circumstances warrant. The amounts set aside in these
20 reserves in any year shall be deducted in determining the net
21 profit for such year of the company.

22 § 6738. Investment of capital.

23 (a) General rule.--The capital of a title insurance company
24 shall be invested in the following classes of investment:

25 (1) Government obligations.--Bonds, notes or obligations
26 issued, assumed or guaranteed by the United States or the
27 Dominion of Canada or by any state.

28 (2) Governmental subdivision or public instrumentality
29 obligations.--Valid and legally authorized bonds, notes or
30 obligations issued, assumed or guaranteed by:

1 (i) Any municipality, school district, poor district
2 or water, sewer, drainage, road or other governmental
3 district or division located in the United States or any
4 state.

5 (ii) Any public instrumentality other than a
6 municipal authority of one or more of the foregoing if,
7 by statutory or other legal requirements applicable
8 thereto, the bonds or other evidences of indebtedness of
9 such instrumentality are payable, as to principal and
10 interest, from taxes levied or by law required to be
11 levied upon all taxable property or all taxable income
12 within the jurisdiction of the governmental unit or units
13 of which it is an instrumentality, or from revenues
14 pledged or otherwise appropriated or by law required to
15 be provided for the purpose of such payment.

16 (iii) Any municipal authority created pursuant to
17 the laws of this Commonwealth if the obligations are not
18 in default as to principal or interest and if:

19 (A) the project for which the obligations were
20 issued is under lease to a school district or school
21 districts;

22 (B) the project for which the obligations were
23 issued is under lease to a municipality or
24 municipalities or subject to a service contract with
25 a municipality or municipalities, pursuant to which
26 the municipal authority will receive lease rentals or
27 service charges available for fixed charges on the
28 obligations, which will average not less than one and
29 one-fifth times the average annual fixed charges of
30 the obligations over the life thereof; or

1 (C) for the period of five fiscal years next
2 preceding the date of acquisition, the income of the
3 authority available for fixed charges has averaged
4 not less than one and one-fifth times the average
5 annual fixed charges of obligations over the life
6 thereof.

7 As used in this subparagraph the term "income available
8 for fixed charges" means income after deducting operating
9 and maintenance expenses, and, unless the obligations are
10 payable in serial, annual maturities, or are supported by
11 annual sinking fund payments, depreciation, but excluding
12 extraordinary nonrecurring items of income or expenses.

13 The term "fixed charges" includes principal, both
14 maturity and sinking fund, and interest on bonded debt.

15 In computing the income available for fixed charges for
16 the purpose of this subparagraph, the income so available
17 of any corporation acquired by any municipal authority
18 may be included, such income to be calculated as though
19 the corporation had been operated by a municipal
20 authority and an equivalent amount of bonded debt were
21 outstanding. The eligibility for investment purposes of
22 obligations of each project of a municipal authority
23 shall be separately considered.

24 (3) Public utility obligations.--Bonds, notes or
25 obligations issued, assumed or guaranteed by any solvent
26 public utility corporation or public utility business trust,
27 incorporated or existing under the laws of the United States
28 or of any state.

29 (4) Other corporate obligations.--Bonds, notes or
30 obligations issued, assumed or guaranteed by any other

1 corporation, including railroads, or business trust,
2 incorporated or existing under the Federal law or the law of
3 any state, whose income available for fixed charges for the
4 period of five fiscal years next preceding the date of
5 investment has averaged not less than one and one-half times
6 its average annual fixed charges applicable to that period.
7 As used in this paragraph the term "income available for
8 fixed charges" means income, after deducting operating and
9 maintenance expenses, depreciation and depletion, and taxes
10 other than Federal or state income taxes, excluding
11 extraordinary nonrecurring items of income or expense
12 appearing in the regular financial statements of the
13 corporation or business trust. The term "fixed charges"
14 includes interest on funded and unfunded debt and
15 amortization of debt discount and expense. If income is
16 determined in reliance upon consolidated income statements of
17 parent and subsidiary corporations or business trusts, the
18 income shall be determined after provision for Federal and
19 state income taxes of subsidiaries, and after proper
20 allowance for minority stock interest. The required coverage
21 of fixed charges shall be computed on a basis including fixed
22 charges and preferred dividends of subsidiaries, other than
23 those payable by subsidiaries to the parent corporation or
24 business trust, or to other subsidiaries. In applying an
25 income test to any issuing, assuming or guaranteeing
26 corporation or business trust, whether or not in legal
27 existence during the whole of the five-year period next
28 preceding the date of investment, which has at any time after
29 the beginning of the period acquired the assets or the
30 outstanding shares of capital stock of any other corporation

1 or business trust by purchase, merger, consolidation or
2 otherwise, substantially as an entirety, or has been
3 reorganized pursuant to the bankruptcy law, the income of the
4 other predecessor or constituent corporation or business
5 trust or of the corporation or business trust so reorganized,
6 available for interest and dividends for such portion of the
7 period as shall have preceded acquisition or reorganization,
8 may be included in the income of the issuing, assuming or
9 guaranteeing corporation or business trust for such portion
10 of the period as may be determined in accordance with
11 adjusted or pro forma consolidated income statements covering
12 that portion of the period, and giving effect to all stock or
13 shares outstanding and all fixed charges existing immediately
14 after acquisition or reorganization.

15 (5) Trustee, receiver or equipment trust obligations.--

16 (i) Certificates, notes or obligations issued by
17 trustees or receivers of any corporation or business
18 trust created or existing under Federal law or the law of
19 any state, if the corporation or trust, or its assets,
20 are being administered under the direction of any court,
21 and the obligation is adequately secured as to principal
22 and interest.

23 (ii) Equipment trust obligations or certificates,
24 which are adequately secured, or other adequately secured
25 instruments, evidencing an interest in transportation
26 equipment, located WHOLLY OR IN PART within the United <—
27 States, and a right to receive determined portions of <—
28 rental, purchase or other fixed obligatory payments for
29 the use or purchase of such transportation equipment.

30 (6) Acceptances and bills of exchange.--Bank and

1 bankers' acceptances and other bills of exchange of the kind
2 and maturities made eligible pursuant to law for purchase in
3 the open market by Federal Reserve Banks.

4 (7) Real estate loans.--Ground rents and bonds, notes or
5 other evidences of indebtedness, secured by mortgages or
6 trust deeds upon unencumbered real property located in any
7 state, and in investments in the equity of the seller under
8 contracts for deeds covering the entire balance due on bona
9 fide sales of such real property. A loan guaranteed or
10 insured in full by the Administrator of Veterans' Affairs
11 under the Servicemen's Readjustment Act (Public Law 85-857,
12 38 U.S.C. § 1801 et seq.) may be subject to a prior
13 encumbrance.

14 (i) Real property shall not be considered to be
15 encumbered within the meaning of this paragraph by reason
16 of the existence of:

17 (A) instruments reserving mineral, oil, water or
18 timber rights, rights-of-way, sewer rights, rights in
19 walls or driveways;

20 (B) liens inferior to the lien securing the loan
21 of the title insurance company or liens for taxes or
22 assessments not yet delinquent;

23 (C) building restrictions or other restrictive
24 covenants; or

25 (D) leases under which rents or profits are
26 reserved to the owner;

27 if the security for the loan is a first lien upon the
28 real property, and if there is no condition or right of
29 reentry or forfeiture under which the lien can be cut
30 off, subordinated or otherwise disturbed.

1 (ii) A mortgage or trust deed, loan or investment in
2 a seller's equity under a contract for deed made or
3 acquired by the title insurance company on any one
4 property shall not at the date of investment exceed two-
5 thirds of the value of the real property securing the
6 loan, or subject to the contract, but this limitation
7 does not apply to a loan which is:

8 (A) Insured by, or for which a commitment to
9 insure has been made by, the Federal Housing
10 Administrator or Commissioner, pursuant to the
11 provisions of the National Housing Act (48 Stat.
12 1247, 12 U.S.C. § 1707 et seq.).

13 (B) Guaranteed by the Administrator of Veterans'
14 Affairs under the Servicemen's Readjustment Act of
15 1944 (58 Stat. 284) or Public Law 85-857 (72 Stat.
16 1203, 38 U.S.C. § 1801 et seq) except that if only a
17 portion of a loan is so guaranteed, the limitation
18 shall apply to the portion not so guaranteed or
19 insured by the administrator under these statutes.

20 (C) Upon real estate under lease to a
21 corporation or business trust, incorporated or
22 existing under the law of the United States or any
23 state, whose income available for fixed charges for
24 the period of five fiscal years next preceding the
25 date of investment has averaged not less than one and
26 one-half times its average annual fixed charges
27 applicable to that period, if there is pledged and
28 assigned, as additional security for the loan and for
29 application thereon, sufficient of the rentals
30 payable under the lease to provide for repayment of

1 the loan within the unexpired term of the lease.

2 (D) Upon such terms that the principal thereof
3 will be amortized by repayments of principal at least
4 once in each year in amounts sufficient to repay the
5 loan within a period of not more than 30 years, and
6 the loan is upon improved real estate, and at the
7 date investment does not exceed three-quarters of the
8 value of the real estate securing the loan.

9 (8) Purchase money securities.--Purchase money mortgages
10 or similar securities received by it upon the sale or
11 exchange of real property acquired pursuant to paragraph
12 (20).

13 (9) Federal Housing Administrator's debentures.--
14 Debentures issued by the Federal Housing Administrator or
15 Commissioner in settlement of claims pursuant to the National
16 Housing Act (48 Stat. 1247, 12 U.S.C. § 1707 et seq.).

17 (10) National mortgage association securities.--
18 Securities of national mortgage associations or similar
19 national mortgage credit institutions organized under the
20 National Housing Act (48 Stat. 1247, 12 U.S.C. § 1707 et
21 seq.).

22 (11) Federal land bank, Federal intermediate credit bank
23 and bank for cooperative securities.--Bonds, debentures and
24 other obligations of Federal land banks, Federal intermediate
25 credit banks or banks for cooperatives issued under the
26 Federal Farm Loan Act (39 Stat. 360, 12 U.S.C. § 641 et seq.)
27 or under the Farm Credit Act of 1971 (Public Law 92-181, 12
28 U.S.C. § 2001 et seq.).

29 (12) Loans upon leaseholds.--Loans upon leasehold
30 estates or unencumbered real estate located in any state but

1 no such loan shall exceed two-thirds of the value of the
2 leasehold at the date of investment, unless:

3 (i) the loan is guaranteed or insured by, or
4 commitment to guarantee or insure the loan has been made
5 by, the Federal Housing Administrator or Commissioner
6 under the National Housing Act (48 Stat. 1247, 12 U.S.C.
7 § 1707 et seq.);

8 (ii) the leasehold is of improved real estate and
9 the loan provides for amortization by repayments of
10 principal at least once in each year in amounts
11 sufficient to repay the loan within a period of four-
12 fifths of the unexpired term of the leasehold, but within
13 a period of not more than 30 years, and does not exceed
14 three-fourths of the value of the leasehold at the date
15 of investment; or

16 (iii) the real estate is under lease to a
17 corporation or business trust, incorporated or existing
18 under the laws of the United States or any state, whose
19 income available for fixed charges for the period of five
20 fiscal years next preceding the date of investment has
21 averaged not less than one and one-half times its average
22 annual fixed charges applicable to the period, if there
23 is pledged and assigned as additional security for the
24 loan and for application thereon sufficient of the
25 rentals payable under the lease to provide for repayment
26 of the loan within the unexpired term of the lease.

27 The terms of any loan under this paragraph shall require
28 repayments of principal at least once in each year in amounts
29 sufficient to repay the loan within the term of the
30 leasehold, unexpired at the date of investment, unless a

1 shorter period is required under subparagraph (ii).

2 (13) Savings and loan shares.--Shares of any Federal
3 savings and loan association, or of any building and loan or
4 savings and loan association, to the extent that the
5 withdrawal or repurchasable value of the shares is insured by
6 the Federal Savings and Loan Insurance Corporation under the
7 National Housing Act (48 Stat. 1247, 12 U.S.C. § 1707 et
8 seq.).

9 (14) Federal Savings and Loan Insurance Corporation
10 Obligations.--Bonds, notes or obligations issued, assumed or
11 guaranteed by the Federal Savings and Loan Insurance
12 Corporation under the National Housing Act.

13 (15) Federal Home Loan Bank Obligations.--Bonds, notes
14 or obligations issued, assumed or guaranteed by the Federal
15 Home Loan Bank or the Federal Home Loan Bank Board under the
16 Federal Home Loan Bank Act (47 Stat. 725, 12 U.S.C. § 1421 et
17 seq.).

18 (16) International Bank obligations.--Bonds, notes or
19 obligations issued, assumed or guaranteed by the
20 International Bank for Reconstruction and Development.

21 (17) Business development credit corporation shares.--
22 Shares of state and regional business development credit
23 corporations formed under the law of this Commonwealth.

24 (18) Pennsylvania Housing Finance Agency bonds and
25 notes.--Bonds and notes of the Pennsylvania Housing Finance
26 Agency created by the act of December 3, 1959 (P.L.1688,
27 No.621), known as the Housing Finance Agency Law.

28 (19) Inter-American Development Bank obligations.--
29 Bonds, notes or obligations issued, assumed or guaranteed by
30 the Inter-American Development Bank.

(20) Title plant.--A title plant if it keeps at least \$250,000 invested in the classes of securities authorized for the investment of capital other than title plant and real estate. The title plant shall be considered an admitted asset at the fair value thereof. In determining the fair value of a title plant, no value shall be attributed to furniture and fixtures, and the real estate in which the title plant is housed shall be carried as real estate. The value of title abstracts, title briefs, copies of conveyances or other documents, indices and other records comprising the title plant, shall be determined by considering the expenses incurred in obtaining them, the age thereof, the cost of replacements less depreciation and all other relevant factors. Once the value of a title plant has been determined, the value may be increased only by the acquisition of another title plant by purchase, consolidation or merger. The value of the title plant shall not be increased by additions made thereto as part of the normal course of abstracting and insuring titles to real estate. Subject to these limitations and with the approval of the department, a title insurance company may enter into agreements with one or more other authorized title insurance companies whereby the companies will participate in the ownership, management and control of a title plant to service the needs of all the companies or the companies may hold stock of a corporation owning and operating a title plant for such purposes if each of the companies participating in the ownership, management and control of the jointly owned title plant keeps the sum of \$250,000 invested as set forth in this paragraph.

(b) Real estate.--Any domestic title insurance company may

1 purchase, receive, hold and convey real estate or any interest
2 therein:

3 (1) required for its convenient accommodation in the
4 transaction of its business with reasonable regard to future
5 needs;

6 (2) acquired in connection with a claim under a policy
7 of title insurance;

8 (3) acquired in satisfaction or on account of loans,
9 mortgages, liens, judgments or decrees, owed to it in the
10 course of its business;

11 (4) acquired in part payment of the consideration of the
12 sale of real property owned by it if the transaction results
13 in a net reduction in the company's investment in real
14 estate; or

15 (5) reasonably necessary for the purpose of maintaining
16 or enhancing the sale value of real property previously
17 acquired or held by it under subparagraph (i), (ii), (iii) or
18 (iv), but no title insurance company shall continue to hold
19 any real estate acquired by it under subparagraph (ii), (iii)
20 or (iv) for more than five years from the date of acquisition
21 thereof unless it obtains the written approval of the
22 department to hold the real estate for a longer period of
23 time.

24 § 6739. Investment of surplus.

25 Money over and above capital, other than the unearned premium
26 reserve, may be invested in the following classes of
27 investments:

28 (1) Investments authorized for capital.--Any of the
29 classes of investment authorized in section 6738 (relating to
30 investment of capital).

1 (2) Corporate stock or shares.--Stock or shares of any
2 solvent corporation, incorporated under the law of the United
3 States or any state or of the Dominion of Canada or any
4 province thereof, including the stock of another title
5 insurance company.

6 (3) Corporate obligations.--Bonds, notes or obligations
7 issued, assumed or guaranteed by any solvent corporation or
8 business trust, incorporated or existing under the law of the
9 United States or any state or of the Dominion of Canada or
10 any province thereof.

11 (4) Canadian governmental subdivision obligations.--
12 Valid and legally authorized bonds, notes or obligations
13 issued, assumed or guaranteed by any province or political
14 subdivision of the Dominion of Canada.

15 (5) Other Loans or investments.--Loans or investments
16 not qualifying or permitted under paragraphs (1) through (4)
17 to an amount not exceeding 5% of the company's admitted
18 assets.

19 § 6740. Investment of unearned premium reserve.

20 The unearned premium reserve of a title insurance company
21 shall be invested in the same classes of investments, other than
22 title plant and real estate, authorized in section 6738
23 (relating to investment of capital), except that one-fourth of
24 the reserve may be invested in preferred or guaranteed stocks or
25 shares of any solvent corporation or business trust,
26 incorporated or existing under the law of the United States or
27 of any state, whose net earnings available for its fixed
28 charges, during either of the two years preceding the date of
29 such investment have been, and during each of the five years
30 preceding such date have averaged, not less than one and one-

1 half times the sum of its average annual fixed charges, as
2 referred to in section 6738(4) and its average annual preferred
3 dividend requirements. For the purposes of this section, the
4 computation refers to the fiscal year immediately preceding the
5 date of acquisition of an investment by the insurer, and the
6 term "preferred dividend requirement" includes cumulative or
7 noncumulative dividends, whether paid, earned or not.

8 § 6741. Other reserves.

9 Reserves other than the unearned premium reserve may be
10 invested in any of the classes of investments authorized in
11 section 6739 (relating to investment of surplus).

12 SUBCHAPTER D

13 RATE REGULATION

14 Sec.

15 6751. Rate filing.

16 6752. Justification for rates.

17 6753. Making of rates.

18 6754. Disapproval of filings.

19 6755. Rating organizations.

20 6756. Deviations.

21 6757. Appeals by minority.

22 6758. Information to be furnished insureds.

23 6759. Hearings and appeals of insureds.

24 6760. Examination of rating organizations.

25 6761. Recording and reporting of loss and expense experience.

26 6762. False or misleading information.

27 § 6751. Rate filing.

28 (a) General rule.--Every title insurance company shall file
29 with the department every manual of classifications, rules,
30 plans, schedules of fees and commissions payable to applicants

1 for title insurance and every modification of any of the
2 foregoing relating to the rates which it proposes to use. Each
3 filing shall state the proposed effective date thereof and shall
4 indicate the character and extent of the coverage contemplated.
5 A title insurance company or agent of a title insurance company
6 shall not charge any fee for any policy or contract of title
7 insurance except in accordance with filings or rates which are
8 in effect for the company or agent of the company as provided in
9 this chapter.

10 (b) Rating organizations.--A title insurance company may
11 satisfy its obligations to make its filings by becoming a member
12 of, or a subscriber to, a licensed rating organization which
13 makes such filings and by authorizing the department to accept
14 such filings on its behalf.

15 (c) Review.--The department shall make such review of the
16 filings as may be necessary to carry out the provisions of this
17 chapter.

18 (d) Waiting period.--Subject to subsections (f) and (g),
19 each filing shall be on file for a period of 30 days before it
20 becomes effective. The department may, upon written notice given
21 within such period to the person making the filing, extend the
22 waiting period for an additional period, not to exceed 30 days,
23 to enable it to complete the review of the filing. Further
24 extensions of the waiting period may also be made with the
25 consent of the title insurance company or rating organization
26 making the filing. Upon written application by the company or
27 organization making the filing, the department may authorize a
28 filing or any part thereof which it has reviewed to become
29 effective before the expiration of the waiting period or
30 extension thereof.

1 (e) Effective filings.--Except in the case of rates filed
2 under subsections (f) and (g), a filing which has become
3 effective shall be deemed to meet the requirements of this
4 chapter.

5 (f) Special permission by department.--When the department
6 finds that any rate for a particular kind or class of risk
7 cannot practicably be filed before it is used, or any contract
8 or kind of title insurance, by reason of rarity or peculiar
9 circumstances, does not lend itself to advance determination and
10 filing of rates, the department may, under such regulations as
11 it may prescribe, permit the rates to be used without a previous
12 filing and waiting period.

13 (g) Waiver by insured.--Upon the written consent of the
14 insured stating his reasons therefor, filed with the department,
15 a rate in excess of that provided by a filing which might
16 otherwise be deemed applicable may be used on any specific risk.
17 The rate shall become effective when the consent is filed.

18 § 6752. Justification for rates.

19 (a) Statement.--A rate filing shall be accompanied by a
20 statement of the title insurance company or rating organization
21 making the filing, setting forth the basis upon which the rate
22 was fixed and the fees are to be computed. Any filing may be
23 justified by:

24 (1) the experience or judgment of the company or
25 organization making the filing;

26 (2) the experience of other title insurance companies or
27 rating organizations; or

28 (3) any other factors which the company or organization
29 deems relevant.

30 (b) Public inspection.--The statement and justification

1 shall be open to public inspection after the rate to which it
2 applies becomes effective.

3 § 6753. Making of rates.

4 (a) General rule.--Rates shall not be inadequate or unfairly
5 discriminatory, nor shall rates be so excessive as to permit
6 title insurance companies to earn a greater profit, after
7 payment of all taxes upon all income, than is necessary to
8 enable them to earn sufficient amounts to pay their actual
9 expenses and losses arising in the conduct of their title
10 insurance business, plus a reasonable profit.

11 (b) Factors considered.--In making rates, due consideration
12 shall be given to past and prospective loss experience; exposure
13 to loss; underwriting practice and judgment; past and
14 prospective expenses, including commissions paid to agents and
15 applicants for title insurance; a reasonable margin for profit
16 and contingencies; and all other relevant factors both in and
17 outside this Commonwealth. The systems of expense provisions and
18 the amount of expense charged against each class of contract or
19 policy may vary between title insurance companies. Rates may, in
20 the discretion of any title insurance company, be less than the
21 cost of performing the work in the case of smaller risks, and
22 the excess may be charged against the larger risks without
23 rendering the rates unfairly discriminatory.

24 (c) Reasonable profit.--In ascertaining the estimated future
25 earnings of title insurance companies, the department shall
26 utilize a properly weighted cross section of title insurance
27 companies operating in this Commonwealth representative of the
28 average of efficiently operated title insurance companies,
29 including on a weighted basis both title insurance companies
30 having their own title plants and those not operating upon the

1 title plant system. In ascertaining what is a reasonable profit
2 after payment of all taxes on such income, the department shall
3 give due consideration to the following matters:

4 (1) The average rates of profit after payment of taxes
5 on all income earned by other industry generally.

6 (2) The desirability of stability of rate structure.

7 (3) The necessity of insuring through growth in assets
8 in times of high business activity, the financial solvency of
9 title insurance companies in times of economic depression.

10 (4) The necessity for earning sufficient dividends on
11 the stock of title insurance companies to induce capital to
12 be invested therein.

13 § 6754. Disapproval of filings.

14 (a) Standard of review.--A filing or modification thereof
15 shall not be disapproved if the rates in connection therewith
16 meet the requirements of this chapter.

17 (b) Hearing for insurer.--Upon the review at any time by the
18 department of a filing, it shall, before issuing an order of
19 disapproval, hold a hearing upon not less than ten days written
20 notice, specifying the matters to be considered at the hearing,
21 to every title insurance company and rating organization which
22 made the filing. A company or organization may at any time
23 withdraw a filing or a part thereof, subject to the provisions
24 of section 6756 (relating to deviations) in the case of a
25 deviation filing.

26 (c) Hearing for aggrieved parties.--Any person or
27 organization aggrieved with respect to any filing which is in
28 effect, except the company or organization which made the
29 filing, may make written application to the department for a
30 hearing thereon. The application shall specify the grounds to be

1 relied upon. If the department finds that the application may
2 justify relief, it shall, within 30 days after receipt of the
3 application, hold a hearing upon not less than ten days' written
4 notice to the applicant and to every company and organization
5 which made the filing.

6 (d) Decision of department.--If, after the hearing, the
7 department finds that the filing or a part thereof does not meet
8 the requirements of this chapter, it shall issue an order
9 specifying its objections. If the filing has become effective
10 under section 6751 (relating to rate filing) or otherwise, the
11 order shall state the time, within a reasonable period
12 thereafter, at which the filing or part thereof shall be deemed
13 no longer effective. Copies of the order shall be sent to the
14 applicant and to every title insurance company and rating
15 organization affected. The order shall not affect any contract
16 or policy made or issued prior to the expiration of the period
17 set forth in the order.

18 § 6755. Rating organizations.

19 (a) Licensure.--Any person located in or outside this
20 Commonwealth may apply to the department for a license as a
21 rating organization for title insurance companies. The
22 application shall include all of the following:

23 (1) A copy of its constitution, its articles of
24 agreement or association or its certificate of incorporation,
25 and of its bylaws, rules and regulations governing the
26 conduct of its business.

27 (2) A list of its members and subscribers.

28 (3) The name and address of a resident of this
29 Commonwealth upon whom notices or orders of the department or
30 process affecting the rating organization may be served.

1 (4) A statement of its qualifications as a rating
2 organization.
3 If the department finds that the applicant is competent,
4 trustworthy and otherwise qualified to act as a rating
5 organization, and that the documents submitted under paragraph
6 (1) conform to the requirements of law, it shall issue a license
7 authorizing the applicant to act as a rating organization for
8 title insurance. The application shall be granted or denied in
9 whole or in part by the department within 60 days of the date of
10 its filing with it. Licenses issued under this section shall
11 remain in effect for three years unless sooner suspended or
12 revoked by the department or withdrawn by the licensee. The fee
13 for the license shall be \$25. Licenses may be suspended or
14 revoked by the department, after hearing upon notice, if the
15 rating organization ceases to meet the requirements for
16 licensure under this section. Every rating organization shall
17 notify the department promptly of every change in the items
18 listed in paragraph (1), (2) or (3).

19 (b) Subscribers.--Subject to regulations approved by the
20 department, each rating organization shall permit any title
21 insurance company, not a member, to be a subscriber to its
22 rating services. Notices of proposed changes in its regulations
23 shall be given to subscribers. Each rating organization shall
24 furnish its rating services without discrimination to its
25 members and subscribers. The reasonableness of any regulation in
26 its application to subscribers or the refusal of any rating
27 organization to admit a title insurance company as a subscriber
28 shall, at the request of any subscriber or any such title
29 insurance company, be reviewed by the department at a hearing
30 held upon at least ten days' written notice to the rating

1 organization and to the subscriber or title insurance company.
2 If the department finds that the regulation is unreasonable in
3 its application to subscribers, it shall order that the
4 regulation shall not apply to subscribers. If the rating
5 organization fails to grant or reject an application of a title
6 insurance company for subscribership within 30 days after it is
7 made, the title insurance company may request a review by the
8 department as if the application had been rejected. If the
9 department finds that the title insurance company has been
10 refused admittance to the rating organization as a subscriber,
11 without justification, it shall order the rating organization to
12 admit the title insurance company as a subscriber; if the
13 department finds that the action of the rating organization was
14 justified, it shall make an order affirming its action.

15 (c) Cooperative activities.--Cooperation among rating
16 organizations, or among rating organizations and title insurance
17 companies, and concert of action among title insurance companies
18 under the same general management and control in rate making or
19 in other matters within the scope of this chapter is permitted,
20 but the filings resulting therefrom are subject to this chapter.
21 The department may review these activities and practices, and if
22 after a hearing it finds that any activity or practice is
23 unfair, unreasonable or otherwise inconsistent with this
24 chapter, it may issue a written order specifying its objections
25 and requiring the discontinuance of the activity or practice.
26 § 6756. Deviations.

27 (a) Deviation filings.--Every member of or subscriber to a
28 rating organization shall adhere to the filings made on its
29 behalf by such organization, except that a title insurance
30 company which is such a member or subscriber may file with the

1 department a uniform percentage of decrease or increase to be
2 applied to any or all elements of the fees produced by the
3 rating system so filed for a class of title insurance which is
4 found by the department to be a proper rating unit for the
5 application of such a uniform decrease or increase, or to be
6 applied to the rates for a particular area, or to be applied to
7 the amount of commissions to be paid.

8 (b) Contents of filings.--The deviation filing shall specify
9 the basis for the modification and shall be accompanied by the
10 data or historical pattern upon which the applicant relies. A
11 copy of the filing and data shall be sent simultaneously to the
12 rating organization.

13 (c) Waiting period.--Each deviation filing shall be on file
14 for 30 days before it becomes effective. The waiting period may
15 be extended in the same manner as under section 6751(d)
16 (relating to rate filing). Upon written application of the
17 person making the filing, the department may authorize a
18 deviation filing or any part thereof to become effective before
19 the expiration of the waiting period or any extension thereof.

20 (d) Effect.--Deviation filings shall be subject to section
21 6754 (relating to disapproval of filings). Each deviation shall
22 be effective for at least one year from the date the deviation
23 is filed unless terminated sooner with the approval of the
24 department or under section 6754.

25 § 6757. Appeals by minority.

26 (a) Right to appeal.--Any member of or subscriber to a
27 rating organization may appeal to the department from any
28 decision of the rating organization approving or rejecting any
29 proposed change in or addition to the filings of the rating
30 organization. The failure of a rating organization to make a

1 decision within 30 days after submission to it of a proposal
2 under this section shall be deemed a rejection of the proposal.

3 (b) Decision by department.--The department shall, after a
4 hearing held upon not less than ten days' written notice to the
5 appellant and to the rating organization, issue an order
6 approving the decision of the rating organization or directing
7 it to give further consideration to the proposal and to take
8 action upon it within 30 days. If the appeal is from a decision
9 of the rating organization rejecting a proposed addition to its
10 filings, the department may issue an order directing the rating
11 organization to make an addition to its filings on behalf of its
12 members and subscribers in a manner consistent with its
13 findings, within a reasonable time. If the appeal is from a
14 decision of the rating organization with regard to a rate or a
15 proposed change in or addition to its filings relating to the
16 character and extent of coverage, the department shall approve
17 the rate applied by the rating organization or the rate
18 suggested by the appellant, if either rate is in accordance with
19 this chapter. If the appeal is based upon the failure of the
20 rating organization to make a filing on behalf of the member or
21 subscriber which is based on a system of expense provisions
22 which differs, in accordance with section 6753(b) (relating to
23 making of rates), from the system of expense provisions included
24 in a filing made by the rating organization, the department
25 shall, if it grants the appeal, order the rating organization to
26 make the requested filing for use by the appellant. In deciding
27 the appeal, the department shall apply the standards set forth
28 in section 6753.

29 § 6758. Information to be furnished insureds.

30 Every rating organization and every title insurance company

1 which makes its own rates shall, within a reasonable time after
2 receiving written request therefor and upon payment of such
3 reasonable charge as it may make, furnish all pertinent
4 information as to the rate to any insured affected by a rate
5 made by it or to the authorized representative of such an
6 insured.

7 § 6759. Hearings and appeals of insureds.

8 Every rating organization and every title insurance company
9 which makes its own rates shall provide reasonable means whereby
10 any person aggrieved by the application of its rating system may
11 be heard, in person or by his authorized representative, on his
12 written request to review the manner in which the rating system
13 has been applied in connection with the insurance afforded him.
14 If the organization or company fails to grant or reject the
15 request within 30 days after it is made, the applicant may
16 proceed as if his application had been rejected. Any party
17 affected by the action of the organization or company on such a
18 request may, within 30 days after written notice of the action,
19 appeal to the department, which, after a hearing held upon not
20 less than ten days' written notice to the appellant and to the
21 organization or company, may affirm or reverse the action.

22 § 6760. Examination of rating organizations.

23 The department shall, at least once in five years, make an
24 examination of each rating organization licensed under this
25 chapter. The reasonable costs of any such examination shall be
26 paid by the organization examined upon presentation to it of a
27 detailed account of these costs. The officer, manager, agents
28 and employees of the organization may be examined at any time
29 under oath and shall exhibit all books, records, accounts,
30 documents or agreements governing its method of operation. The

1 department shall furnish two copies of the examination report to
2 the organization examined and shall notify it that it may,
3 within 20 days thereafter, request a hearing on the report or on
4 any facts or recommendations therein. Before filing a report for
5 public inspection, the department shall grant a hearing to the
6 organization examined. The report of any examination, when filed
7 for public inspection, shall be admissible in evidence in any
8 action or proceeding brought by the department against the
9 organization examined or its officers or agents, and shall be
10 prima facie evidence of the facts stated therein. The department
11 may withhold the report of any examination from public
12 inspection for such time as it deems proper. In lieu of an
13 examination, the department may accept the report of an
14 examination made by the insurance supervisory official of
15 another state pursuant to the law of that state.

16 § 6761. Recording and reporting of loss and expense experience.

17 The department shall promulgate reasonable regulations and
18 statistical plans, reasonably adapted to each of the rating
19 systems on file with it, which may be modified from time to
20 time, and which shall be used by each title insurance company in
21 the recording and reporting of the composition of its business,
22 its loss and countrywide expense experience and those of its
23 title insurance underwriters in order that the experience of all
24 companies may be made available at least annually in such form
25 and detail as necessary to aid the department in determining
26 whether rating systems comply with the standards set forth in
27 this chapter. These regulations and plans may also provide for
28 the recording and reporting of expense experience items which
29 are specially applicable to this Commonwealth and are not
30 susceptible of determination by a prorating of countrywide

1 expense experience. In promulgating the regulations and plans,
2 the department shall give due consideration to the rating
3 systems on file with it and, in order that the regulations and
4 plans may be as uniform as practicable among the several states,
5 to the regulations and the form of the plans used for rating
6 systems in other states. The regulations and plans shall be
7 drafted so as not to place an unreasonable burden of expense on
8 any company. A company shall not be required to record or report
9 its expense and loss experience on a classification basis that
10 is inconsistent with the rating system filed by it, nor shall
11 any company be required to report its experience to any agency
12 of which it is not a member or subscriber. The department may
13 designate one or more rating organizations or other agencies to
14 assist it in making compilations of experience information.
15 These compilations shall be made available, subject to
16 reasonable regulations promulgated by the department, to title
17 insurance companies and rating organizations. REASONABLE RULES <—
18 AND PLANS MAY BE PROMULGATED BY THE DEPARTMENT FOR THE
19 INTERCHANGE OF DATA NECESSARY FOR THE APPLICATION OF RATING
20 PLANS. IN ORDER TO FURTHER UNIFORM ADMINISTRATION OF RATE
21 REGULATORY LAWS, THE DEPARTMENT AND EVERY TITLE INSURANCE
22 COMPANY AND RATING ORGANIZATION MAY EXCHANGE INFORMATION AND
23 EXPERIENCE DATA WITH INSURANCE SUPERVISORY OFFICIALS, TITLE
24 INSURANCE COMPANIES AND RATING ORGANIZATIONS IN OTHER STATES AND
25 MAY CONSULT WITH THEM WITH RESPECT TO RATEMAKING AND THE
26 APPLICATION OF RATING SYSTEMS.

27 § 6762. False or misleading information.

28 A person or organization shall not willfully withhold
29 information from, or knowingly give false or misleading
30 information to, the department, any statistical agency

1 designated by the department rating organization, or title
2 insurance company, which will affect the rates or fees
3 chargeable under this chapter.

4 SUBCHAPTER E

5 PENALTIES AND PROCEDURES

6 Sec.

7 6771. Penalties.

8 6772. Hearing procedure.

9 § 6771. Penalties.

10 (a) Fines.--The department may, if it finds that any person
11 or organization has violated this chapter, impose a penalty of
12 not more than \$50 for each violation, but if it finds the
13 violation to be willful, it may impose a penalty of not more
14 than \$500 for each violation. These penalties may be in addition
15 to any other penalty provided by law.

16 (b) Suspension of license.--The department may suspend the
17 license of any rating organization or title insurance company
18 which fails to comply with an order of the department within the
19 time limited by the order or any extension thereof granted by
20 the department. The department shall not suspend the license of
21 any organization or company for failure to comply with an order
22 until the time prescribed for an appeal therefrom has expired,
23 or if an appeal has been taken, until the order has been
24 affirmed. The department may determine when a suspension of
25 license shall become effective, and it shall remain in effect
26 for the period fixed by the department, unless the department
27 modifies or rescinds the suspension, or until the order upon
28 which the suspension is based is modified, rescinded or reversed
29 by a court.

30 (c) Procedure.--A penalty shall not be imposed or license

1 suspended or revoked except upon a written order of the
2 department, stating its findings, made after a hearing held upon
3 not less than ten days' written notice to the person or
4 organization, specifying the alleged violation.

5 § 6772. Hearing procedure.

6 (a) Right to hearing.--Any title insurance company, rating
7 organization or other person aggrieved by any action of the
8 department, except disapproval of a filing or a part thereof, or
9 by any regulation promulgated by the department, may file a
10 complaint with the department and have a hearing thereon before
11 it. Pending the hearing and the decision thereon, the department
12 may suspend or postpone the effective date of its previous
13 action, rule or regulation.

14 (b) Procedure.--All hearings provided for under this chapter
15 shall be conducted, and the decision of the department on the
16 issue or filing involved shall be rendered, pursuant to Title 2
17 (relating to administrative law and procedure).

18 CHAPTER 69

19 HEALTH AND ACCIDENT INSURANCE

20 Subchapter

21 A. Preliminary Provisions

22 B. General Requirements

23 C. Group, Blanket and Franchise Policies

24 D. Minimum Standards for Individual Policies

25 E. Medicare Supplement Insurance

26 SUBCHAPTER A

27 PRELIMINARY PROVISIONS

28 Sec.

29 6901. Definitions.

30 6902. ~~Organizations included~~ (RESERVED).

<—

1 6903. Applicability.

2 6904. Nonconforming policies.

3 6905. Penalties.

4 § 6901. Definitions.

5 (A) GENERAL RULE.--The following words and phrases when used <—
6 in this chapter shall have the meanings given to them in this
7 section unless the context clearly indicates otherwise.

8 "Forms." Policies, contracts, riders, endorsements and
9 applications relating to health and accident insurance subject
10 to approval by the department under section 3515 (relating to
11 approval of contracts by department), 7324 (RELATING TO FILING <—
12 OF RATES AND CONTRACT FORMS), 7524 (relating to rates and
13 contracts), ~~7525 (relating to reports and examinations)~~ or 7729 <—
14 (relating to rates and contracts).

15 ~~"Health and accident insurance." Insurance written under <—~~
16 ~~section 3302(a)(1) or (2) or (c)(2) (relating to authorized~~
17 ~~classes of insurance). The term does not include life insurance,~~
18 ~~annuities or insurance subject to Chapter 65 (relating to credit~~
19 ~~insurance).~~

20 ~~"Insured." Includes a person other than the insured with a~~
21 ~~proper insurable interest who makes application for or owns a~~
22 ~~policy covering the insured, with respect to the person's rights~~
23 ~~under the policy to the indemnities, benefits and rights~~
24 ~~provided therein.~~

25 "Policy." A contract issued by any person providing health
26 and accident insurance, including such a subscriber contract
27 issued by a health plan corporation or nonprofit health service
28 plan or such a certificate issued by a fraternal benefit
29 society, and including any riders or endorsements and the
30 application, if attached.

1 (B) CONSTRUCTION OF "INSURED".--AS USED IN SUBCHAPTERS A <—
2 (RELATING TO PRELIMINARY PROVISIONS), B (RELATING TO GENERAL
3 REQUIREMENTS) AND C (RELATING TO GROUP, BLANKET AND FRANCHISE
4 POLICIES), THE TERM "INSURED" DOES NOT PREVENT A PERSON OTHER
5 THAN THE INSURED WITH A PROPER INSURABLE INTEREST FROM MAKING
6 APPLICATION FOR AND OWNING A POLICY COVERING THE INSURED OR FROM
7 BEING ENTITLED UNDER SUCH A POLICY TO ANY INDEMNITIES, BENEFITS
8 AND RIGHTS PROVIDED IN THE POLICY.

9 § 6902. ~~Organizations included~~ (RESERVED). <—

10 ~~For the purposes of this chapter, health plan corporations,~~ <—
11 ~~nonprofit health service plans and fraternal benefit societies~~
12 ~~are deemed to be engaged in the business of insurance.~~

13 § 6903. Applicability.

14 (a) Workmen's compensation insurance.--Subchapters B
15 (relating to general requirements) and C (relating to group,
16 blanket and franchise policies) do not apply to any policy of
17 workmen's compensation insurance.

18 (b) Group health and accident policies.--Policies of group
19 health and accident insurance, as defined in section 6931
20 (relating to definitions), shall not be subject to section
21 6904(b) and (c) (relating to nonconforming policies), sections
22 6911 (relating to approval of policies by department) through
23 6915 (relating to relationship of policy provisions) or section
24 6922(b) and (c) (relating to applications for insurance).

25 However, no policy of group health and accident insurance shall
26 be issued or delivered in this Commonwealth unless the form of
27 the policy is filed with the department and approved by it in
28 accordance with section 6911.

29 (c) Life insurance.--Subchapters B and C do not apply to
30 life insurance, endowment or annuity contracts, or contracts

1 supplemental thereto, which contain only such provisions
2 relating to health and accident insurance as:

3 (1) provide additional benefits in case of death by
4 accidental means; and

5 (2) operate to safeguard such contracts against lapse,
6 or to give a special surrender value or special benefit or an
7 annuity if the insured or annuitant becomes totally and
8 permanently disabled, as defined by the contract or
9 supplemental contract.

10 THE DEPARTMENT MAY MAKE REASONABLE REGULATIONS CONCERNING SUCH
11 PROVISIONS. <—

12 (d) Liability insurance.--This subchapter and Subchapter B
13 do not apply to any insurance of medical, hospital, surgical and
14 funeral expenses and disability and death benefits issued with
15 and supplemental to a liability insurance policy as referred to
16 in section 3302(c)(4) (relating to authorized classes of
17 insurance).

18 (E) CERTAIN PLANS AND PROGRAMS.--ONLY THE FOLLOWING <—
19 PROVISIONS OF THIS CHAPTER APPLY TO AN ENTITY TO THE EXTENT IT
20 IS SUBJECT TO CHAPTER 45 (RELATING TO FRATERNAL BENEFIT
21 SOCIETIES), 73 (RELATING TO HEALTH MAINTENANCE ORGANIZATIONS),
22 75 (RELATING TO HOSPITAL PLAN CORPORATIONS) OR 77 (RELATING TO
23 PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS):

24 SECTION 6901 (RELATING TO DEFINITIONS).

25 SECTION 6903 (RELATING TO APPLICABILITY).

26 SECTION 6916 (RELATING TO COVERAGE OF CERTAIN SERVICES).

27 SECTION 6917 (RELATING TO COVERAGE OF NEWBORN CHILDREN).

28 SECTION 6919 (RELATING TO SERVICES OF NURSE MIDWIVES).

29 SECTION 6919.1 (RELATING TO INSURANCE PAYMENTS TO
30 REGISTERED NURSES).

SUBCHAPTER D (RELATING TO MINIMUM STANDARDS FOR
INDIVIDUAL POLICIES).

SUBCHAPTER E (RELATING TO MEDICARE SUPPLEMENT INSURANCE).
HOWEVER, SUBCHAPTER E DOES NOT APPLY TO AN ENTITY TO THE
EXTENT IT IS SUBJECT TO CHAPTER 45 OR 73.

SUBCHAPTER F (RELATING TO BENEFITS FOR ALCOHOL ABUSE AND
DEPENDENCY).

§ 6904. Nonconforming policies.

(a) Requirements of other jurisdictions.--Any policy of a
foreign or alien insurer, when delivered or issued for delivery
to any person in this Commonwealth, may contain any provision
which is not less favorable to the insured or the beneficiary
than the provisions of Subchapter B (relating to general
requirements) or C (relating to group, blanket and franchise
policies) and which is required by the law of the state under
which the insured is organized. Any policy of a domestic insurer
may, when issued for delivery in any other state or country,
contain any provision permitted or required by the law of the
other state or country.

(b) Certain policy provisions.--A policy provision which is
not subject to section 6913 (relating to mandatory policy
provisions) or 6914 (relating to optional policy provisions)
shall not make a policy, or any portion thereof, less favorable
in any respect to the insured or the beneficiary than the
provisions thereof which are subject to Subchapter B or C.

(c) Policy conflicting with chapter.--A policy delivered or
issued for delivery to any person in this Commonwealth in
violation of Subchapter B or C shall be held valid but shall be
construed as provided ~~therein~~ IN SUBCHAPTER B OR C. When any
provision in a policy is in conflict with Subchapter B or C, the

<—

1 rights and duties of the insurer, the insured and the
2 beneficiary shall be governed by ~~the~~ SUBCHAPTER B OR C, AND THE <—
3 POLICY SHALL BE DEEMED TO CONTAIN ALL OF THE REQUIRED provisions
4 thereof.

5 § 6905. Penalties.

6 (a) Criminal.--Any insurer, or any officer or agent thereof,
7 which issues or delivers a policy to any person in this
8 Commonwealth or which alters any written application for
9 insurance, in violation of Subchapter B (relating to general
10 requirements) or C (relating to group, blanket and franchise
11 policies), commits a summary offense.

12 (b) Civil.--The department may take any one or more of the
13 following courses of action:

14 (1) Revoke the license of any foreign or alien insurer,
15 or of any agent thereof, who violates Subchapter B or C.

16 (2) Impose a penalty of not more than \$1,000 for each
17 violation of Subchapter B or C.

18 Before the department takes any action under this section, it
19 shall give written notice to the person accused of the
20 violation, stating specifically the nature thereof and fixing a
21 time and place, at last ten days thereafter, when a hearing of
22 the matter shall be held. After the hearing or upon failure of
23 the accused to appear at the hearing, the department shall
24 impose the penalty.

25 SUBCHAPTER B

26 GENERAL REQUIREMENTS

27 Sec.

28 6911. Approval of policies by department.

29 6912. Formal requirements.

30 6913. Mandatory policy provisions.

1 6914. Optional policy provisions.
2 6915. Relationship of policy provisions.
3 6916. Coverage of certain services.
4 6917. Coverage of newborn children.
5 6918. Licensed medical treatment.
6 6919. Services of nurse midwives.
7 6919.1. Insurance payments to registered nurses.
8 6920. Age limits.
9 6921. Cost-of-living increases.
10 6922. Applications for insurance.
11 6923. Preservation of rights of insurer.
12 6924. Discrimination.
13 6925. Preferred provider organizations.
14 § 6911. Approval of policies by department.

15 An insurer shall not issue or deliver any policy to any
16 person in this Commonwealth unless a copy of the form thereof,
17 and of the classification of risks and the premium rates
18 pertaining thereto, has been filed with and formally approved by
19 the department. If the department notifies the insurer filing
20 the form that it does not comply with the requirements of law,
21 specifying its objections in writing, the insurer shall not
22 issue any policy in that form.

23 § 6912. Formal requirements.

24 (a) General rule.--A policy shall not be issued or delivered
25 to any person in this Commonwealth unless each of the following
26 requirements is complied with:

27 (1) The entire money and other considerations therefor
28 and the time when the insurance takes effect and terminates
29 shall be stated in the policy.

30 (2) The policy shall purport to insure only one person,

1 except that, upon the application of an adult head of a
2 family who shall be deemed the policyholder, a policy may
3 insure, originally or by amendment, any two or more eligible
4 members of that family, including husband, wife, dependent
5 children or any children under a specified age, which shall
6 not exceed 19 years, and any other person dependent upon the
7 policyholder.

8 (3) The style, arrangement and appearance of the policy
9 shall give no undue prominence to any portion of the text.
10 Unless every printed portion of the text of the policy and of
11 any endorsements or attached papers is plainly printed in
12 light-face type of a style in general use, the size of the
13 type throughout the form shall be uniform and not less than
14 ten-point with a lower-case unspaced alphabet length not less
15 than 120-point. For the purposes of this paragraph the term
16 "text" includes all printed matter except the name and
17 address of the insurer, name or title of the policy, a brief
18 description, if any, and captions and subcaptions.

19 (4) The exceptions and reductions of indemnity shall be
20 set forth in the policy. Except for the exceptions and
21 reductions set forth in sections 6913 (relating to mandatory
22 policy provisions) and 6914 (relating to optional policy
23 provisions), these may be printed, at the insurer's option,
24 either included with the benefit provision to which they
25 apply or under an appropriate caption, such as "exceptions"
26 or "exceptions and reductions". If an exception or reduction
27 specifically applies only to a particular benefit of the
28 policy, a statement of the exception or reduction shall be
29 included with the benefit provision to which it applies.

30 (5) Each form, including riders and endorsements, shall

1 be identified by a form number in the lower left-hand corner
2 of the first page.

3 (6) The policy shall contain no provision purporting to
4 make any portion of the charter, rules, constitution or
5 bylaws of the insurer a part of the policy unless the portion
6 is set forth in full in the policy, except for a statement of
7 rates or classification of risks, or short-rate table filed
8 with the department.

9 (7) If the policy is entitled or referred to as
10 "noncancelable," the policy shall be automatically renewable
11 until age 60 upon payment of the required premiums by the
12 insured.

13 (8) A policy delivered or issued for delivery after
14 January 1, 1968, under which coverage of a dependent of a
15 policyholder terminates at a specified age, with respect to
16 an unmarried child covered by the policy prior to the
17 attainment of 19 years of age, who is incapable of self-
18 sustaining employment by reason of mental retardation or
19 physical handicap, becomes so incapable prior to attainment
20 of 19 years of age and is chiefly dependent upon the
21 policyholder for support and maintenance, shall not so
22 terminate while the policy remains in force and the dependent
23 remains in such condition, if the policyholder has within 31
24 days of the dependent's attainment of the limiting age
25 submitted proof of the dependent's incapacity. This paragraph
26 does not require an insurer to insure a dependent who is a
27 mentally retarded or physically handicapped child if the
28 policy is underwritten on evidence of insurability based on
29 health factors set forth in the application or where the
30 dependent does not satisfy the conditions of the policy as to

1 any requirement for evidence of insurability or other
2 provisions of the policy, satisfaction of which is required
3 for coverage thereunder to take effect. In any such case the
4 terms of the policy shall apply with regard to the coverage
5 or exclusion from coverage of the dependent.

6 (9) Except for a single premium nonrenewable policy, the
7 policy form shall have prominently printed thereon a notice
8 that the policyholder shall be permitted to return the policy
9 within ten days of its delivery and to have the premium paid
10 refunded if after examination of the policy the policyholder
11 is not satisfied with it for any reason. If a policyholder,
12 pursuant to this notice, returns the policy to the insurer at
13 its home or branch office or to the agent through whom it was
14 purchased, it shall be deemed void from the beginning, and
15 the parties shall be in the same position as if no policy had
16 been issued.

17 (b) Policy on insured in other state.--If any policy is
18 issued by a domestic insurer for delivery to a person residing
19 in another state, and if the official having responsibility for
20 the administration of the insurance statutes of the other state
21 has advised the department that any such policy is not subject
22 to approval or disapproval by the official, the department may
23 by ruling require that the policy comply with subsection (a) and
24 sections 6913 (relating to mandatory policy provisions) through
25 6915 (relating to relationship of policy provisions).

26 § 6913. Mandatory policy provisions.

27 (a) General rule.--Except as provided in section 6915(a)
28 (relating to relationship of policy provisions), each such
29 policy delivered or issued for delivery to any person in this
30 Commonwealth shall contain the provisions specified in this

subsection in the words in which the provision appears in this section, except that the insurer may, at its option, substitute for one or more of these provisions corresponding provisions of different wording approved by the department which are in each instance not less favorable in any respect to the insured or the beneficiary. These provisions shall be preceded individually by the caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the department approves.

(b) Complete integration.--There shall be a provision as follows:

Entire contract; changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

(c) Time limitation defenses.--

(1) There shall be a provision as follows:

Time Limit on Certain Defenses: After three years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such three-year period.

(2) The policy provision set forth in paragraph (1)

1 shall not affect any legal requirement for avoidance of a
2 policy or denial of a claim during the initial three-year
3 period, nor shall it limit the application of section
4 6914(b), (c), (d) and (e) (relating to optional policy
5 provisions) in the event of misstatement with respect to age
6 or occupation or other insurance.

7 (3) In a policy where the premiums are payable weekly,
8 the words "if such application is made a part of the policy"
9 may be inserted in the policy provision set forth in
10 paragraph (1) between the word "policy" and the word "shall"
11 immediately following.

12 (4) A policy which the insured has the right to continue
13 in force subject to its terms by the timely payment of
14 premium until at least 50 years of age, or in the case of a
15 policy issued after 44 years of age, for at least five years
16 from its date of issue, may contain in lieu of the policy
17 provision set forth in paragraph (1) the following provision,
18 from which the clause in parentheses may be omitted at the
19 insurer's option:

20 Incontestable: After this policy has been in force
21 for a period of three years during the lifetime of
22 the insured (excluding any period during which the
23 insured is disabled), it shall become incontestable
24 as to the statements contained in the application.

25 (d) Prior condition.--

26 (1) There shall be a provision as follows:

27 Prior condition: No claim for loss incurred or
28 disability (as defined in the policy) commencing
29 after three years from the date of issue of this
30 policy shall be reduced or denied on the ground that

1 a disease or physical condition not excluded from
2 coverage by name or specific description effective on
3 the date of loss had existed prior to the effective
4 date of coverage of this policy.

5 (2) In policies whereon the premiums are payable weekly,
6 the words "or from the date of any reinstatement thereof" may
7 be inserted in the policy provision set forth in paragraph
8 (1) between the word "policy" and the word "shall"
9 immediately following.

10 (e) Grace period.--

11 (1) There shall be a provision as follows:

12 Grace Period: A grace period of (insert a number not
13 less than "7" for weekly premium policies, "10" for
14 monthly premium policies and "31" for all other
15 policies) days will be granted for the payment of
16 each premium falling due after the first premium,
17 during which grace period the policy shall continue
18 in force.

19 (2) A policy which contains a cancellation provision may
20 add at the end of the provision set forth in paragraph (1)
21 "subject to the right of the insurer to cancel in accordance
22 with the cancellation provision hereof."

23 (3) A policy in which the insurer reserves the right to
24 refuse any renewal shall have, at the beginning of the
25 provision set forth in paragraph (1): "Unless not less than
26 five days prior to the premium due date the insurer has
27 delivered to the insured or has mailed to his last address as
28 shown by the records of the insurer written notice of its
29 intention not to renew this policy beyond the period for
30 which the premium has been accepted, ..."

1 (f) Reinstatement.--

2 (1) There shall be a provision as follows:

3 Reinstatement: If any renewal premium be not paid
4 within the time granted the insured for payment, a
5 subsequent acceptance of premium by the insurer or by
6 any agent duly authorized by the insurer to accept
7 such premium, without requiring in connection
8 therewith an application for reinstatement, shall
9 reinstate the policy: Provided, however, That if the
10 insurer or such agent requires an application for
11 reinstatement and issues a conditional receipt for
12 the premium tendered, the policy will be reinstated
13 upon approval of such application by the insurer or,
14 lacking such approval, upon the 45th day following
15 the date of such conditional receipt unless the
16 insurer has previously notified the insured in
17 writing of its disapproval of such application. The
18 reinstated policy shall cover only loss resulting
19 from such accidental injury as may be sustained after
20 the date of reinstatement and loss due to such
21 sickness as may begin more than ten days after such
22 date. In all other respects the insured and insurer
23 shall have the same rights thereunder as they had
24 under the policy immediately before the due date of
25 the defaulted premium, subject to any provisions
26 endorsed hereon or attached hereto in connection with
27 the reinstatement. Any premium accepted in connection
28 with a reinstatement shall be applied to a period for
29 which premium has not been previously paid, but not
30 to any period more than 60 days prior to the date of

1 reinstatement.

2 (2) The last sentence of the provision set forth in
3 paragraph (1) may be omitted:

4 (i) from any policy which the insured has the right
5 to continue in force subject to its terms by the timely
6 payment of premiums:

7 (A) until at least 50 years of age; or

8 (B) in the case of a policy issued after 44
9 years of age, for at least five years from the date
10 of its issue; or

11 (ii) from any policy on which the premiums are
12 payable weekly.

13 (g) Notification of claim.--

14 (1) There shall be a provision as follows:

15 Notice of Claim: Written notice of claim must be
16 given to the insurer within 20 days after the
17 occurrence or commencement of any loss covered by the
18 policy, or as soon thereafter as is reasonably
19 possible. Notice given by or on behalf of the insured
20 or the beneficiary to the insurer at (insert the
21 location of such office as the insurer may designate
22 for the purpose), or to any authorized agent of the
23 insurer, with information sufficient to identify the
24 insured, shall be deemed notice to the insurer.

25 (2) In a policy whereon the premiums are payable weekly,
26 the first sentence of the policy provision set forth in
27 paragraph (1) may read:

28 Written notice of claim must be given to the insurer
29 within ten days of the commencement of any
30 nonhospital confining sickness covered by the policy

1 and within 20 days after the occurrence or
2 commencement of any other loss covered by the policy,
3 or as soon thereafter as is reasonably possible.

4 (3) In a policy providing a loss-of-time benefit which
5 may be payable for at least two years, an insurer may, at its
6 option, insert the following between the first and second
7 sentences of the policy provision set forth in paragraph (1):

8 Subject to the qualifications set forth below, if the
9 insured suffers loss of time on account of disability
10 for which indemnity may be payable for at least two
11 years, he shall, at least once in every six months
12 after having given notice of claim, give to the
13 insurer notice of continuance of said disability,
14 except in the event of legal incapacity.

15 (4) The period of six months following any filing of
16 proof by the insured or any payment by the insurer on account
17 of such claim or any denial of liability in whole or in part
18 by the insurer shall be excluded in applying the policy
19 provision set forth in paragraph (3). Delay in the giving of
20 such notice under that provision shall not impair the
21 insured's right to any indemnity which would otherwise have
22 accrued during the period of six months preceding the date on
23 which the notice is actually given.

24 (h) Claim forms.--There shall be a provision as follows:

25 Claim Forms: The insurer, upon receipt of a notice of
26 claim, will furnish to the claimant such forms as are
27 usually furnished by it for filing proofs of loss. If
28 such forms are not furnished within 15 days after the
29 giving of such notice, the claimant shall be deemed to
30 have complied with the requirements of this policy as to

1 proof of loss upon submitting, within the time fixed in
2 the policy for filing proofs of loss, written proof
3 covering the occurrence, the character and the extent of
4 the loss for which claim is made.

5 (i) Proofs of loss.--There shall be a provision as follows:

6 Proofs of Loss: Written proof of loss must be furnished
7 to the insurer at its said office in case of claim for
8 loss for which this policy provides any periodic payment
9 contingent upon continuing loss within 90 days after the
10 termination of the period for which the insurer is liable
11 and in case of claim for any other loss within 90 days
12 after the date of such loss. Failure to furnish such
13 proof within the time required shall not invalidate nor
14 reduce any claim if it was not reasonably possible to
15 give proof within such time, provided such proof is
16 furnished as soon as reasonably possible and in no event,
17 except in the absence of legal capacity, later than one
18 year from the time proof is otherwise required.

19 (j) Time of payment of claims.--There shall be a provision
20 as follows:

21 Time of Payment of Claims: Indemnities payable under this
22 policy for any loss other than loss for which this policy
23 provides any periodic payment will be paid immediately
24 upon receipt of due written proof of such loss. Subject
25 to due written proof of loss, all accrued indemnities for
26 loss for which this policy provides periodic payment will
27 be paid (insert period for payment, which
28 must not be less frequently than monthly) and any balance
29 remaining unpaid upon the termination of liability will
30 be paid immediately upon receipt of due written proof.

1 (k) Manner of payment of claims.--

2 (1) There shall be a provision as follows:

3 Payment of Claims: Indemnity for loss of life will be
4 payable in accordance with the beneficiary
5 designation and the provisions respecting such
6 payment which may be prescribed herein and effective
7 at the time of payment. If no such designation or
8 provision is then effective, such indemnity shall be
9 payable to the estate of the insured. Any other
10 accrued indemnities unpaid at the insured's death
11 may, at the option of the insurer, be paid either to
12 such beneficiary or to such estate. All other
13 indemnities will be payable to the insured.

14 (2) The policy provisions set forth in subparagraphs (i)
15 and (ii), or either of them, may be included with the policy
16 provision set forth in paragraph (1) at the option of the
17 insurer:

18 (i) If any indemnity of this policy shall be payable
19 to the estate of the insured, or to an insured or
20 beneficiary who is a minor or otherwise not competent to
21 give a valid release, the insurer may pay such indemnity,
22 up to an amount not exceeding \$ (insert an amount which
23 shall not exceed \$1,000), to any relative by blood or
24 connection by marriage of the insured or beneficiary who
25 is deemed by the insurer to be equitably entitled
26 thereto. Any payment made by the insurer in good faith
27 pursuant to this provision shall fully discharge the
28 insurer to the extent of such payment.

29 (ii) Subject to any written direction of the insured
30 in the application or otherwise, all or a portion of any

1 indemnities provided by this policy on account of
2 hospital, nursing, medical or surgical services may, at
3 the insurer's option and, unless the insured requests
4 otherwise in writing, not later than the time of filing
5 proofs of such loss, be paid directly to the hospital or
6 person rendering such services; but it is not required
7 that the service be rendered by a particular hospital or
8 person.

9 (l) Physical examinations.--There shall be a provision as
10 follows:

11 Physical Examinations and Autopsy: The insurer at its own
12 expense shall have the right and opportunity to examine
13 the person of the insured when and as often as it may
14 reasonably require during the pendency of a claim
15 hereunder and to make an autopsy in case of death where
16 it is not forbidden by law.

17 (m) Legal actions.--There shall be a provision as follows:

18 Legal Actions: No action at law or in equity shall be
19 brought to recover on this policy prior to the expiration
20 of 60 days after written proof of loss has been furnished
21 in accordance with the requirements of this policy. No
22 such action shall be brought after the expiration of
23 three years after the time written proof of loss is
24 required to be furnished.

25 (n) Change of beneficiary.--

26 (1) There shall be a provision as follows:

27 Change of Beneficiary: Unless the insured makes an
28 irrevocable designation of beneficiary, the right to
29 change of beneficiary is reserved to the insured and
30 the consent of the beneficiary or beneficiaries shall

1 not be requisite to surrender or assignment of this
2 policy or to any change of beneficiary or
3 beneficiaries, or to any other changes in this
4 policy.

5 (2) The first clause of the policy provision set forth
6 in paragraph (1), relating to the irrevocable designation of
7 beneficiary, may be omitted at the insurer's option.

8 (o) Common carriers.--The provisions contained in
9 subsections (b), (f), (j) and (l) may be omitted from ticket
10 policies sold only to passengers by common carriers.

11 § 6914. Optional policy provisions.

12 (a) General rule.--Except as provided in section 6915(a)
13 (relating to relationship of policy provisions), a policy issued
14 or delivered to any person in this Commonwealth shall not
15 contain provisions respecting the matters set forth in this
16 section unless the provisions are in the words appearing in this
17 section. However, the insurer may use in lieu of any such
18 provision a corresponding provision of different wording
19 approved by the department, which is not less favorable in any
20 respect to the insured or the beneficiary. Any such provision
21 contained in the policy shall be preceded individually by the
22 appropriate caption appearing in this subsection or, at the
23 option of the insurer, by such appropriate individual or group
24 captions or subcaptions as the department approves.

25 (b) Change of occupation.--The provision on change of
26 occupation shall be as follows:

27 Change of Occupation: If the insured be injured or
28 contract sickness after having changed his occupation to
29 one classified by the insurer as more hazardous than that
30 stated in this policy or while doing for compensation

1 anything pertaining to an occupation so classified, the
2 insurer will pay only such portion of the indemnities
3 provided in this policy as the premium paid would have
4 purchased at the rates and within the limits fixed by the
5 insurer for such more hazardous occupation. If the
6 insured changes his occupation to one classified by the
7 insurer as less hazardous than that stated in this
8 policy, the insurer, upon receipt of proof of such change
9 of occupation, will reduce the premium rate accordingly,
10 and will return the excess pro rata unearned premium from
11 the date of change of occupation or from the policy
12 anniversary date immediately preceding receipt of such
13 proof, whichever is the more recent. In applying this
14 provision, the classification of occupational risk and
15 the premium rates shall be such as have been last filed
16 by the insurer prior to the occurrence of the loss for
17 which the insurer is liable or prior to date of proof of
18 change in occupation with the state official having
19 supervision of insurance in the state where the insured
20 resided at the time this policy was issued; but if such
21 filing was not required, then the classification of
22 occupational risk and the premium rates shall be those
23 last made effective by the insurer in such state prior to
24 the occurrence of the loss or prior to the date of proof
25 of change in occupation.

26 (c) Misstatement of age.--The provision on misstatement of
27 age shall be as follows:

28 Misstatement of Age: If the age of the insured has been
29 misstated, all amounts payable under this policy shall be
30 such as the premium paid would have purchased at the

1 correct age.

2 (d) Other insurance in the same insurer.--The provision on
3 other insurance by the insured in the same insurer shall be as
4 follows:

5 Other Insurance in This Insurer: If an accident or
6 sickness or accident and sickness policy or policies
7 previously issued by the insurer to the insured be in
8 force concurrently herewith, making the aggregate
9 indemnity for (insert type of coverage or coverages) in
10 excess of \$ (insert maximum limit of indemnity or
11 indemnities), the excess insurance shall be void and all
12 premiums paid for such excess shall be returned to the
13 insured or to his estate or, in lieu thereof, insurance
14 effective at any one time on the insured under a like
15 policy or policies in this insurer is limited to the one
16 such policy elected by the insured, his beneficiary or
17 his estate, as the case may be, and the insurer will
18 return all premiums paid for all other such policies.

19 (e) Insurance with other insurers.--

20 (1) The provision on insurance by the insured with other
21 insurers shall be as follows, except as provided in paragraph
22 (3):

23 Insurance with Other Insurers: If there be other
24 valid coverage, not with this insurer, providing
25 benefits for the same loss on a provision of service
26 basis or on an expense incurred basis and of which
27 this insurer has not been given written notice prior
28 to the occurrence or commencement of loss, the only
29 liability under any expense incurred coverage of this
30 policy shall be for such proportion of the loss as

1 the amount which would otherwise have been payable
2 hereunder plus the total of the like amounts under
3 all such other valid coverages for the same loss of
4 which this insurer had notice bears to the total like
5 amounts under all valid coverages for such loss, and
6 for the return of such portion of the premiums paid
7 as shall exceed the pro rata portion for the amount
8 so determined. For the purpose of applying this
9 provision when other coverage is on a provision of
10 service basis, the "like amount" of such other
11 coverage shall be taken as the amount which the
12 services rendered would have cost in the absence of
13 such coverage.

14 (2) If the policy provision set forth in paragraph (1)
15 is included in a policy which also contains the policy
16 provision set forth in paragraph (3), there shall be added to
17 the caption of the policy provision set forth in paragraph
18 (1) the phrase "----- Expense Incurred Benefits".

19 (3) The following provision may appear in addition to or
20 in lieu of the provision set forth in paragraph (1):

21 Insurance with Other Insurers: If there be other
22 valid coverage, not with this insurer, providing
23 benefits for the same loss on other than an expense
24 incurred basis and of which this insurer has not been
25 given written notice prior to the occurrence or
26 commencement of loss, the only liability for such
27 benefits under this policy shall be for such
28 proportion of the indemnities otherwise provided
29 hereunder for such loss as the like indemnities of
30 which the insurer had notice (including the

1 indemnities under this policy) bear to the total
2 amount of all like indemnities for such loss, and for
3 the return of such portion of the premium paid as
4 shall exceed the pro rata portion for the indemnities
5 thus determined.

6 (4) If the policy provision set forth in paragraph (3)
7 is included in a policy which also contains the policy
8 provision set forth in paragraph (1), there shall be added to
9 the caption of the policy provision set forth in paragraph
10 (3) the phrase "----- Other Benefits".

11 (5) The insurer may include in the provisions set forth
12 in this subsection a definition of "other valid coverage",
13 approved as to form by the department, which definition shall
14 be limited in subject matter to coverage provided by
15 organizations subject to regulation by insurance law or by
16 insurance authorities of this or any other state or any
17 province of the Dominion of Canada, and to any other coverage
18 the inclusion of which is approved by the department. In the
19 absence of this definition, the term shall not include group
20 insurance, or benefits provided by union welfare plans or by
21 employer or employee benefit organizations. For the purpose
22 of applying the policy provisions set forth in this
23 subsection with respect to any insured, any amount of benefit
24 provided for the insured pursuant to any compulsory benefit
25 statute, including any workmen's compensation or employers'
26 liability statute, whether provided by a governmental agency
27 or otherwise, shall be deemed to be "other valid coverage" of
28 which the insurer has had notice. In applying these policy
29 provisions, third-party liability coverage shall not be
30 included as "other valid coverage".

1 (f) Relation of earnings to insurance.--

2 (1) The provision on relation of earnings to insurance
3 shall be as follows:

4 Relation of Earnings to Insurance: If the total
5 monthly amount of loss of time benefits promised for
6 the same loss under all valid loss of time coverage
7 upon the insured, whether payable on a weekly or
8 monthly basis, shall exceed the monthly earnings of
9 the insured at the time disability commenced or his
10 average monthly earnings for the period of two years
11 immediately preceding a disability for which claim is
12 made, whichever is the greater, the insurer will be
13 liable only for such proportionate amount of such
14 benefits under this policy as the amount of such
15 monthly earnings or such average monthly earnings of
16 the insured bears to the total amount of monthly
17 benefits for the same loss under all such coverage
18 upon the insured at the time such disability
19 commences and for the return of such part of the
20 premiums paid during such two years as shall exceed
21 the pro rata amount of the premiums for the benefits
22 actually paid hereunder; but this shall not operate
23 to reduce the total monthly amount of benefits
24 payable under all such coverage upon the insured
25 below the sum of \$200 or the sum of the monthly
26 benefits specified in such coverages, whichever is
27 less, nor shall it operate to reduce benefits other
28 than those payable for loss of time.

29 (2) The policy provision set forth in paragraph (1) may
30 be inserted only in a policy which the insured has the right

1 to continue in force subject to its terms by the timely
2 payment of premiums until at least 50 years of age or, in the
3 case of a policy issued after 44 years of age, for at least
4 five years from its date of issue.

5 (3) The insurer may include in the policy provision set
6 forth in paragraph (1) a definition of "valid loss of time
7 coverage", approved as to form by the department, which
8 definition shall be limited in subject matter to coverage
9 provided by governmental agencies or by organizations subject
10 to regulation by insurance law or by insurance authorities of
11 this or any other state or any province of the Dominion of
12 Canada, or to any other coverage the inclusion of which may
13 be approved by the department, or any combination of such
14 coverages. In the absence of this definition, the term shall
15 not include any coverage provided for such insured pursuant
16 to any compulsory benefit statute, including any workmen's
17 compensation or employers' liability statute, or benefits
18 provided by union welfare plans or by employer or employee
19 benefit organizations.

20 (g) Unpaid premium.--The provision on setoff of unpaid
21 premium shall be as follows:

22 Unpaid Premium: Upon the payment of a claim under this
23 policy, any premium then due and unpaid or covered by any
24 note or written order may be deducted therefrom.

25 (h) Cancellation.--The provision on cancellation of the
26 policy shall be as follows:

27 Cancellation: The insurer may cancel this policy at any
28 time by written notice delivered to the insured, or
29 mailed to his last address as shown by the records of the
30 insurer, stating when, not less than five days

thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term, the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(i) Conformity with state statutes.--The provision on conformity of the policy with state statutes shall be as follows:

Conformity with State Statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date, is hereby amended to conform to the minimum requirements of such statutes.

(j) Illegal activity.--The provision on denial of coverage for claims arising from illegal activity shall be as follows:

Illegal Occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony, or to which a contributing cause was the insured's being engaged in an illegal occupation.

1 (k) Intoxicants and narcotics.--

2 (1) The provision on denial of coverage for claims
3 arising from the use of intoxicants and narcotics shall
4 appear as follows:

5 Intoxicants and Narcotics: The insurer shall not be
6 liable for any loss sustained or contracted in
7 consequence of the insured's being intoxicated, or
8 under the influence of any narcotic unless
9 administered on the advice of a physician.

10 (2) Paragraph (1) does not permit any policy provisions
11 which would deny or purport to deny benefits for alcohol
12 abuse and dependency where such benefits are required under
13 ~~Article VI A of the act of May 17, 1921 (P.L.682, No.284),~~ <—
14 ~~known as The Insurance Company Law of 1921.~~ SUBCHAPTER F <—
15 (RELATING TO BENEFITS FOR ALCOHOL ABUSE AND DEPENDENCY).

16 § 6915. Relationship of policy provisions.

17 (a) Inapplicable or inconsistent provisions.--If any policy
18 provision referred to in section 6913 (relating to mandatory
19 policy provisions) or 6914 (relating to optional policy
20 provisions) is in whole or in part inapplicable to or
21 inconsistent with the coverage provided by a particular form of
22 policy, the insurer, with the approval of the department, shall
23 omit from the policy any inapplicable provision or part of a
24 provision, and shall modify any inconsistent provision or part
25 of the provision.

26 (b) Order of certain policy provisions.--The provisions
27 which are the subject of sections 6913 and 6914, or any
28 corresponding provisions which are used in lieu thereof under
29 those sections, may be printed in the consecutive order of the
30 provisions in those sections or, at the option of the insurer,

1 any such provision may appear as a unit in any part of the
2 policy, with other provisions to which it is logically related,
3 provided the resulting policy shall not be in whole or in part
4 unintelligible, ambiguous or likely to mislead a person to whom
5 the policy is offered, delivered or issued.

6 § 6916. Coverage of certain services.

7 (a) Psychological services.--This subsection applies to
8 every group or individual policy delivered or issued for
9 delivery in this Commonwealth. Whenever such a policy provides
10 for reimbursement for any psychologically necessary service
11 which is within those areas for which the psychologist is
12 licensed pursuant to the act of March 23, 1972 (P.L.136, No.52),
13 referred to as the Psychologists License Act, the insured or any
14 other person covered by the policy, ~~contract or certificate~~ <—
15 shall be entitled to reimbursement for such service whether the
16 service is performed by a physician or a psychologist operating
17 within those ~~area~~ AREAS for which he is licensed. THE DEPARTMENT <—
18 SHALL PROMULGATE SUCH REGULATIONS AS ARE DEEMED NECESSARY FOR
19 THE EFFECTIVE IMPLEMENTATION AND OPERATION OF THIS SUBSECTION.
20 Public hearings shall be held prior to the promulgation of any
21 substantial regulation under this section, or substantial change
22 thereof. The hearing shall be transcribed and cross-examination
23 of all witnesses shall be permitted in accordance with law.

24 (b) Optometric services.--Whenever any insurer, under any
25 policy ~~or plan~~ of insurance, or any self-insured health or <—
26 welfare plan, provides for a service or for the reimbursement of
27 a service to or on behalf of any of its individual or group
28 policyholders or subscribers or any other person or groups,
29 which service is within the lawful scope of practice of a
30 licensed optometrist, the person rendering such service or such

1 policyholder, subscriber or other person shall be entitled to
2 the same reimbursement for the service whether the service is
3 performed by a licensed physician or by a licensed optometrist.
4 Under any such ~~contract~~, policy ~~or plan~~ which pays on the basis <—
5 of usual, customary and reasonable charges or on some similar
6 basis, only the method of determining the amount of
7 reimbursement shall be the same. Unless the policy provides
8 otherwise, there shall be no reimbursement for ophthalmic
9 materials, lenses, eyeglasses or appurtenances thereto.

10 § 6917. Coverage of newborn children.

11 (a) General rule.--All health insurance policies providing
12 coverage on an expense incurred basis and service or indemnity
13 type contracts issued by a nonprofit corporation subject to
14 Chapter 45 (RELATING TO FRATERNAL BENEFIT SOCIETIES), 75 <—
15 (relating to hospital plan corporations) or 77 (relating to
16 professional health services plan corporations) and all health
17 services provided by plans operating under Chapter 73 (relating
18 to health maintenance organizations) shall also provide that the
19 health insurance benefits or health services applicable shall be
20 payable with respect to a newborn child of the insured or
21 subscriber FROM the moment of birth. <—

22 (b) Policy provisions.--The coverage for newborn children
23 shall consist of coverage of injury or sickness, including the
24 necessary care and treatment of medically diagnosed congenital
25 defects, birth abnormalities, prematurity and routine nursery
26 care, but need not include routine well-baby care, immunizations
27 and medical examinations or tests not necessary for the
28 treatment of a covered injury, illness, defect, deformity or
29 disease except to the extent that these coverages are provided
30 the insured or for dependent children under the same class of

1 coverage.

2 (c) Notice of birth.--If payment of a specific premium or
3 subscription fee is required to provide coverage for a child,
4 the policy ~~or contract~~ may require that notification of birth of <—
5 a newborn child and payment of the required premium or fees
6 shall be furnished to the insurer or nonprofit service or
7 indemnity corporation within 31 days after the date of birth in
8 order to have the coverage continue beyond that 31-day period.

9 § 6918. Licensed medical treatment.

10 Notwithstanding any provision of any policy of insurance or
11 self-insured health or welfare plan providing benefits whenever
12 the policy or plan provides for reimbursement for any service
13 which may be legally performed by a person licensed under the
14 law of this Commonwealth for the practice of medicine,
15 osteopathy, dentistry, chiropractic podiatry, physical therapy
16 or midwifery reimbursement under the policy or plan shall not be
17 denied when the service is rendered by a person so licensed.

18 § 6919. Services of nurse midwives.

19 (a) Applicability.--This section applies to all policies of
20 health and accident insurance and all private and public
21 programs for health services and facilities reimbursement,
22 including, but not limited to, any such reimbursement programs
23 operated by the Commonwealth.

24 (b) Reimbursement for services.--Whenever a policy or
25 program within subsection (a) provides for reimbursement for any
26 health care service which is within those areas of practice for
27 which a midwife may be licensed in this Commonwealth or in the
28 state where the service is delivered, or for the cost of
29 birthing facilities, the insured or any other person covered
30 thereby shall be entitled to reimbursement for the service or

1 use of the facilities whenever the service is performed by a
2 licensed nurse midwife or other person licensed to perform such
3 services. Whenever the service is performed by a licensed
4 ~~certified~~ nurse midwife and reimbursed by a professional health <—
5 services corporation, the licensed ~~certified~~ nurse midwife shall <—
6 have such rights of participation, plan admission and
7 registration as are granted by the professional health services
8 plan corporation under Chapter 77 (relating to professional
9 health services plan corporations) to a physician ~~or osteopath~~ <—
10 performing such service. When payment is made for health care
11 services performed by a licensed ~~certified~~ nurse midwife, no <—
12 payment or reimbursement shall be payable to a physician ~~or~~ <—
13 ~~osteopath~~ for the service performed by the licensed nurse
14 midwife.

15 (C) REGULATIONS.--THE DEPARTMENT MAY PROMULGATE SUCH <—
16 REGULATIONS AS ARE DEEMED NECESSARY FOR THE EFFECTIVE
17 IMPLEMENTATION AND OPERATION OF THIS SECTION.

18 § 6919.1. Insurance payments to registered nurses.

19 (a) Scope of coverage.--When a service is performed by a
20 certified registered nurse anesthetist, certified registered
21 nurse practitioner, certified enterostomal therapy nurse,
22 certified community health nurse, certified psychiatric mental
23 health nurse or certified clinical nurse specialist who is
24 certified by the State Board of Nursing or a national nursing
25 organization recognized by the State Board of Nursing and is
26 lawfully permitted to perform that service under the act of May
27 22, 1951 (P.L.317, No.69), known as The Professional Nursing
28 Law, and a policy, ~~contract or certificate~~ provides for <—
29 reimbursement for that service, the insured or any other person
30 covered shall be entitled to reimbursement either to the insured

1 or to the registered professional nurse providing that service.
2 This section does not apply to registered professional nurses
3 who are employees of health care facilities as the term "health
4 care facilities" is defined in the act of July 19, 1979
5 (P.L.130, No.48), known as the Health Care Facilities Act, or to
6 anesthesiology groups. This subsection does not apply to the
7 assignment of benefits and payment of claims process of a stock
8 insurance company or a mutual insurance company described in
9 subsection (c)(1).

10 (b) Nonduplication of payments.--Duplicate payments shall
11 not be made to both a nurse provider as set forth in subsection
12 (a) and another provider, or to the same provider, for the same
13 services provided in a single encounter.

14 (c) Applicability.--This section applies to every group
15 policy,~~contract or certificate~~ issued thereunder of health and <—
16 accident insurance delivered or issued for delivery within this
17 Commonwealth, including, but not limited to, policies,~~contracts~~ <—
18 ~~or certificates~~ issued by:

19 (1) Any stock insurance company as described in section
20 3302(c)(4) and (11) (relating to authorized classes of
21 insurance) and any mutual insurance company as described in
22 section 3302(d)(1).

23 ~~(2) Any hospital plan corporation as defined in Chapter <—~~
24 ~~75 (relating to hospital plan corporations).~~

25 ~~(3) Any professional health services plan corporation as~~
26 ~~defined in Chapter 77 (relating to professional health~~
27 ~~services plan corporations).~~

28 ~~(4)~~ (2) Any person who sells or issues contracts or
29 certificates of insurance which meet the requirements of this
30 section.

1 This subsection shall apply to policies,~~contracts or~~
2 ~~certificates~~ issued, renewed, modified, altered, amended or
3 reissued on or after March 19, 1987.

4 (d) Regulations.--The department shall promulgate the
5 regulations and forms necessary to carry out the provisions of
6 this section. Following publication of the initial set of
7 proposed regulations in the Pennsylvania Bulletin, but prior to
8 their formal adoption, the department shall hold public hearings
9 thereon.

10 (e) Construction.--This section does not affect or impair
11 The Professional Nursing Law nor confer upon any public or
12 private organization or agency the power to interpret or enforce
13 this section, except as may be provided for in this section.

14 § 6920. Age limits.

15 If any policy contains a provision establishing, as an age
16 limit or otherwise, a date after which the coverage provided by
17 the policy will not be effective, and if the date falls within a
18 period for which a premium is accepted by the insurer or if the
19 insurer accepts a premium after that date, the coverage provided
20 by the policy will continue in force subject to any right of
21 cancellation until the end of the period for which premium has
22 been accepted. If the age of the insured has been misstated and
23 if, according to the correct age of the insured, the coverage
24 provided by the policy would not have become effective, or would
25 have ceased prior to the acceptance of such premium or premiums,
26 then the liability of the insurer shall be limited to the
27 refund, upon request, of all premiums paid for the period not
28 covered by the policy.

29 § 6921. Cost-of-living increases.

30 A claim for benefits for loss of time from the insured

1 person's occupation, under a group or individual policy issued
2 or renewed in this Commonwealth, shall not be reduced by reason
3 of any cost-of-living increase, designated as such under the
4 Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), if
5 the cost-of-living increase occurs while the policy's benefits
6 are payable for that claim.

7 § 6922. Applications for insurance.

8 (a) False statements.--The falsity of any statement in the
9 application for any policy shall not bar the right to recover
10 thereunder, unless the false statement was made with intent to
11 deceive or unless the statement materially affected either the
12 acceptance of the risk or the hazard assumed by the insurer.

13 (b) Inclusion of representations in policy.--The insured
14 shall not be bound by any statement made in an application for a
15 policy unless a copy of the application is attached to or
16 endorsed on the policy when issued as a part thereof. If any
17 policy delivered or issued for delivery to any person in this
18 Commonwealth is reinstated or renewed, and the insured or the
19 beneficiary or assignee of the policy makes written request to
20 the insurer for a copy of the application for reinstatement or
21 renewal, the insurer shall, within 15 days after the receipt of
22 the request at its home office or any branch office of the
23 insurer, deliver or mail a copy of the application to the person
24 making the request. If the copy is not delivered or mailed, the
25 insurer shall not introduce the application as evidence in any
26 action or proceeding regarding the policy.

27 (c) Alterations.--An alteration of any written application
28 for any policy shall not be made by any person other than the
29 applicant without his written consent, except that insertions
30 may be made by the insurer, for administrative purposes only, in

1 such manner as to indicate clearly that the insertions are not
2 to be ascribed to the applicant.

3 § 6923. Preservation of rights of insurer.

4 The acknowledgment by any insurer of the receipt of notice
5 given under any policy, the furnishing of forms for filing
6 proofs of loss, the acceptance of such proofs or the
7 investigation of any claim thereunder shall not operate as a
8 waiver of any of the rights of the insurer in defense of any
9 claim arising under the policy.

10 § 6924. Discrimination.

11 Except as provided in section 6925 (relating to preferred
12 provider organizations), insurers shall not discriminate between
13 individuals of the same class in the amount of premiums or rates
14 charged for any policy, in the benefits payable thereon, in the
15 terms or conditions of the policy or in any other manner.

16 § 6925. Preferred provider organizations.

17 (a) General rule.--Upon compliance with the provisions of
18 this title and notwithstanding any other provision of law to the
19 contrary, any health care insurer or purchaser may do any of the
20 following:

21 (1) Enter into agreements with providers or physicians
22 relating to health care services which may be rendered to
23 persons for whom the insurer or purchaser is providing health
24 care coverage, including agreements relating to the amounts
25 to be charged by the provider or physician for services
26 rendered.

27 (2) Issue or administer policies or subscriber contracts
28 in this Commonwealth which include incentives for the covered
29 person to use the services of a provider who has entered into
30 an agreement with the insurer or purchaser.

1 (3) Issue or administer policies or subscriber contracts
2 in this Commonwealth that provide for reimbursement for
3 services only if the services have been rendered by a
4 provider or physician who has entered into an agreement with
5 the insurer or purchaser.

6 (b) Regulation by department.--The department shall
7 determine that:

8 (1) A preferred provider organization which assumes
9 financial risk is licensed as an insurer in this
10 Commonwealth, has adequate working capital and reserves, or
11 is governed and regulated under the provisions of the
12 Employee Retirement Income Security Act of 1974 (Public Law
13 93-406, 88 Stat. 829), referred to as ERISA, and has filed a
14 certificate to that effect with the department.

15 (2) Enrollee literature adequately discloses provisions,
16 limitations and conditions of benefits available or that the
17 preferred provider organization is governed and regulated
18 under the provisions of ERISA and has filed a certificate to
19 that effect with the department.

20 (c) Regulation by department and Department of Health.--The
21 department, in consultation with the Department of Health, shall
22 determine that arrangements and provisions for preferred
23 provider organizations which assume financial risk which may
24 lead to undertreatment or poor quality care are adequately
25 addressed by quality and utilization controls and by a formal
26 grievance system, unless the department makes a prior
27 determination that the preferred provider organization is
28 governed by and regulated under the provisions of the Employee
29 Retirement Income Security Act of 1974, and has filed a
30 certificate to that effect with the department.

1 (d) Requirements for commencement of operations.--No
2 preferred provider organization which assumes financial risk may
3 commence operations until it has reported to the department and
4 the Department of Health such information as the department and
5 the Department of Health require in accordance with the duties
6 required under this section. If, after 60 days, either the
7 department or the Department of Health has not informed the
8 preferred provider organization of deficiencies, the preferred
9 provider organization may commence operations unless and until
10 such time as the department or the Department of Health has
11 identified significant deficiencies and the deficiencies have
12 not subsequently been corrected within 60 days of notification.

13 (e) Appeal.--Any disapproval or order to cease operations
14 issued in accordance with this section shall be subject to
15 appeal in accordance with Title 2 (relating to administrative
16 law and procedure).

17 SUBCHAPTER C

18 GROUP, BLANKET AND FRANCHISE POLICIES

19 Sec.

20 6931. Definitions.

21 6932. Required provisions for group health and accident
22 policies.

23 6933. Provision for direct payment.

24 6934. Conversion privileges.

25 6935. Blanket health and accident insurance.

26 6936. Companies authorized to write policies.

27 § 6931. Definitions.

28 The following words and phrases when used in this subchapter
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 "Blanket health and accident insurance." That form of health
2 and accident insurance covering groups of persons under a policy
3 or contract issued:

4 (1) To any common carrier or to any operator, owner or
5 lessee of a means of transportation, which shall be deemed
6 the policyholder, covering all persons or all persons of a
7 class who may become passengers on the common carrier or
8 means of transportation.

9 (2) To an employer, which shall be deemed the
10 policyholder, covering all employees, dependents or guests
11 defined by reference to specified hazards incident to the
12 activities or operations of the employer or that class of
13 employees, dependents or guests.

14 (3) To a school or other institution of learning, camp
15 or sponsor thereof, or to the head or principal thereof, who
16 or which shall be deemed the policyholder, covering students
17 or campers and which may cover supervisors and employees.

18 (4) In the name of any religious, charitable,
19 recreational, educational or civic organization, which shall
20 be deemed the policyholder, covering participants in
21 activities sponsored by the organization.

22 (5) To a sports team or sponsors thereof, which shall be
23 deemed the policyholder, covering members, officials and
24 supervisors.

25 (6) To cover any other risk or class of risks, which in
26 the discretion of the department may be properly eligible for
27 blanket health and accident insurance. The discretion of the
28 department may be exercised on the basis of an individual
29 risk or class of risks, or both.

30 "Franchise health and accident insurance." That form of

1 health and accident insurance issued to:

2 (1) Five or more employees of any corporation,
3 partnership or individual employer or any governmental
4 corporation, agency or ~~Department of Transportation~~ <—
5 DEPARTMENT thereof. <—

6 (2) Ten or more members, employees or employees of
7 members of any trade or professional association, labor union
8 or any other association having had an active existence for
9 at least two years, if the association or union has a
10 constitution or bylaws and is formed in good faith for
11 purposes other than that of obtaining insurance, and if the
12 persons, with or without their dependents, are issued the
13 same form of an individual policy, varying only as to amounts
14 and kinds of coverage applied for by such persons under an
15 arrangement whereby the premiums on such policies may be paid
16 to the insurer periodically by the employer, with or without
17 payroll deductions, or by the association for its members or
18 by some designated person acting on behalf of such employer
19 or association.

20 For the purposes of this definition the term "employees"
21 includes the officers, managers and employees of the employer
22 and the individual proprietor or partners, if the employer is an
23 individual proprietor or partnership.

24 "Group health and accident insurance." That form of health
25 and accident insurance covering groups of persons defined in
26 this section with or without one or more members of their
27 families or one or more of their dependents, or covering one or
28 more members of the families or one or more dependents of such
29 groups or persons and issued upon the following basis:

30 (1) Under a policy issued to an employer or trustees of

1 a fund established by an employer, who shall be deemed the
2 policyholder insuring at least ten employees of such employer
3 for the benefit of persons other than the employer. As used
4 in this paragraph the term "employees" means the officers,
5 managers and employees of the employer, the individual
6 proprietor or partner, if the employer is an individual
7 proprietor or partnership, the officers, managers and
8 employees of subsidiary or affiliated corporations, the
9 individual proprietors, partners and employees of individuals
10 and firms, if the business of the employer and the individual
11 or firm is under common control through stock ownership,
12 contract or otherwise, and the term may include retired
13 employees. A policy issued to insure employees of a public
14 body may provide that the term "employees" shall include
15 elected or appointed officials.

16 (2) Under a policy issued to an association, including a
17 labor union, which has a constitution and bylaws and which
18 has been organized and is maintained in good faith for
19 purposes other than that of obtaining insurance insuring at
20 least 25 members, employees or employees of members of the
21 association for the benefit of persons other than the
22 association or its officers or trustees. For the purposes of
23 this paragraph, the term "employees" may include retired
24 employees.

25 (3) Under a policy issued to the trustees of a fund
26 established by two or more employers in the same industry or
27 by one or more labor unions or by one or more employers and
28 one or more labor unions or by an association as defined in
29 paragraph (2), which trustees shall be deemed the
30 policyholder to insure employees of the employers or members

1 of the unions or such association for the benefit of persons
2 other than the employers or the unions or such association.
3 As used in this paragraph the term "employees" includes the
4 officers, managers and employees of the employer and the
5 individual proprietor or partners, if the employer is an
6 individual proprietor or partnership, and the term may
7 include retired employees. The policy may provide that the
8 term "employees" shall include the trustees or their
9 employees, or both, if their duties are principally connected
10 with such trusteeship.

11 (4) Under a policy issued to any person or organization
12 to which a policy of group life insurance may be issued or
13 delivered in this Commonwealth to insure any class or classes
14 of individuals that could be insured under the group life
15 policy.

16 (5) Under a policy issued to cover any other
17 substantially similar group, which in the discretion of the
18 department may be subject to the issuance of a policy of
19 group health and accident insurance.

20 (6) A policy delivered or issued for delivery on or
21 after January 1, 1968, under which coverage of a dependent of
22 an employee or other member of the insured group terminates
23 at a specified age, with respect to an unmarried child
24 covered by the policy prior to the attainment of 19 years of
25 age who is incapable of self-sustaining employment by reason
26 of mental retardation or physical handicap, who becomes so
27 incapable prior to the attainment of 19 years of age and who
28 is chiefly dependent upon the employee or member for support
29 and maintenance, shall not so terminate while the insurance
30 of the employee or member remains in force and the dependent

remains in such condition, if the insured employee or member has within 31 days of the dependent's attainment of the termination age submitted proof of the dependent's incapacity. This paragraph does not require an insurer to insure such a dependent if the dependent does not satisfy the conditions of the group policy as to any requirements for evidence of insurability or other provisions as stated in the group policy required for coverage thereunder to take effect; in any such case the terms of the policy shall apply with regard to the coverage or exclusion from coverage of the dependent.

§ 6932. Required provisions for group health and accident policies.

Each group health and insurance policy shall contain in substance the following provisions:

(1) A provision that, in the absence of fraud, all statements made by any applicant, the policyholder or an insured person shall be deemed representations and not warranties and that no statement made for the purpose of effecting insurance shall avoid the insurance or reduce benefits, unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to the policyholder, to the insured person or his beneficiary.

(2) A provision that the insurer will furnish to the policyholder, for delivery to each employee or member of the insured group, an individual certificate setting forth, in summary form, a statement of the essential features of the insurance coverage of the employee or member and to whom benefits thereunder are payable. If dependents are included

1 in the coverage, only one certificate need be issued for each
2 family unit.

3 (3) A provision that to the group originally insured may
4 be added from time to time eligible new employees, members or
5 dependents, as the case may be, in accordance with the terms
6 of the policy.

7 § 6933. Provision for direct payment.

8 Any group health and accident insurance policy may provide
9 that all or any portion of any indemnities provided by the
10 policy, on account of hospital, nursing, medical or surgical
11 services, may at the insurer's option be paid directly to the
12 hospital or person rendering the services. Except as provided in
13 section 6925 (relating to preferred provider organizations), the
14 policy may not require that the service be rendered by a
15 particular hospital or person. Payment so made shall discharge
16 the insurer's obligation with respect to the amount of insurance
17 so paid.

18 § 6934. Conversion privileges.

19 (a) Right to conversion.--A group health and accident
20 insurance policy delivered or issued for delivery in this
21 Commonwealth which provides hospital, surgical or major medical
22 expense insurance, or any combination of these coverages, on an
23 expense incurred basis, unless it is a policy which provides
24 indemnity benefits or benefits for specific diseases or for
25 accidental injuries only, shall provide that an employee or
26 member whose insurance under the group policy has been
27 terminated for any reason, including discontinuance of the group
28 policy in its entirety or with respect to an insured class, and
29 who has been continuously insured under the group policy, and
30 under any group policy providing similar benefits which it

1 replaces, for at least three months immediately prior to
2 termination, shall be entitled to have issued to him by the
3 insurer a policy of health insurance, referred to in this
4 subchapter as the "converted policy." An employee or member
5 shall not be entitled to have a converted policy issued to him
6 if termination of his insurance under the group policy occurred
7 because he failed to pay any required contribution, or if any
8 discontinued group coverage was replaced by similar group
9 coverage within 31 days.

10 (b) Terms of converted policies.--The issuance of a
11 converted policy shall be subject to the following conditions:

12 (1) Written application for the converted policy shall
13 be made and the first premium paid to the insurer not later
14 than 31 days after the termination.

15 (2) The converted policy shall be issued without
16 evidence of insurability.

17 (3) The premium on the individual policy shall be at the
18 insurer's then customary rate applicable to the form and
19 amount of the individual policy, to the class of risk to
20 which the person then belongs and to the age he has attained
21 on the effective date of the individual policy.

22 (4) The effective date of the converted policy shall be
23 the day following the termination of insurance under the
24 group policy.

25 (5) The converted policy shall cover the employee or
26 member and his dependents who were covered by the group
27 policy on the date of termination of insurance. At the option
28 of the insurer, a separate converted policy may be issued to
29 cover any dependent.

30 (6) The insurer shall not be required to issue a

1 converted policy covering any person if the person is or
2 could be covered by Medicare under the Health Insurance for
3 the Aged Act, Title XVIII of the Social Security Act (Public
4 Law 89-97, 42 U.S.C. § 1395 et seq.). The insurer shall not
5 be required to issue a converted policy covering any person
6 if:

7 (i) (A) the person is covered for similar benefits
8 by another hospital, surgical, medical or major
9 medical expense insurance policy or hospital or
10 medical service subscriber contract or medical
11 practice or other prepayment plan or by any other
12 plan or program;

13 (B) the person is eligible for similar benefits,
14 whether or not covered therefor, under any
15 arrangement of coverage for individuals in a group,
16 whether on an insured or uninsured basis; or

17 (C) similar benefits are provided for or
18 available to the person under any state or Federal
19 law; and

20 (ii) the benefits provided under any of the sources
21 referred to in subparagraph (i) for the person, together
22 with the benefits provided by the converted policy, would
23 result in overinsurance according to the insurer's
24 standards.

25 The insurer's standards must bear some reasonable
26 relationship to actual health care costs in the area in which
27 the insured lives at the time of conversion and must be filed
28 with the department prior to their use in denying coverage.

29 (7) A converted policy may include a provision whereby
30 the insurer may request information in advance of any premium

1 due date of the policy of any person covered thereunder as to
2 whether similar benefits are available to the person through
3 a source referred to in paragraph (6)(i).

4 (8) The converted policy may provide that the insurer
5 may refuse to renew the policy or the coverage of any person
6 insured thereunder for the following reasons only:

7 (i) Overinsurance as described in paragraph (6)(ii)
8 would result or the converted policyholder fails to
9 provide the requested information with respect to
10 possible overinsurance.

11 (ii) Fraud or material misrepresentation in applying
12 for any benefits under the converted policy.

13 (iii) Eligibility of the insured person for Medicare
14 coverage under the Health Insurance for the Aged Act,
15 Title XVIII of the Social Security Act (Public Law 89-97,
16 42 U.S.C. § 1395 et seq.) or under any other Federal or
17 state law providing for benefits similar to those
18 provided by the converted policy.

19 (iv) Other reasons approved by the department.

20 (9) An insurer shall not be required to issue a
21 converted policy which provides benefits in excess of those
22 provided under the group policy from which conversion is
23 made.

24 (10) The converted policy shall not exclude a
25 preexisting condition not excluded by the group policy.
26 However, the converted policy may provide that any hospital,
27 surgical or medical benefits payable thereunder may be
28 reduced by the amount of any such benefits payable under the
29 group policy after the termination of the individual's
30 insurance thereunder. The converted policy may also provide

1 that during the first policy year the benefits payable under
2 the converted policy, together with the benefits payable
3 under the group policy, shall not exceed those that would
4 have been payable had the individual insurance under the
5 group policy remained in force.

6 (11) Subject to the provisions and conditions of this
7 title, if the group insurance policy from which conversion is
8 made insures the employee or member for basic hospital or
9 surgical expense insurance, the employee or member shall be
10 entitled to obtain a converted policy providing, at his
11 option, coverage on an expense incurred basis under Plan A, B
12 or C meeting the following requirements:

13 (i) Plan A:

14 (A) Hospital room and board daily expense
15 benefits in a maximum dollar amount approximating the
16 average semiprivate rate charged in metropolitan
17 areas of this Commonwealth, for a maximum duration of
18 70 days.

19 (B) Miscellaneous hospital expense benefits of a
20 maximum amount of ten times the hospital room and
21 board daily expense benefits.

22 (C) Surgical operation expense benefits
23 according to a surgical schedule consistent with
24 those customarily offered by the insurer under group
25 or individual health insurance policies and providing
26 a maximum benefit of \$800.

27 (ii) Plan B:

28 (A) Hospital room and board daily expense
29 benefits in a maximum dollar amount equal to 75% of
30 the maximum dollar amount determined for Plan A, for

1 a maximum duration of 70 days.

2 (B) Miscellaneous hospital expense benefits of a
3 maximum amount of ten times the hospital room and
4 board daily expense benefits.

5 (C) Surgical operation expense benefits
6 according to a surgical schedule consistent with
7 those customarily offered by the insurer under group
8 or individual health insurance policies and providing
9 a maximum benefit of \$600.

10 (iii) Plan C:

11 (A) Hospital room and board daily expense
12 benefits in a maximum dollar amount equal to 50% of
13 the maximum dollar amount determined for Plan A, for
14 a maximum duration of 70 days.

15 (B) Miscellaneous hospital benefits of a maximum
16 amount of ten times the hospital room and board daily
17 expense benefits.

18 (C) Surgical operation expense benefits
19 according to a surgical schedule consistent with
20 those customarily offered by the insurer under group
21 or individual health insurance policies and providing
22 a maximum benefit of \$400.

23 (iv) The maximum dollar amounts in Plan A shall be
24 determined by the department and may be redetermined by
25 it, from time to time, as to converted policies issued
26 subsequent to the redetermination. A redetermination
27 shall not be made more often than once in three years.
28 The maximum dollar amounts in Plans A, B and C shall be
29 rounded to the nearest multiple of \$10.

30 (v) If the benefit levels otherwise required under

1 this paragraph exceed the benefit levels provided under
2 the group policy, the conversion policy may offer
3 benefits which are substantially similar to those
4 provided under the group policy in lieu of those
5 otherwise required under this paragraph.

6 (12) Subject to the provisions and conditions of this
7 title, if the group insurance policy from which conversion is
8 made insures the employee or member for major medical expense
9 insurance, the employee or member shall be entitled to obtain
10 a converted policy providing catastrophic or major medical
11 coverage under a plan meeting the following requirements:

12 (i) A maximum benefit at least equal to either, at
13 the option of the insurer the benefit described in clause
14 (A) or (B):

15 (A) The smaller of the following amounts: the
16 maximum benefit provided under the group policy or a
17 maximum payment of \$250,000 per covered person for
18 all covered medical expenses incurred during the
19 covered person's lifetime.

20 (B) The smaller of the following amounts: the
21 maximum benefit provided under the group policy or a
22 maximum payment of \$250,000 for each unrelated injury
23 or sickness.

24 (ii) Payment of benefits at the rate of 80% of
25 covered medical expenses which are in excess of the
26 deductible, until 20% of such expenses in a benefit
27 period reaches \$1,000, after which benefits will be paid
28 at the rate of 100% during the remainder of the benefit
29 period. Payment of benefits for outpatient treatment of
30 mental illness, if provided in the converted policy, may

1 be at a lesser rate but not less than 50%.

2 (iii) A deductible for each benefit period which, at
3 the option of the insurer, shall be:

4 (A) the sum of the benefits deductible and \$100;

5 (B) a cash deductible, not to exceed \$1,000;

6 (C) the greater of the benefits deductible or
7 \$500; or

8 (D) the corresponding deductible in the group
9 policy.

10 As used in this subparagraph the term "benefits
11 deductible" means the value of any benefits provided on
12 an expense incurred basis which are provided with respect
13 to covered medical expenses by any other hospital,
14 surgical or medical insurance policy or hospital or
15 medical service subscriber contract or medical practice
16 or other prepayment plan, or any other plan or program
17 whether on an insured or uninsured basis, or in
18 accordance with the requirements of any Federal or state
19 law and, if pursuant to paragraph (13), the converted
20 policy provides both basic hospital or surgical coverage
21 and major medical coverage, the value of such basic
22 benefits. If the maximum benefit is determined by
23 subparagraph (i)(B), the insurer may require that the
24 deductible be satisfied during a period of not less than
25 three months if the deductible is \$100 or less, and not
26 less than six months if the deductible exceeds \$100.

27 (iv) The benefit period shall be each calendar year
28 when the maximum benefit is determined by subparagraph
29 (i)(A) or 24 months when the maximum benefit is
30 determined by subparagraph (i)(B).

1 (v) For the purposes of this paragraph, the term
2 "covered medical expenses" includes at least, in the case
3 of hospital room and board charges, the lesser of the
4 dollar amount in Plan A and the average semiprivate room
5 and board rate for the hospital in which the individual
6 is confined and twice that amount for charges in an
7 intensive care unit. Any surgical schedule shall be
8 consistent with those customarily offered by the insurer
9 under group or individual health insurance policies and
10 shall provide at least a \$1,200 maximum benefit.

11 (13) The conversion privilege required by this section
12 shall, if the group insurance policy insures the employee or
13 member for both basic hospital or surgical expense insurance
14 and medical expense insurance, make available the plans of
15 benefits set forth in paragraphs (11) and (12). At the option
16 of the insurer, these plans of benefits may be provided under
17 one policy.

18 (14) The insurer may also, in lieu of the plans of
19 benefits set forth in paragraphs (11) and (12), provide a
20 policy of comprehensive medical expense benefits without
21 first dollar coverage. This policy shall conform to the
22 requirements of paragraph (12), except that an insurer
23 electing to provide such a policy shall make available a low
24 deductible option not to exceed \$100, a high deductible
25 option between \$500 and \$1,000 and a third deductible option
26 midway between the high and low deductible options.

27 (15) The insurer may offer alternative plans for group
28 health conversion in addition to those required by this
29 section. The insurer may provide group insurance coverage in
30 lieu of the issuance of a converted individual policy.

1 (16) If coverage would be continued under the group
2 policy on an employee following his retirement prior to the
3 time he is or could be covered by Medicare, he may elect, in
4 lieu of continuation of group insurance, to have the same
5 conversion rights as would apply had his insurance terminated
6 at retirement by reason of termination of employment or
7 membership.

8 (17) The converted policy may provide for reduction of
9 coverage on any person upon his eligibility for Medicare
10 coverage under the Health Insurance for the Aged Act, Title
11 XVII of the Social Security Act or under any other Federal or
12 state law providing for benefits similar to those provided by
13 the converted policy.

14 (18) The conversion privilege shall also be available:

15 (i) to the surviving spouse, if any, at the death of
16 the employee or member, with respect to the spouse and
17 the children whose coverage under the group policy
18 terminates by reason of the death, otherwise to each
19 surviving child whose coverage under the group policy
20 terminates by reason of the death, or, if the group
21 policy provides for continuation of dependents coverage
22 following the employee's or member's death, at the end of
23 such continuation;

24 (ii) to the spouse of the employee or member upon
25 termination of coverage of the spouse, while the employee
26 or member remains insured under the group policy, by
27 reason of ceasing to be a qualified family member under
28 the group policy, with respect to the spouse and those
29 children whose coverage under the group policy terminates
30 at the same time; or

1 (iii) to a child solely with respect to himself upon
2 termination of his coverage by reason of his ceasing to
3 be a qualified family member under the group policy, if a
4 conversion privilege is not otherwise provided in this
5 paragraph with respect to the termination.

6 (19) Each certificate holder in the insured group shall
7 be given written notice of the conversion privilege and its
8 duration within 15 days before or after the date of
9 termination of group coverage which notice shall be included
10 in his certificate of coverage. If the notice is given more
11 than 15 days but less than 90 days after the date of
12 termination of group coverage, the time allowed for the
13 exercise of the privilege of conversion shall be extended for
14 15 days after the giving of the notice. If the notice is not
15 given within 90 days after the date of termination of group
16 coverage, the time allowed for the exercise of the conversion
17 privilege shall expire at the end of the 90 days. Written
18 notice by the contract holder given to the certificate holder
19 or mailed to the certificate holder at his last known
20 address, or written notice by the insurer mailed to the
21 certificate holder at the last address furnished to the
22 insurer by the contract holder, shall be deemed full
23 compliance with the notification provisions of this
24 paragraph. A group contract issued by an insurer may provide
25 that notice of the conversion privilege and its duration
26 shall be given by the contract holder to each certificate
27 holder upon termination of his group coverage.

28 (20) If the contract holder is the employer of the
29 certificate holder, the insurer shall also give written
30 notice of termination of the group contract to any

1 organization representing the certificate holder for the
2 purpose of collective bargaining. The employer shall provide
3 to the insurer a written list of such organizations within
4 ten days after the date the policy is issued and thereafter
5 within ten days of the beginning or termination of
6 representation by the organization of any certificate holder
7 or holders by the organization, including the collective
8 bargaining unit and the group insurance contract to which the
9 request relates. There shall be no liability on the part of
10 any labor organization representing the employees of a
11 contract holder for the purposes of collective bargaining due
12 to any action it takes or fails to take as to the written
13 notice required to be given by the insurer under this
14 paragraph unless done in bad faith by the organization.
15 Compliance or noncompliance with this paragraph shall not
16 affect the rights or duties of the contract holder, insurer
17 or certificate holder as otherwise set forth in this title.

18 (21) A converted policy which is delivered outside this
19 Commonwealth may be on a form which could be delivered in the
20 other jurisdiction as a converted policy had the group policy
21 been issued in that jurisdiction.

22 § 6935. Blanket health and accident insurance.

23 (a) Required provisions.--Every blanket health and accident
24 insurance policy shall contain provisions which, in the opinion
25 of the department, are at least as favorable to the policyholder
26 and the individual insured as the following:

27 (1) A provision that the policy and the application
28 shall constitute the entire contract between the parties;
29 that all statements made by the policyholder shall, in the
30 absence of fraud, be deemed representations and not

1 warranties; and that no such statements shall be used in
2 defense to a claim under the policy, unless it is contained
3 in a written application.

4 (2) A provision that written notice of sickness or of
5 injury must be given to the insurer within 20 days after the
6 date when the sickness or injury occurred. Failure to give
7 notice within such time shall not invalidate nor reduce any
8 claim, if it is be shown not to have been reasonably possible
9 to give the notice, and that notice was given as soon as was
10 reasonably possible.

11 (3) A provision that the insurer will furnish to the
12 policyholder such forms as are usually furnished by it for
13 filing proof of loss. If such forms are not furnished before
14 the expiration of 15 days after the giving of such notice,
15 the claimant shall be deemed to have complied with the
16 requirements of the policy as to proof of loss upon
17 submitting, within the time fixed in the policy for filing
18 proof of loss, written proof covering the occurrence,
19 character and extent of the loss for which claim is made.

20 (4) A provision that in the case of claim for loss of
21 time for disability, written proof of the loss shall be
22 furnished to the insurer within 30 days after the
23 commencement of the period for which the insurer is liable;
24 that subsequent written proofs of the continuance of the
25 disability shall be furnished to the insurer at such
26 intervals as the insurer may reasonably require; and that in
27 the case of claim for any other loss written proof of loss
28 shall be furnished to the insurer within 90 days after the
29 date of the loss. Failure to furnish proof within the time
30 required shall not invalidate nor reduce any claim if it is

1 shown not to have been reasonably possible to furnish the
2 proof and that the proof was furnished as soon as was
3 reasonably possible.

4 (5) A provision that all benefits payable under the
5 policy, other than benefits for loss of time, will be payable
6 immediately upon receipt of due written proof of loss; that
7 subject to due proof of loss all accrued benefits payable
8 under the policy for loss of time will be paid not later than
9 at the expiration of each period of 30 days during the
10 continuance of the period for which the insurer is liable;
11 and that any balance remaining unpaid at the termination of
12 the period shall be paid immediately upon receipt of such
13 proof.

14 (6) A provision that the insurer, at its own expense,
15 may examine the person of the insured when and so often as it
16 may reasonably require during the pendency of claim under the
17 policy and may make an autopsy if not prohibited by law.

18 (7) A provision that no action at law or in equity shall
19 be commenced to recover under the policy prior to the
20 expiration of 60 days after written proof of loss has been
21 furnished in accordance with the requirements of the policy
22 and that no such action shall be brought after the expiration
23 of three years after the time written proof of loss is
24 required to be furnished.

25 (b) Application and certificates.--An individual application
26 shall not be required from a person covered under a blanket
27 accident or health policy or contract, nor shall it be necessary
28 for the insurer to furnish each person a certificate.

29 (c) Payment of benefits.--Except as otherwise provided in
30 this section, all benefits under any blanket health and accident

1 policy shall be payable to the person insured or his designated
2 beneficiaries or his estate. If the person insured is a minor or
3 mental incompetent, the benefits may be made payable to his
4 parent, guardian or other person actually supporting him. If the
5 entire cost of the insurance has been borne by the employer, the
6 benefits may be made payable to the employer. The policy may
7 provide that all or any portion of the indemnities provided by
8 the policy on account of hospital, nursing, medical or surgical
9 services may, at the insurer's option, be paid directly to the
10 hospital or person rendering the services; payment so made shall
11 discharge the insurer's obligation with respect to the amount of
12 insurance so paid. The policy may not require that the service
13 be rendered by a particular hospital or person.

14 § 6936. Companies authorized to write policies.

15 Any insurance company authorized to write health and accident
16 insurance in this Commonwealth may issue group, blanket or
17 franchise health and accident insurance but no such policy may
18 be issued or delivered in this Commonwealth unless a copy of the
19 form thereof has been filed in accordance with section 3515
20 (relating to approval of contracts by department).

21 SUBCHAPTER D

22 MINIMUM STANDARDS FOR INDIVIDUAL POLICIES

23 Sec.

24 6941. Short title of subchapter.

25 6941.1. DEFINITIONS.

←

26 6942. Standards for policy provisions.

27 6943. Minimum standards for benefits.

28 6944. Outline of coverage.

29 6945. Preexisting conditions.

30 6946. Procedure regarding regulations.

1 § 6941. Short title of subchapter.

2 This subchapter shall be known and may be cited as the
3 Individual Accident and Health Insurance Minimum Standards Act.

4 § 6941.1. DEFINITIONS. <—

5 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
6 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
7 CONTEXT CLEARLY INDICATES OTHERWISE:

8 "ACCIDENT AND HEALTH INSURANCE." INSURANCE WRITTEN UNDER
9 SECTION 3302(A)(1) OR (2) OR (C)(2) (RELATING TO AUTHORIZED
10 CLASSES OF INSURANCE) OR SUBCHAPTER E OF CHAPTER 45 (RELATING TO
11 ACCIDENT, HEALTH AND DISABILITY INSURANCE CONTRACTS). THE TERM
12 DOES NOT INCLUDE LIFE INSURANCE, ANNUITIES OR INSURANCE SUBJECT
13 TO CHAPTER 65 (RELATING TO CREDIT INSURANCE).

14 "FORMS." POLICIES, CONTRACTS, RIDERS, ENDORSEMENTS AND
15 APPLICATIONS RELATING TO ACCIDENT AND HEALTH INSURANCE SUBJECT
16 TO APPROVAL BY THE DEPARTMENT UNDER SECTION 3515 (RELATING TO
17 APPROVAL OF CONTRACTS BY DEPARTMENT), 7324 (RELATING TO FILING
18 OF RATES AND CONTRACT FORMS), 7524 (RELATING TO RATES AND
19 CONTRACTS) OR 7729 (RELATING TO RATES AND CONTRACTS).

20 "POLICY." A CONTRACT ISSUED BY ANY PERSON PROVIDING ACCIDENT
21 AND HEALTH INSURANCE, INCLUDING SUCH A SUBSCRIBER CONTRACT
22 ISSUED BY A HEALTH PLAN CORPORATION OR NONPROFIT HEALTH SERVICE
23 PLAN OR SUCH A CERTIFICATE ISSUED BY A FRATERNAL BENEFIT SOCIETY
24 AND INCLUDING ANY RIDERS OR ENDORSEMENTS AND THE APPLICATION, IF
25 ATTACHED.

26 § 6942. Standards for policy provisions.

27 ~~(a) Scope of regulation.~~ The department shall issue <—
28 regulations to establish specific standards, including standards
29 of full and fair disclosure, that set forth the manner, content
30 and required disclosures for their sale for individual policies

1 of ~~health and~~ accident AND HEALTH insurance and required
2 disclosures for their sale. These regulations shall be in
3 addition to other applicable laws and may cover, but need not be
4 limited to:

- 5 (1) Terms of renewability.
 - 6 (2) Initial and subsequent conditions of eligibility.
 - 7 (3) Nonduplication of coverage provisions.
 - 8 (4) Coverage of dependents.
 - 9 (5) Preexisting conditions.
 - 10 (6) Termination of insurance.
 - 11 (7) Probationary periods.
 - 12 (8) Limitations.
 - 13 (9) Exceptions.
 - 14 (10) Reductions.
 - 15 (11) Elimination periods.
 - 16 (12) Requirements for replacement.
 - 17 (13) Recurrent conditions.
 - 18 (14) Definitions of terms, including, but not limited
19 to, the following: "hospital," "accident," "sickness,"
20 "injury," "physician," "accidental means," "total
21 disability," "partial disability," "nervous disorder,"
22 "guaranteed renewable" and "noncancelable".
 - 23 (15) Prohibited policy provisions not otherwise
24 specifically prohibited by statute which in the opinion of
25 the department are unjust, unfair or unfairly discriminatory
26 to the policyholder, subscriber, any insured or beneficiary.
- 27 § 6943. Minimum standards for benefits.

28 (a) Scope of regulations.--The department shall issue
29 regulations to establish minimum standards for benefits under
30 each of the following categories of coverage in INDIVIDUAL

1 policies:

- 2 (1) Basic hospital expense coverage.
- 3 (2) Basic medical-surgical expense coverage.
- 4 (3) Hospital confinement indemnity coverage.
- 5 (4) Major medical expense coverage.
- 6 (5) Disability income protection coverage.
- 7 (6) Accident only coverage.
- 8 (7) Specified disease or specified accident coverage.

9 (b) Permitted coverage.--Supplemental coverage shall be
10 permitted for all the categories of coverages listed in
11 subsection (a), except for specified disease or specified
12 accident coverage. This section does not preclude the issuance
13 of any policy or contract which combines two or more of the
14 categories of coverage listed in subsection (a).

15 (c) Compliance with regulations.--A policy shall not be
16 delivered or issued for delivery in this Commonwealth which does
17 not meet the prescribed minimum standards for those categories
18 of coverage listed in subsection (a) or supplemental coverage
19 under subsection (b), which are contained within the policy,
20 unless the department finds that the policy will not be unjust,
21 unfair or unfairly discriminatory to the policyholder,
22 subscriber, any insured or beneficiary. Changes to a policy
23 required by regulations promulgated pursuant to this subchapter,
24 including changes to premium rates applicable thereto, shall be
25 permitted by endorsement or rider unless the department
26 determines that the changes substantially alter the policy.

27 (d) Special approval of policies.--Notwithstanding any other
28 provision of this subchapter or regulations promulgated
29 thereunder, any policy submitted for approval which does not
30 meet the prescribed minimum standards for those categories of

1 coverage listed in subsection (a) or supplemental coverage under
2 subsection (b), which are contained within the policy may be
3 approved if, in the opinion of the department, the policy is not
4 unjust, unfair, or unfairly discriminatory to the policyholder,
5 subscriber or any insured or beneficiary.

6 (E) REGULATIONS.--THE DEPARTMENT SHALL PROMULGATE <—
7 REGULATIONS PRESCRIBING THE METHOD OF IDENTIFICATION OF POLICIES
8 BASED UPON COVERAGES PROVIDED.

9 § 6944. Outline of coverage.

10 (a) Requirement.--In order to provide for full and fair
11 disclosure in the sale of INDIVIDUAL policies except for <—
12 supplemental policies sold on the debit plan, and except for
13 riders or amendments to policies, a policy shall not be
14 delivered or issued for delivery in this Commonwealth unless an
15 outline of coverage either accompanies the policy or is
16 delivered to the applicant at the time application is made.

17 (b) Regulation of form and contents.--The department shall
18 issue regulations prescribing the format and contents of the
19 outline of coverage. The outline of coverage shall include all
20 of the following, in a form understandable to a person of
21 average intelligence and education:

22 (1) A statement identifying the applicable category or
23 categories of coverage provided by the policy as prescribed
24 in section 6943 (relating to minimum standards for benefits).

25 (2) A description of the principal benefits and coverage
26 provided in the policy.

27 (3) A statement of the exceptions, reductions and
28 limitations contained in the policy.

29 (4) A statement of the renewal provisions including any
30 reservation by the insurer of a right to change premiums.

1 (5) A statement that the outline is a summary of the
2 policy issued or applied for and that the policy should be
3 consulted to determine the governing contractual provisions.

4 (C) DEFINITION.--AS USED IN THIS SECTION, THE TERM "FORMAT" <—
5 MEANS STYLE, ARRANGEMENT AND OVERALL APPEARANCE, INCLUDING SUCH
6 ITEMS AS THE SIZE, COLOR AND PROMINENCE OF TYPE AND THE
7 ARRANGEMENT OF TEXT AND CAPTIONS.

8 § 6945. Preexisting conditions.

9 Notwithstanding section 6913(c) (relating to mandatory policy
10 provisions), if an insurer elects to use a simplified
11 application form, with or without a question as to the
12 applicant's health at the time of application, but without any
13 questions concerning the insured's health history or medical
14 treatment history, the policy shall cover any loss occurring
15 after 12 months from any preexisting condition not specifically
16 excluded from coverage by terms of the policy. Except as so
17 provided, the policy shall not include any provision that would
18 permit a defense based upon preexisting conditions. Changes to
19 policies required under this section, including changes to
20 premium rates applicable thereto, shall be permitted by
21 endorsement or rider.

22 § 6946. Procedure regarding regulations.

23 All regulations promulgated under this subchapter, including
24 those under section 6943(c) (relating to minimum standards for
25 benefits), shall specify an effective date applicable to
26 policies or benefit riders delivered or issued for delivery in
27 this Commonwealth on or after the effective date, which shall
28 not be less than 365 days after their adoption or promulgation.
29 Public hearings shall be held prior to the promulgation of any
30 substantial regulation under this section or substantial change

1 thereof. The hearing shall be transcribed verbatim, and cross-
2 examination of all witnesses shall be permitted. The order
3 promulgating any such regulation shall contain findings and the
4 reasons for the regulation and copies of the order shall be
5 mailed to those appearing of record at the hearing. This section
6 does not create or permit any right of action at law or equity
7 not otherwise authorized or permitted under the law.

8 SUBCHAPTER E

9 MEDICARE SUPPLEMENT INSURANCE

10 Sec.

11 6951. Short title of subchapter.

12 6952. Definitions.

13 6953. Definitions in Medicare supplement policies.

14 6954. Prohibited policy provisions.

15 6955. Minimum benefit standards.

16 6956. Loss ratio standards.

17 6957. Required disclosures.

18 6958. Requirements for replacement.

19 6959. Regulations.

20 6960. Applicability of mandated coverages.

21 6961. Applicability of subchapter.

22 § 6951. Short title of subchapter.

23 This subchapter shall be known and may be cited as the
24 Medicare Supplement Insurance Act.

25 § 6952. Definitions.

26 The following words and phrases when used in this subchapter
27 shall have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Applicant." The proposed certificate holder under a group
30 Medicare supplement policy or subscriber contract.

1 "Certificate." A certificate issued under a group Medicare
2 supplement policy, which policy has been delivered or issued for
3 delivery in this Commonwealth.

4 "Direct response certificate ~~or policy~~." A certificate or <—
5 policy issued pursuant to the response to a direct solicitation
6 by means of mail or mass media from an insurer to ~~an individual~~ <—
7 ~~eligible for Medicare by reason of age~~. A POTENTIAL PURCHASER OF <—
8 A MEDICARE SUPPLEMENT POLICY.

9 "Medicare." The Health Insurance for the Aged Act, Title
10 XVIII of the Social Security Act (Public Law 89-97, 42 U.S.C. §
11 1395 et seq.).

12 "Medicare supplement policy." A group policy of accident and
13 health insurance or group subscriber contract of health plan
14 corporations and nonprofit health service plans delivered or
15 issued for delivery in this Commonwealth which is advertised,
16 marketed or designed primarily to supplement coverage for the
17 hospital, medical or surgical expenses of persons eligible for
18 Medicare by reason of age. This term does not include:

19 (1) A policy or contract of one or more employers or
20 labor organizations, or of the trustees of a fund established
21 by one or more employers or labor organizations, or
22 combination thereof, for employees or former employees, or
23 combination thereof, or for members or former members, or
24 combination thereof, of the labor organizations.

25 (2) A policy or contract of any professional, trade or
26 occupational association for its members or former or retired
27 members, or combination thereof, if the association:

28 (i) is composed of individuals all of whom are
29 actively engaged in the same profession, trade or
30 occupation;

(ii) has been maintained in good faith for purposes
other than obtaining insurance; and

(iii) has been in existence for at least two years
prior to the date of its initial offering of such policy
or plan to its members.

§ 6953. Definitions in Medicare supplement policies.

As used in any Medicare supplement policy issued under this
subchapter:

(1) "Accident," "accidental injury" and "accidental
means" shall be defined using "result" language and shall not
include words which establish an accidental means test or use
words such as "external, violent, visible wounds" or similar
words of description or characterization. The definition
shall not be more restrictive than the following: injury or
injuries, for which benefits are provided, means accidental
bodily injury sustained by the insured person which is the
direct result of an accident, independent of disease or
bodily infirmity or any other cause and occurrence while the
insurance is in force. The definition may provide that
injuries shall not include injuries for which benefits are
provided under any workmen's compensation, employers'
liability or similar law, or pursuant to Chapter 63 (relating
to motor vehicle financial responsibility) OR SIMILAR LAW, ←
unless prohibited by law, or injuries occurring while the
insured person is engaged in any activity pertaining to any
trade, business, employment or occupation for wage or profit.

(2) "Convalescent nursing home," "extended care
facility" or "skilled nursing facility" shall be defined in
relation to its status, facilities and available services;
and:

1 (i) The definition shall not be more restrictive
2 than one requiring that it:

3 (A) be operated pursuant to law;

4 (B) be primarily engaged in providing, in
5 addition to room and board accommodations, skilled
6 nursing care under the supervision of a duly licensed
7 physician;

8 (C) provide continuous 24-hour a day nursing
9 service by or under the supervision of a registered
10 graduate professional nurse; and

11 (D) maintain a daily medical record of each
12 patient.

13 (ii) The definition may provide that the term does
14 not include:

15 (A) any home, facility or part thereof used
16 primarily for rest;

17 (B) a home or facility for the aged or for the
18 care of drug addicts or alcoholics; or

19 (C) a home or facility primarily used for the
20 care and treatment of mental diseases or disorders or
21 custodial or educational care.

22 (3) "Hospital" may be defined in relation to its status,
23 facilities and available services or to reflect its
24 accreditation by the Joint Commission on Accreditation of
25 Hospitals or the American Osteopathic Association.

26 (i) The definition shall not otherwise be more
27 restrictive than one requiring that the hospital:

28 (A) be an institution operated pursuant to law;

29 (B) be primarily and continuously engaged in
30 providing the medical care and treatment of sick or

1 injured persons on an inpatient basis for which a
2 charge is made; and

3 (C) provide 24-hour nursing service by or under
4 the supervision of registered graduate professional
5 nurses.

6 (ii) The definition may state that the term does not
7 include:

8 (A) convalescent homes or convalescent, rest or
9 nursing facilities;

10 (B) facilities primarily affording custodial or
11 educational care;

12 (C) facilities for the aged, drug addicts or
13 alcoholics; or

14 (D) any military or veterans hospital or
15 soldiers home or any hospital contracted for or
16 operated by any national government or agency thereof
17 for the treatment of members or ex-members of the
18 armed forces, except for services rendered on an
19 emergency basis where a legal liability exists for
20 charges made to the individual for such services.

21 (4) "Mental or nervous disorders" shall not be defined
22 more restrictively than a definition including neurosis,
23 psychoneurosis, psychopathy, psychosis or mental or emotional
24 disease or disorder of any kind.

25 (5) "Nurses" may be defined so that the description of
26 nurse is restricted to a type of nurse, such as a registered
27 graduate professional nurse, a licensed practical nurse or a
28 licensed vocational nurse. If the words "nurse," "trained
29 nurse" or "registered nurse" are used without specific
30 instruction, then the use of those terms requires the insurer

1 to recognize the services of any individual who qualified
2 under such terminology in accordance with the law regarding
3 licensing of those professionals.

4 (6) "Physician" may be defined by including words such
5 as "duly qualified physician" or "duly licensed physician."
6 The use of such terms requires an insurer to recognize and to
7 accept, to the extent of its obligation under the contract,
8 all providers of medical care and treatment when such
9 services are within the scope of the provider's licensed
10 authority and are provided under applicable law.

11 (7) "Sickness" shall not be defined to be more
12 restrictive than the following: sickness means sickness or
13 disease of an insured person which is diagnosed or treated
14 after the effective date of insurance and while the insurance
15 is in force. The definition may exclude sickness or disease
16 for which benefits are provided under any workmen's
17 compensation, occupational disease, employers' liability or
18 similar law.

19 § 6954. Prohibited policy provisions.

20 A Medicare supplement policy shall not limit or exclude
21 coverage by type of illness, accident, treatment or medical
22 condition except to the extent they are excluded or limited by
23 Medicare. Such policies may exclude coverage for any expense to
24 the extent of any benefit available to the insured under
25 Medicare.

26 § 6955. Minimum benefit standards.

27 A policy shall not be filed with the department as a Medicare
28 supplement policy unless the policy meets or exceeds, either in
29 a single policy or, in the case of health plan corporations and
30 nonprofit health service plans, in one or more policies issued

1 in conjunction with one another, the requirements of the NAIC
2 Model Regulation to Implement the Individual Accident and
3 Sickness Insurance Minimum Standards Act, as adopted by the
4 National Association of Insurance Commissioners on June 6, 1979,
5 as it applies to Medicare supplement policies. At least the
6 following provisions and benefits shall be provided in the
7 policy:

8 (1) A Medicare supplement policy may not exclude losses
9 incurred more than six months from the effective date of
10 coverage for a preexisting condition. The policy may not
11 define a preexisting condition more restrictively than a
12 condition for which medical advice was given or treatment was
13 recommended by or received from a physician within six months
14 prior to the effective date of coverage.

15 (2) The term "Medicare benefit period" shall mean the
16 unit of time used in the Medicare program to measure use of
17 services and availability of benefits under Part A, medical
18 hospital insurance.

19 (3) The term "Medicare eligible expenses" shall mean
20 health care expenses of the kinds covered by Medicare to the
21 extent recognized as reasonable by Medicare. Payment of
22 benefits by insurers for Medicare eligible expenses may be
23 conditioned upon the same or less restrictive payment
24 conditions, including determinations of medical necessity as
25 are applicable to Medicare claims.

26 (4) Coverage shall not indemnify against losses
27 resulting from sickness on a different basis than losses
28 resulting from accidents. Coverage shall provide that
29 benefits designed to cover cost-sharing amounts under
30 Medicare shall be changed automatically to coincide with any

1 changes in the applicable Medicare deductible amount and
2 copayment percentage factors; premiums may be changed to
3 correspond with such changes.

4 (5) The Medicare supplement policy shall include all of
5 the following:

6 (i) Coverage of Part A Medicare eligible expenses
7 for hospitalization to the extent not covered by Medicare
8 from the 61st day through the 90th day in any Medicare
9 benefit period.

10 (ii) Coverage of Part A Medicare eligible expenses
11 incurred as daily hospital charges during use of
12 Medicare's lifetime hospital inpatient reserve days.

13 (iii) Upon exhaustion of all Medicare hospital
14 inpatient coverage including the lifetime reserve days,
15 coverage of 90% of all Medicare Part A eligible expenses
16 for hospitalization not covered by Medicare subject to a
17 lifetime maximum benefit of an additional 365 days.

18 (iv) Coverage of 20% of the amount of Medicare
19 eligible expenses under Part B regardless of hospital
20 confinement, subject to a maximum calendar year out-of-
21 pocket deductible of \$200 of such expenses and to a
22 maximum benefit of at least \$5,000 per calendar year.

23 (6) Insurers which make available in this Commonwealth
24 any Medicare supplement policy shall also simultaneously
25 offer to the prospective insureds an additional benefit plan
26 Medicare supplement coverage which both conforms to the terms
27 and conditions of section 6954 (relating to prohibited policy
28 provisions) and which also provides at least the following
29 coverages:

30 (i) The initial Part A deductible.

(ii) Skilled nursing home charges incurred in addition to those covered by Medicare.

(iii) Coverage of 20% of eligible expenses incurred under Part B of Medicare in excess of the deductible amount applied to such expenses by Medicare.

This offer shall be given prominence in any solicitation of the Medicare supplement policy benefits described in this section and shall provide the prospective insured the opportunity to simultaneously enroll or apply for the additional benefit plan Medicare supplement coverage. The description of the additional benefit plan Medicare supplement coverage shall include a statement of the coverages, the premium charges and any additional applicable exclusions and limitations permitted for the additional benefit plan Medicare supplement coverage. The additional benefit plan coverage, if elected by the prospective insured person, shall take effect no later than 15 days following the effective date which applies to the rest of the Medicare supplement coverage.

§ 6956. Loss ratio standards.

The terms and premiums of Medicare supplement policies shall be prepared so as to return to policyholders in the form of aggregate benefits under the policy, as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period, and in accordance with accepted actuarial principles and practices:

(1) at least 75% of the aggregate amount of premiums collected; or

(2) in the case of direct RESPONSE certificates ~~issued~~

<—

~~as a result of solicitations of individuals through the mail~~
~~or mass media advertising, including both print and broadcast~~
~~advertising,~~ at least 60% of the aggregate amount of premiums
collected.

§ 6957. Required disclosures.

(a) Renewal provisions.--Each Medicare supplement policy
shall include a renewal, continuation or nonrenewal provision.
The terms of this provision shall be consistent with the type of
contract to be issued. The provision shall be appropriately
captioned, shall appear on the first page of the certificate and
shall clearly state the duration, where limited, of renewability
and the duration of the term of coverage for which the policy is
issued and for which it may be renewed.

(b) Standards for payment.--A Medicare supplement policy
which provides for the payment of benefits based on standards
described as "usual and customary," "reasonable and customary"
or words of similar import shall include a definition of the
terms and an explanation of the terms in its accompanying
outline of coverage.

(c) Preexisting condition provisions.--If a Medicare
supplement policy contains any limitations with respect to
preexisting conditions, these limitations shall appear as a
separate paragraph of the certificate and be labeled as
"Preexisting Condition Limitations."

(d) Right of return.--Certificates, other than ~~those issued~~ <—
~~pursuant to direct response solicitation~~ DIRECT RESPONSE <—
CERTIFICATES, shall have a notice prominently printed on the
first page of the certificate or attached thereto stating in
substance that the certificate holder shall have the right to
return the certificate within ten days of its delivery and to

1 have the premium refunded if, after examination of the
2 certificate, the insured person is not satisfied for any reason.
3 ~~Direct response Medicare supplement certificates~~ A CERTIFICATE <—
4 FOR A MEDICARE SUPPLEMENT POLICY THAT IS A DIRECT RESPONSE
5 CERTIFICATE ISSUED PURSUANT TO A SOLICITATION TO PERSONS
6 ELIGIBLE FOR MEDICARE BY REASON OF AGE shall have a notice
7 prominently printed on the first page, or attached thereto,
8 stating in substance that the certificate holder shall have the
9 right to return the certificate within 30 days of its delivery
10 and to have the premium refunded if after examination the
11 insured person is not satisfied for any reason.

12 (e) Buyer's guide.--Insurers issuing accident and health
13 certificates under group policies delivered or issued for
14 delivery in this Commonwealth which provide hospital or medical
15 expense coverage on an expense incurred or indemnity basis,
16 other than incidentally, to a person eligible for Medicare by
17 reason of age, shall provide to the certificate holder a
18 Medicare supplement buyer's guide in the form consistent with
19 the then current edition of the model jointly developed by the
20 National Association of Insurance Commissioners and the Health
21 Care Financing Administration of the United States Department of
22 Health and Human Services. Delivery of the buyer's guide shall
23 be made whether or not the group policy qualifies as a Medicare
24 supplement policy. Except in the case of direct response
25 ~~insurers~~ CERTIFICATES, delivery of the buyer's guide shall be <—
26 made at the time of application, and acknowledgment of receipt
27 of certification of delivery of the buyer's guide shall be
28 provided to the insurer. ~~Direct response insurers issuing~~ <—
29 INSURERS, WHEN ISSUING DIRECT RESPONSE CERTIFICATES FOR Medicare <—
30 supplement policies shall deliver the buyer's guide upon

1 request, but not later than at the time the certificate is
2 delivered.

3 (f) Description of coverage.--The terms "Medicare
4 supplement," "medigap" and words of similar import shall not be
5 used unless the policy is issued in compliance with section 6955
6 (relating to minimum benefit standards).

7 (g) Outline of coverage.--Insurers issuing Medicare
8 supplement policies shall deliver an outline of coverage to the
9 applicant at the time application is made. Except in the case of
10 a direct response ~~policy~~ CERTIFICATE, an acknowledgment of <—
11 receipt or certification of delivery of the outline of coverage
12 shall be provided to the insurer. If an outline of coverage was
13 delivered at the time of application and the certificate is
14 issued on a basis which would require revision of the outline, a
15 substitute outline of coverage properly describing the
16 certificate shall accompany the certificate when it is delivered
17 and shall contain the following statement, in no less than 12-
18 point type, immediately above the company name:

19 "NOTICE: Read this outline of coverage carefully. It is
20 not identical to the outline of coverage provided upon
21 application and the coverage originally applied for has
22 not been issued."

23 The outline of coverage shall be in a form consistent with the
24 then current model adopted by the National Association of
25 Insurance Commissioners and amended to reflect changes in the
26 Medicare program.

27 § 6958. Requirements for replacement.

28 (a) Question to applicant.--Application or enrollment forms
29 shall include a question designed to elicit information as to
30 whether a certificate to be issued under a Medicare supplement

1 policy is intended to replace any other health and accident
2 insurance presently in force. A supplementary application or
3 other form to be signed by the applicant containing such a
4 question may be used.

5 (b) Notice.--Upon determining that a sale will involve
6 replacement, an insurer, other than ~~a direct response insurer~~ <—
7 WHEN ISSUING A DIRECT RESPONSE CERTIFICATE, or its agent, shall <—
8 furnish the applicant, prior to issuance or delivery of the
9 certificate, a notice designed to inform the applicant of the
10 essential differences in coverage on a form consistent with the
11 then current model notification form adopted by the National
12 Association of Insurance Commissioners. One copy of the notice
13 shall be retained by the applicant, and an additional copy
14 signed by the applicant shall be retained by the insurer. A <—
15 ~~direct response~~ AN insurer shall deliver the notice to the <—
16 applicant upon issuance of ~~the~~ A DIRECT RESPONSE certificate. <—
17 § 6959. Regulations.

18 (a) General rule.--Public hearings shall be held prior to
19 the promulgating of any regulations promulgated under this
20 subchapter unless the regulation is insubstantial. The order
21 promulgating the regulation shall contain findings and reasons
22 for the regulation. This section does not create or permit any
23 right or action at law or ~~inequity~~ IN EQUITY not otherwise <—
24 authorized by law.

25 (b) Modifications required by Medicare statute.--The
26 department may promulgate regulations changing the requirements
27 of this subchapter, other than sections 6960 (relating to
28 applicability of mandated coverages) and 6961 (relating to
29 applicability of subchapter), to the extent necessary to comply
30 with changes made by Congress as to the requirements contained

1 in section 1882 of the Social Security Act (Public Law 96-26, 42
2 U.S.C. § 1395ss), as these requirements were in effect on July
3 1, 1983. These regulations shall take effect within 60 days
4 after their promulgation.

5 § 6960. Applicability of mandated coverages.

6 Coverage which is required to be included in any group or
7 blanket ~~accident~~ and health AND ACCIDENT policy by any statute <—
8 enacted on or after July 1, 1983, shall not be required to be
9 included in any Medicare supplement policy, unless inclusion
10 thereof is specifically required by the statute.

11 § 6961. Applicability of subchapter.

12 This subchapter shall apply to all group health and accident
13 policies issued or renewed.

14 SUBCHAPTER F <—

15 BENEFITS FOR ALCOHOL ABUSE AND DEPENDENCY
16 SEC.

17 6971. DEFINITIONS.

18 6972. MANDATED POLICY COVERAGE AND OPTIONS.

19 6973. INPATIENT DETOXIFICATION.

20 6974. NONHOSPITAL RESIDENTIAL ALCOHOL SERVICES.

21 6975. OUTPATIENT ALCOHOL SERVICES.

22 6976. DEDUCTIBLES, COPAYMENT PLANS AND PROSPECTIVE PAY.

23 6977. REGULATIONS.

24 6978. PRESERVATION OF CERTAIN BENEFITS.

25 6979. APPLICABILITY AND EXPIRATION OF SUBCHAPTER.

26 § 6971. DEFINITIONS.

27 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
28 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
29 CONTEXT CLEARLY INDICATES OTHERWISE:

30 "ALCOHOL ABUSE." ANY USE OF ALCOHOL WHICH PRODUCES A PATTERN

1 OF PATHOLOGICAL USE CAUSING IMPAIRMENT IN SOCIAL OR OCCUPATIONAL
2 FUNCTIONING OR WHICH PRODUCES PHYSIOLOGICAL DEPENDENCY EVIDENCED
3 BY PHYSICAL TOLERANCE OR WITHDRAWAL.

4 "DETOXIFICATION." THE PROCESS WHEREBY AN ALCOHOL-INTOXICATED
5 OR ALCOHOL-DEPENDENT PERSON IS ASSISTED, IN A FACILITY LICENSED
6 BY THE DEPARTMENT OF HEALTH, THROUGH THE PERIOD OF TIME
7 NECESSARY TO ELIMINATE, BY METABOLIC OR OTHER MEANS, THE
8 INTOXICATING ALCOHOL, ALCOHOL DEPENDENCY FACTORS OR ALCOHOL IN
9 COMBINATION WITH DRUGS AS DETERMINED BY A LICENSED PHYSICIAN,
10 WHILE KEEPING THE PHYSIOLOGICAL RISK TO THE PATIENT AT A
11 MINIMUM.

12 "HOSPITAL." A FACILITY LICENSED AS A HOSPITAL BY THE
13 DEPARTMENT OF HEALTH OR THE DEPARTMENT OF PUBLIC WELFARE OR
14 OPERATED BY THE COMMONWEALTH AND CONDUCTING AN ALCOHOLISM
15 TREATMENT PROGRAM LICENSED BY THE DEPARTMENT OF HEALTH.

16 "INPATIENT CARE." THE PROVISION OF MEDICAL, NURSING,
17 COUNSELING OR THERAPEUTIC SERVICES 24 HOURS A DAY IN A HOSPITAL
18 OR NONHOSPITAL FACILITY, ACCORDING TO INDIVIDUALIZED TREATMENT
19 PLANS.

20 "NONHOSPITAL FACILITY." A FACILITY, LICENSED BY THE
21 DEPARTMENT OF HEALTH, FOR THE CARE OR TREATMENT OF ALCOHOL-
22 DEPENDENT PERSONS, EXCEPT FOR TRANSITIONAL LIVING FACILITIES.

23 "NONHOSPITAL RESIDENTIAL CARE." THE PROVISION OF MEDICAL,
24 NURSING, COUNSELING OR THERAPEUTIC SERVICES TO PATIENTS
25 SUFFERING FROM ALCOHOL ABUSE OR DEPENDENCY IN A RESIDENTIAL
26 ENVIRONMENT, ACCORDING TO INDIVIDUALIZED TREATMENT PLANS.

27 "OUTPATIENT CARE." THE PROVISION OF MEDICAL, NURSING,
28 COUNSELING OR THERAPEUTIC SERVICES IN A HOSPITAL OR NONHOSPITAL
29 FACILITY ON A REGULAR AND PREDETERMINED SCHEDULE, ACCORDING TO
30 INDIVIDUALIZED TREATMENT PLANS.

1 "PARTIAL HOSPITALIZATION." THE PROVISION OF MEDICAL,
2 NURSING, COUNSELING OR THERAPEUTIC SERVICES ON A PLANNED AND
3 REGULARLY SCHEDULED BASIS IN A HOSPITAL OR NONHOSPITAL FACILITY
4 LICENSED AS AN ALCOHOLISM TREATMENT PROGRAM BY THE DEPARTMENT OF
5 HEALTH, DESIGNED FOR A PATIENT OR CLIENT WHO WOULD BENEFIT FROM
6 MORE INTENSIVE SERVICES THAN ARE OFFERED IN OUTPATIENT TREATMENT
7 BUT WHO DOES NOT REQUIRE INPATIENT CARE.

8 § 6972. MANDATED POLICY COVERAGE AND OPTIONS.

9 (A) GENERAL RULE.--ALL GROUP HEALTH OR SICKNESS OR ACCIDENT
10 INSURANCE POLICIES PROVIDING HOSPITAL OR MEDICAL-SURGICAL
11 COVERAGE AND ALL GROUP SUBSCRIBER CONTRACTS OR CERTIFICATES
12 ISSUED BY ANY ENTITY OF ANY NATURE SUBJECT TO THIS CHAPTER OR
13 CHAPTER 45 (RELATING TO FRATERNAL BENEFIT SOCIETIES), 73
14 (RELATING TO HEALTH MAINTENANCE ORGANIZATIONS), 75 (RELATING TO
15 HOSPITAL PLAN CORPORATIONS) OR 77 (RELATING TO PROFESSIONAL
16 HEALTH SERVICES PLAN CORPORATIONS) AND PROVIDING HOSPITAL OR
17 MEDICAL-SURGICAL COVERAGE SHALL, IN ADDITION TO OTHER PROVISIONS
18 REQUIRED BY THIS CHAPTER, INCLUDE WITHIN THE COVERAGE THOSE
19 BENEFITS FOR ALCOHOL ABUSE AND DEPENDENCY AS PROVIDED IN
20 SECTIONS 6973 (RELATING TO INPATIENT DETOXIFICATION), 6974
21 (RELATING TO NONHOSPITAL RESIDENTIAL ALCOHOL SERVICES) AND 6975
22 (RELATING TO OUTPATIENT ALCOHOL SERVICES).

23 (B) COMBINATIONS OF POLICIES.--THE BENEFITS SPECIFIED IN
24 SUBSECTION (A) MAY BE PROVIDED THROUGH A COMBINATION OF SUCH
25 POLICIES.

26 (C) PROSPECTIVE PAYMENT PLANS.--THE BENEFITS SPECIFIED IN
27 SUBSECTION (A) MAY BE PROVIDED THROUGH PROSPECTIVE PAYMENT
28 PLANS.

29 (D) APPLICABILITY.--SUBSECTION (A) DOES NOT APPLY TO
30 MEDICARE OR MEDICAID SUPPLEMENTAL CONTRACTS OR LIMITED COVERAGE

1 ACCIDENT AND SICKNESS POLICIES, INCLUDING, BUT NOT LIMITED TO,
2 CANCER INSURANCE, POLIO INSURANCE, DENTAL CARE AND SIMILAR
3 POLICIES IDENTIFIED AS EXEMPT FROM THIS SECTION BY THE
4 DEPARTMENT.

5 § 6973. INPATIENT DETOXIFICATION.

6 (A) ELIGIBLE PROVIDERS.--INPATIENT DETOXIFICATION AS A
7 COVERED BENEFIT UNDER THIS SUBCHAPTER SHALL BE PROVIDED EITHER
8 IN A HOSPITAL OR IN AN INPATIENT NONHOSPITAL FACILITY WHICH:

9 (1) HAS A WRITTEN AFFILIATION AGREEMENT WITH A HOSPITAL
10 FOR EMERGENCY, MEDICAL AND PSYCHIATRIC OR PSYCHOLOGICAL
11 SUPPORT SERVICES;

12 (2) MEETS MINIMUM STANDARDS FOR CLIENT-TO-STAFF RATIOS
13 AND STAFF QUALIFICATIONS WHICH SHALL BE ESTABLISHED BY THE
14 DEPARTMENT OF HEALTH; AND

15 (3) IS LICENSED AS AN ALCOHOLISM TREATMENT PROGRAM.

16 (B) COVERED SERVICES.--THE FOLLOWING SERVICES SHALL BE
17 COVERED UNDER INPATIENT DETOXIFICATION:

18 (1) LODGING AND DIETARY SERVICES.

19 (2) PHYSICIAN, PSYCHOLOGIST, NURSE, CERTIFIED ADDICTIONS
20 COUNSELOR AND TRAINED STAFF SERVICES.

21 (3) DIAGNOSTIC X-RAY.

22 (4) PSYCHIATRIC, PSYCHOLOGICAL AND MEDICAL LABORATORY
23 TESTING.

24 (5) DRUGS, MEDICINES, EQUIPMENT USE AND SUPPLIES.

25 (C) LIMITATIONS OF COVERAGE.--TREATMENT UNDER THIS SECTION
26 MAY BE SUBJECT TO A LIFETIME LIMIT, FOR A COVERED INDIVIDUAL, OF
27 FOUR ADMISSIONS FOR DETOXIFICATION, AND REIMBURSEMENT PER
28 ADMISSION MAY BE LIMITED TO SEVEN DAYS OF TREATMENT OR AN
29 EQUIVALENT AMOUNT.

30 § 6974. NONHOSPITAL RESIDENTIAL ALCOHOL SERVICES.

(A) REQUIREMENTS FOR COVERAGE.--MINIMAL ADDITIONAL TREATMENT AS A COVERED BENEFIT UNDER THIS SUBCHAPTER SHALL BE PROVIDED IN A FACILITY WHICH:

(1) MEETS MINIMUM STANDARDS FOR CLIENT-TO-STAFF RATIOS AND STAFF QUALIFICATIONS, WHICH SHALL BE ESTABLISHED BY THE OFFICE OF DRUG AND ALCOHOL PROGRAMS; AND

(2) IS APPROPRIATELY LICENSED BY THE DEPARTMENT OF HEALTH AS AN ALCOHOLISM TREATMENT PROGRAM.

AN INSURED SHALL NOT QUALIFY TO RECEIVE BENEFITS UNDER THIS SECTION UNLESS A LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST CERTIFIES THE INSURED AS A PERSON SUFFERING FROM ALCOHOL ABUSE OR DEPENDENCY AND REFERS THE INSURED FOR THE APPROPRIATE TREATMENT.

(B) COVERED SERVICES.--THE FOLLOWING SERVICES SHALL BE COVERED UNDER THIS SECTION:

(1) LODGING AND DIETARY SERVICES.

(2) PHYSICIAN, PSYCHOLOGIST, NURSE, CERTIFIED ADDICTIONS COUNSELOR AND TRAINED STAFF SERVICES.

(3) REHABILITATION THERAPY AND COUNSELING.

(4) FAMILY COUNSELING AND INTERVENTION.

(5) PSYCHIATRIC, PSYCHOLOGICAL AND MEDICAL LABORATORY TESTS.

(6) DRUGS, MEDICINES, EQUIPMENT USE AND SUPPLIES.

(C) TIME OF COVERAGE.--THE TREATMENT UNDER THIS SECTION SHALL BE COVERED, AS REQUIRED BY THIS SUBCHAPTER, FOR A MINIMUM OF 30 DAYS PER YEAR FOR RESIDENTIAL CARE. ADDITIONAL DAYS SHALL BE AVAILABLE AS PROVIDED IN SECTION 6975(D) (RELATING TO OUTPATIENT ALCOHOL SERVICES). TREATMENT MAY BE SUBJECT TO A LIFETIME LIMIT, FOR ANY COVERED INDIVIDUAL, OF 90 DAYS.

§ 6975. OUTPATIENT ALCOHOL SERVICES.

(A) REQUIREMENTS FOR COVERAGE.--MINIMAL ADDITIONAL TREATMENT AS A COVERED BENEFIT UNDER THIS SUBCHAPTER SHALL BE PROVIDED IN A FACILITY APPROPRIATELY LICENSED BY THE DEPARTMENT OF HEALTH AS AN ALCOHOLISM TREATMENT PROGRAM. AN INSURED MAY NOT QUALIFY TO RECEIVE BENEFITS UNDER THIS SECTION UNLESS A LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST CERTIFIES THE INSURED AS A PERSON SUFFERING FROM ALCOHOL ABUSE OR DEPENDENCY AND REFERS THE INSURED FOR THE APPROPRIATE TREATMENT.

(B) COVERED SERVICES.--THE FOLLOWING SERVICES SHALL BE COVERED UNDER THIS SECTION:

(1) PHYSICIAN, PSYCHOLOGIST, NURSE, CERTIFIED ADDICTIONS COUNSELOR AND TRAINED STAFF SERVICES.

(2) REHABILITATION THERAPY AND COUNSELING.

(3) FAMILY COUNSELING AND INTERVENTION.

(4) PSYCHIATRIC, PSYCHOLOGICAL AND MEDICAL LABORATORY TESTS.

(5) DRUGS, MEDICINES, EQUIPMENT USE AND SUPPLIES.

(C) TIME OF COVERAGE.--TREATMENT UNDER THIS SECTION SHALL BE COVERED AS REQUIRED BY THIS SUBCHAPTER FOR A MINIMUM OF 30 OUTPATIENT, FULL-SESSION VISITS OR EQUIVALENT PARTIAL VISITS PER YEAR. TREATMENT MAY BE SUBJECT TO A LIFETIME LIMIT, FOR ANY COVERED INDIVIDUAL, OF 120 OUTPATIENT, FULL-SESSION VISITS OR EQUIVALENT PARTIAL VISITS.

(D) ADDITIONAL COVERAGE.--IN ADDITION, TREATMENT UNDER THIS SECTION SHALL BE COVERED AS REQUIRED BY THIS SUBCHAPTER FOR A MINIMUM OF 30 SEPARATE SESSIONS OF OUTPATIENT OR PARTIAL HOSPITALIZATION SERVICES PER YEAR, WHICH MAY BE EXCHANGED ON A TWO-TO-ONE BASIS TO SECURE UP TO 15 ADDITIONAL NONHOSPITAL, RESIDENTIAL ALCOHOL TREATMENT DAYS.

§ 6976. DEDUCTIBLES, COPAYMENT PLANS AND PROSPECTIVE PAY.

1 REASONABLE DEDUCTIBLE OR COPAYMENT PLANS, OR BOTH, AFTER
2 APPROVAL BY THE DEPARTMENT, MAY BE APPLIED TO BENEFITS PAID TO
3 OR ON BEHALF OF PATIENTS DURING THE COURSE OF ALCOHOL ABUSE OR
4 DEPENDENCY TREATMENT. IN THE FIRST INSTANCE OR COURSE OF
5 TREATMENT, UNDER A PROSPECTIVE PAYMENT PLAN OR OTHERWISE, NO
6 DEDUCTIBLE OR COPAYMENT SHALL BE LESS FAVORABLE THAN THOSE
7 APPLIED TO SIMILAR CLASSES OR CATEGORIES OF TREATMENT FOR
8 PHYSICAL ILLNESS GENERALLY IN EACH POLICY.

9 § 6977. REGULATIONS.

10 THE DEPARTMENT AND THE DEPARTMENT OF HEALTH SHALL JOINTLY
11 PROMULGATE THOSE REGULATIONS DEEMED NECESSARY FOR THE EFFECTIVE
12 IMPLEMENTATION AND OPERATION OF THIS SUBCHAPTER.

13 § 6978. PRESERVATION OF CERTAIN BENEFITS.

14 THIS SUBCHAPTER DOES NOT DIMINISH THE BENEFITS OF ANY INSURED
15 OR SUBSCRIBER EXISTING ON DECEMBER 8, 1986, NOR PREVENT THE
16 OFFERING OR ACCEPTANCE OF BENEFITS WHICH EXCEED THE MINIMUM
17 BENEFITS REQUIRED BY THIS SUBCHAPTER.

18 § 6979. APPLICABILITY AND EXPIRATION OF SUBCHAPTER.

19 (A) APPLICABILITY.--THIS SUBCHAPTER SHALL APPLY ONLY TO
20 CONTRACTS OF INSURANCE ISSUED OR RENEWED AFTER JUNE 11, 1986.

21 (B) EXPIRATION.--THIS SUBCHAPTER SHALL EXPIRE DECEMBER 31,
22 1989.

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CHAPTER 71
HEALTH CARE SERVICES MALPRACTICE

- Subchapter
- A. General Provisions
 - B. Arbitration Panels for Health Care
 - C. Procedure in Malpractice Cases
 - D. Medical Professional Liability Catastrophe Loss Fund
 - E. Availability of Insurance
 - F. Disciplinary Proceedings
 - G. Miscellaneous Provisions

SUBCHAPTER A
GENERAL PROVISIONS

- Sec.
- 7101. Short title of chapter.
 - 7102. Purpose of chapter.
 - 7103. Definitions.
 - 7104. Exemptions.
 - 7105. Liability of nonqualifying health care providers.
 - 7106. Informed consent.
 - 7107. Official immunity.
 - 7108. Cancellation of insurance policies.
- § 7101. Short title of chapter.
- This chapter shall be known and may be cited as the Health Care Services Malpractice Act.
- § 7102. Purpose of chapter.
- It is the purpose of this chapter to make available professional liability insurance at a reasonable cost and to establish a system through which a person who has sustained injury or death as a result of tort or breach of contract by a

1 health care provider can obtain a prompt determination and
2 adjudication of his claim and the determination of fair and
3 reasonable compensation.

4 § 7103. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Administrator." The Administrator for Arbitration Panels
9 for Health Care established under Subchapter B (relating to
10 arbitration panels for health care).

11 "Arbitration panels." The Arbitration panels for health care
12 established under Subchapter B.

13 "Claims made." Limiting or restricting the liability of the
14 insurer under the policy to those claims made or reported during
15 the period the policy is in effect and excluding coverage for
16 any claim reported subsequent to the termination of the policy
17 even when the claim arises from occurrences during the period
18 the policy is in effect.

19 "Court." The court of common pleas.

20 "Fund." The Medical Professional Liability Catastrophe Loss
21 Fund established under Subchapter D (relating to Medical
22 Professional Liability Catastrophe Loss Fund).

23 "Government." The Federal Government or the government of
24 any state, any political subdivision of a state, any
25 instrumentality of one or more states, or any agency,
26 subdivision or department of any such government, including any
27 corporation or other association organized by a government for
28 the execution of a government program and subject to control by
29 a government, or any corporation or agency established under an
30 interstate compact or international treaty.

1 "Health care provider." A primary health center or a person,
2 corporation, facility, institution or other organization
3 licensed or approved by the Commonwealth to provide health care
4 or professional medical services as a physician, a certified
5 nurse midwife, a podiatrist or a hospital, nursing home or birth
6 center, and except as to section 7141(b) (relating to
7 professional liability insurance), an officer, employee or agent
8 of any of them acting in the course and scope of his employment.

9 "Licensure board." The State Board of ~~Medical Education and~~ <—
10 ~~Licensure~~ MEDICINE, the State Board of Osteopathic ~~Examiners~~ <—
11 MEDICINE, the State Board of Podiatry ~~Examiners~~, the Department <—
12 of Public Welfare and the Department of Health.

13 "Patient." A natural person who receives or should have
14 received health care from a licensed health care provider.

15 "Primary health center." A community-based nonprofit
16 corporation meeting standards prescribed by the Department of
17 Health, which provides preventive, diagnostic, therapeutic and
18 basic emergency health care by licensed practitioners who are
19 employees of the corporation or under contract to the
20 corporation.

21 "Professional liability insurance." Insurance against
22 liability on the part of a health care provider arising out of
23 any tort or breach of contract causing injury or death resulting
24 from the furnishing of medical services which were or should
25 have been provided.

26 § 7104. Exemptions.

27 Any physician who exclusively practices the specialty of
28 forensic pathology is exempt from the provisions of this
29 chapter. All health care providers who are members of the
30 Pennsylvania military forces as defined in 51 Pa.C.S. § 102

1 (relating to definitions) are exempt from the provisions of this
2 chapter while in the performance of their assigned duty in the
3 Pennsylvania military forces under orders.

4 § 7105. Liability of nonqualifying health care providers.

5 Any person rendering services normally rendered by a health
6 care provider who fails to qualify as a health care provider as
7 defined in section 7103 (relating to definitions) is subject to
8 liability without regard to this chapter.

9 § 7106. Informed consent.

10 (a) Liability of practitioner.--A physician or podiatrist
11 shall not be liable for a failure to obtain an informed consent
12 in the event of an emergency which prevents consulting the
13 patient. A physician or podiatrist shall not be liable for
14 failure to obtain an informed consent if it is established by a
15 preponderance of the evidence that furnishing the information in
16 question to the patient would have resulted in a seriously
17 adverse effect on the patient or on the therapeutic process to
18 the material detriment of the patient's health.

19 (b) Definition.--For purposes of this chapter and any action
20 described in section 7121(a) (relating to jurisdiction of
21 arbitration panel), the term "informed consent" means the
22 consent of a patient to the performance of health care services
23 by a physician or podiatrist if, prior to the consent having
24 been given, the physician or podiatrist has informed the patient
25 of the nature of the proposed procedure or treatment and of
26 those risks and alternatives to treatment or diagnosis that a
27 reasonable patient would consider material to the decision
28 whether or not to undergo treatment or diagnosis.

29 § 7107. Official immunity.

30 A cause of action for libel or slander or other liability of

1 any nature shall not arise against any member insurer, the State
2 Board of ~~Medical Education and Licensure~~ MEDICINE, the State <—
3 Board of Osteopathic ~~Examiners~~ MEDICINE, the State Board of <—
4 Podiatry ~~Examiners~~, the arbitration panels, the administrator or <—
5 the department, or its representatives for any action taken by
6 any of them in the performance of their respective powers and
7 duties under this chapter.

8 § 7108. Cancellation of insurance policies.

9 Any termination of a professional liability insurance policy
10 by cancellation, except for suspension or revocation of the
11 insured's license or approval by the Commonwealth to provide
12 health care services or for reason of nonpayment of premium,
13 shall not be effective against the insured covered thereby,
14 unless notice of cancellation is given within 60 days after the
15 issuance of the contract of insurance against the insured
16 covered thereunder. The cancellation shall not take effect
17 unless a written notice stating the reasons for the cancellation
18 and the date and time upon which termination becomes effective
19 has been received by the department at its office. Mailing of
20 the notice to the department at its principal office address
21 shall constitute notice to the department.

22 SUBCHAPTER B

23 ARBITRATION PANELS FOR HEALTH CARE

24 Sec.

25 7111. Administrator for arbitration panels.

26 7112. Powers and duties of administrator.

27 7113. Arbitration panels for health care.

28 § 7111. Administrator for arbitration panels.

29 (a) Appointment and compensation.--There shall be within the
30 Office of General Counsel the office of Administrator for

1 Arbitration Panels for Health Care to be appointed by the
2 Governor. The salary of the administrator shall be set by the
3 Executive Board.

4 (b) Removal.--The administrator may be removed by the
5 Governor for incompetence, neglect of duty, misconduct in office
6 or other good cause to be stated in writing in the order of
7 removal.

8 § 7112. Powers and duties of administrator.

9 (a) Appointment of employees.--The administrator shall
10 appoint a secretary and such other employees as are required to
11 administer this chapter.

12 ~~(b) Funding of arbitration panels. The administration of~~ <—
13 ~~the arbitration panels shall be funded in part from annual fees~~
14 ~~charged to each health care provider practicing in this~~
15 ~~Commonwealth and payable to the administrator pursuant to~~
16 ~~section 610 A of the act of April 9, 1929 (P.L.177, No.175),~~
17 ~~known as The Administrative Code of 1929. (RESERVED).~~ <—

18 (c) Preparation and furnishing of documents.--The
19 administrator shall prepare, print and furnish, upon request and
20 free of charge, such blank forms and literature as are necessary
21 to facilitate and promote the efficient administration of this
22 chapter.

23 (d) Annual report.--The administrator shall submit to the
24 Governor and the General Assembly annually, on or before
25 December 1, a report of the work of the administrator's office
26 during the preceding fiscal year.

27 (e) Regulations.--The administrator shall promulgate such
28 uniform regulations as are necessary to carry out the provisions
29 of this chapter which relate to the work of the panels and shall
30 prescribe the methods and practices necessary to effectuate

1 these provisions. The regulations shall be consistent with the
2 law of this Commonwealth, including the Rules of Civil Procedure
3 and the rules of evidence. The regulations, after consultation
4 with the ~~Secretary~~ DEPARTMENT of Health, may include provisions <—
5 for the use of forms which provide for the disclosure of the
6 nature of the proposed treatment or diagnosis, risks of the
7 proposed treatment or diagnosis and alternate methods of
8 treatment or diagnosis.

9 (f) Settlements.--The administrator may consider and approve
10 offers of settlement for fiduciaries, minors and incompetent
11 parties at any time prior to the first meeting of the
12 arbitration panel. The fund may be represented at any
13 negotiation of settlement exceeding the basic coverage insurance
14 carrier limit of liability.

15 (g) Preliminary motions.--Prior to appointment of an
16 arbitration panel chairman, the administrator may rule on any
17 preliminary motions before the panel.

18 § 7113. Arbitration panels for health care.

19 (a) Establishment of panels.--The administrator shall
20 establish and maintain a pool from which he shall select
21 arbitration panels to hear claims made under this chapter.
22 Appointments to the pool of panel members shall be made by the
23 administrator with due consideration given to persons
24 recommended by appropriate recognized professional or lay
25 organizations.

26 (b) Composition by administrator.--Each arbitration panel
27 selected by the administrator shall be composed of three
28 members, including one attorney, who shall be designated as
29 chairperson and who shall determine questions of law, one health
30 care provider and one lay person who is neither a health care

1 provider nor an attorney. The administrator may select a
2 hospital administrator, podiatrist or osteopathic physician or
3 surgeon as the health care provider panel member where the claim
4 involves a member of one of those classes of health care
5 providers.

6 (c) Challenges.--Any arbitration panel member selected by
7 the administrator shall be subject to challenge for cause by any
8 party. All challenges for cause shall be determined by the
9 administrator. Each party shall also be entitled to one
10 peremptory challenge.

11 (d) Composition by parties.--The parties shall not be
12 restricted to arbitration panels drawn from the pool. If all
13 parties mutually agree upon an arbitration panelist or
14 panelists, the panelist or panelists shall be invited to serve
15 by the administrator. A panel mutually agreed upon by the
16 parties shall be composed of three members: one attorney, one
17 health care provider and one lay person.

18 (e) Professional members.--The attorney members of the
19 arbitration panel pool shall be admitted to practice before the
20 Supreme Court of Pennsylvania. The health care provider members
21 of the arbitration panel pool who are subject to licensure shall
22 be licensed by the Commonwealth.

23 (f) Compensation and expenses.--Arbitration panel members
24 shall be paid at a daily or annual salary rate fixed by the
25 Executive Board, plus actual and necessary expenses incurred in
26 the performance of their official duties. The administrator
27 shall provide for all other necessary expenses of the
28 arbitration panels.

29 (g) Conflict of interest.--A member shall not participate in
30 a case in which he may have an interest.

1 SUBCHAPTER C

2 PROCEDURE IN MALPRACTICE CASES

3 Sec.

4 7121. Jurisdiction of arbitration panel.

5 7122. Procedure for filing claims.

6 7123. Hearings and determinations.

7 7124. Transfer to court.

8 7125. Service of papers.

9 7126. Applicability of other law.

10 7127. Appointment of expert witnesses.

11 7128. Powers and duties of panel.

12 7129. Notice of award.

13 7130. Judicial review.

14 7131. Judgments.

15 7132. Advance payments.

16 7133. Submission of findings to licensing boards.

17 7134. Reduction of award by other benefits.

18 7135. Award of punitive damages.

19 7136. Attorney fees.

20 7137. LIMITATION ON LIABILITY OF PROVIDER.

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21 § 7121. Jurisdiction of arbitration panel.

22 (a) Scope of jurisdiction.--The arbitration panel shall have
23 concurrent original jurisdiction to hear and decide claims
24 brought by a patient or his representative for loss or damages
25 resulting from the performance or the failure to perform medical
26 services. The arbitration panel shall also have concurrent
27 original jurisdiction to hear and decide claims asserted against
28 a nonhealth care provider who is made a party defendant with a
29 health care provider.

30 (b) Jurisdictional requisites.--Cases within subsection (a)

1 shall only be referred to an arbitration panel if:

2 (1) all parties to the action stipulate to the
3 reference;

4 (2) the rules of the court authorize the reference, and
5 all conditions under those rules have been complied with; and

6 (3) all pleadings required by the Rules of Civil
7 Procedure have been filed.

8 § 7122. Procedure for filing claims.

9 A patient or his representative, having a claim described in
10 section 7121(a) (relating to jurisdiction of arbitration panel),
11 may commence proceedings under this subchapter by filing the
12 stipulation of reference, and such pleadings and fees as are
13 prescribed by the regulations promulgated by the administrator.
14 The administrator shall refer the claim to the appropriate
15 arbitration panel.

16 § 7123. Hearings and determinations.

17 Upon assignment of a claim to an arbitration panel, the panel
18 shall expeditiously hear and determine the claim in accordance
19 with the regulations promulgated by the administrator.

20 § 7124. Transfer to court.

21 (a) General rule.--If an arbitration panel is not selected
22 by the administrator within 90 days after the filing of a
23 certificate of readiness as provided for in the applicable
24 regulations, the administrator shall immediately transfer the
25 case to the court.

26 (b) Place of hearings.--Arbitration panel hearings shall be
27 conducted in the county where the cause of action arose, but
28 may, within the discretion of the administrator, be held in any
29 other place.

30 (c) Decisions.--A majority vote of the full arbitration

1 panel shall be required to decide all matters before it, except
2 that questions of law shall be decided by the member who is an
3 attorney.

4 § 7125. Service of papers.

5 Notice of all hearings and proceedings before the arbitration
6 panel, unless otherwise directed, shall be made personally or
7 given by certified mail, and proof of the mailing of notice
8 shall be prima facie evidence of service. All briefs or
9 litigation documents filed by any party with the administrator
10 or any panel shall contain a certification that, on or before
11 the day of filing, a copy of the document was served on opposing
12 counsel or on the adverse party if there is no counsel of
13 record.

14 § 7126. Applicability of other law.

15 Except as provided in this chapter, the arbitration panel is
16 bound by the law of this Commonwealth, the Rules of Civil
17 Procedure and the rules of evidence.

18 § 7127. Appointment of expert witnesses.

19 The arbitration panel may, upon the application of either
20 party or upon its own motion, appoint a disinterested and
21 qualified expert to make any necessary professional or expert
22 examination of the claimant or relevant evidentiary matter and
23 to testify as a witness with respect thereto. The expert witness
24 shall be allowed necessary expenses and a reasonable fee to be
25 fixed and paid by the arbitration panel.

26 § 7128. Powers and duties of panel.

27 The arbitration panel is authorized and empowered to:

28 (1) Examine the relevant facts to determine if a case
29 exists for recovery.

30 (2) Make findings of fact.

- 1 (3) Take depositions and testimony.
- 2 (4) Assure both parties full access to the facts.
- 3 (5) Make available to the parties the norms, standards
4 and criteria employed by health care providers in the
5 Professional Standards Review Organization region.
- 6 (6) Subpoena witnesses and administer oaths.
- 7 (7) Apply to the court to enforce the attendance and
8 testimony of witnesses and the production and examination of
9 books, papers and records.
- 10 (8) Consider and approve offers of settlement involving
11 fiduciaries, minors and incompetent parties.
- 12 (9) Make determinations as to liability and award of
13 damages.
- 14 (10) Exercise all other powers and duties conferred upon
15 it by law.

16 § 7129. Notice of award.

17 A copy of the arbitration panel's award shall be sent to each
18 party at the time it is submitted to the administrator.

19 § 7130. Judicial review.

20 (a) General rule.--Appeals from determinations made by the
21 arbitration panel shall be de novo in the court in accordance
22 with the rules regarding appeals in compulsory civil
23 arbitration, the Rules of Civil Procedure and the rules of
24 court.

25 (b) Admissibility of record.--If an appeal is taken, the
26 decision and any findings of fact of the arbitration panel shall
27 be admissible as evidence before the court, but any award of
28 damages shall not be admissible as evidence.

29 § 7131. Judgments.

30 If an appeal is not entered within the prescribed time, a

1 final judgment shall be entered by the court in accordance with
2 the rules regarding failure to appeal in compulsory civil
3 arbitration, the Rules of Civil Procedure and the rules of the
4 court.

5 § 7132. Advance payments.

6 (a) Effect on liability.--An advance payment made by the
7 defendant health care provider or his professional liability
8 insurer to or for the plaintiff in any action described in
9 section 7121(a) (relating to jurisdiction of arbitration panel)
10 shall not be deemed an admission of liability for injuries or
11 damages suffered by the plaintiff.

12 (b) Effect on damages awarded.--Any award or judgment in
13 favor of the plaintiff shall be reduced to the extent of any
14 advance payment. The advance payment shall inure to the
15 exclusive benefit of the defendant or the insurer making the
16 payment.

17 § 7133. Submission of findings to licensing boards.

18 If the arbitration panel finds that the injury or death of
19 the patient was the result in whole or in part of tort or breach
20 of contract by a health care provider, and the award is not
21 overturned on appeal, the arbitration panel shall report the
22 findings to the licensure board and the Professional Standards
23 Review Organization. The appropriate licensure board shall
24 promptly investigate the report and take such disciplinary
25 action as may be appropriate.

26 § 7134. Reduction of award by other benefits.

27 The damages awarded for a claim described in section 7121(a)
28 (relating to jurisdiction of arbitration panel) shall be reduced
29 by any public collateral source of compensation or benefits. A
30 right of subrogation is not enforceable against any benefit or

1 compensation awarded for such a claim or against any health care
2 provider or its liability insurer.

3 § 7135. Award of punitive damages.

4 If the arbitration panel finds that the injury or damage to
5 the patient was caused in whole or in part by the willful or
6 wanton misconduct of any of the defendants, the panel may award
7 such punitive damages against the defendant as may be awarded at
8 law.

9 § 7136. Attorney fees.

10 (a) Limit on contingent fees.--When a plaintiff is
11 represented by an attorney in the prosecution of his claim, the
12 plaintiff's attorney fees from any award of an arbitration panel
13 may not exceed the sum of:

14 (1) thirty percent of the first \$100,000 of the award;

15 (2) twenty-five percent of the next \$100,000; and

16 (3) twenty percent of the remaining amount.

17 (b) Per diem fee arrangements.--A plaintiff may elect to pay
18 for the attorney's services on a mutually satisfactory per diem
19 basis if this election is exercised in writing at the time of
20 employment.

21 § 7137. LIMITATION ON LIABILITY OF PROVIDER.

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22 IN THE ABSENCE OF A SPECIAL CONTRACT IN WRITING, A HEALTH
23 CARE PROVIDER IS NEITHER A WARRANTOR NOR A GUARANTOR OF A CURE.

24 SUBCHAPTER D

25 MEDICAL PROFESSIONAL LIABILITY CATASTROPHE

26 LOSS FUND

27 Sec.

28 7141. Professional liability insurance.

29 7142. Medical Professional Liability Catastrophe Loss Fund.

30 7143. Administration of fund.

1 7144. Liability of excess carriers.

2 7145. Licensure penalties.

3 § 7141. Professional liability insurance.

4 (a) General rule.--Every health care provider providing
5 health care or professional medical services in this
6 Commonwealth shall be subject to this subchapter and shall
7 insure his professional liability to the extent of basic
8 coverage with an insurer licensed or approved by the
9 Commonwealth or provide proof of self-insurance to the extent of
10 basic coverage in accordance with this section. Any health care
11 provider who does so ~~may~~ SHALL BE ENTITLED TO participate in the <—
12 fund.

13 (b) Basic coverage.--With respect to a health care provider,
14 other than a hospital, who conducts more than 50% of his health
15 care business or practice in this Commonwealth, basic coverage
16 shall be \$100,000 per occurrence and \$300,000 per annual
17 aggregate; with respect to hospitals located in this
18 Commonwealth, basic coverage shall be \$100,000 per occurrence
19 and \$1,000,000 per annual aggregate. If the amounts which become
20 payable by the fund exceed \$20,000,000 in any year, basic
21 coverage commencing in the ensuing year shall become \$150,000
22 per occurrence and \$450,000 per annual aggregate with respect to
23 health care providers other than hospitals; with respect to
24 hospitals, basic coverage shall then become \$150,000 per
25 occurrence and \$1,000,000 per annual aggregate. If the amounts
26 which become payable by the fund exceed \$30,000,000 in any year,
27 basic coverage commencing in the ensuing year shall become
28 \$200,000 per occurrence and \$600,000 per annual aggregate with
29 respect to health care providers other than hospitals; with
30 respect to hospitals, basic coverage shall then become \$200,000

1 per occurrence and \$1,000,000 per annual aggregate.

2 (c) Foreign providers.--A health care provider who conducts
3 50% or less of his health care business or practice in the
4 Commonwealth shall insure or self-insure his professional
5 liability in the amount of \$200,000 per occurrence and \$600,000
6 per annual aggregate and shall not be required to contribute to
7 or be entitled to participate in the fund established under this
8 subchapter or in the plan set forth in Subchapter E (relating to
9 availability of insurance).

10 (d) Self-insurers.--All self-insurance plans shall be
11 submitted for approval with such information as the department
12 shall require and shall be approved by the department if it
13 finds that the plan constitutes protection equivalent to the
14 insurance requirements of a health care provider. A fee shall be
15 charged by the department to all self-insurers for examination
16 and approval of their plans. Self-insured health care providers
17 and hospitals who are otherwise exempt from this subchapter
18 shall submit the information required under section 7158
19 (relating to annual reports to department).

20 (e) Liability of carrier.--A professional liability insurer
21 shall not be liable for payment of any claim against a health
22 care provider for any loss or damages awarded in a professional
23 liability action in excess of the basic coverage for each health
24 care provider against whom an award is made unless the health
25 care provider's professional liability policy or self-insurance
26 plan provides for a higher annual aggregate limit.

27 (f) Governments.--A government may satisfy its obligations
28 pursuant to this chapter, as well as the obligations of its
29 employees to the extent of their employment, by either
30 purchasing insurance or assuming these obligations as a self-

1 insurer.

2 (g) Definition.--As used in this section the term "health
3 care business or practice" means the number of patients to whom
4 health care services are rendered by a health care provider
5 within an annual period.

6 § 7142. Medical Professional Liability Catastrophe Loss Fund.

7 (a) Creation of fund.--There shall be a contingency fund for
8 the purpose of paying all awards, judgments and settlements for
9 loss or damages against a health care provider entitled to
10 participate in the fund as a consequence of any claim for
11 professional liability brought against the provider as a
12 defendant or an additional defendant to the extent the
13 provider's share exceeds his basic coverage in effect at the
14 time of occurrence under section 7141(b) (relating to
15 professional liability insurance). This fund shall be known as
16 the Medical Professional Liability Catastrophe Loss Fund. The
17 limit of liability of the fund shall be \$1,000,000 for each
18 occurrence for each health care provider and \$3,000,000 per
19 annual aggregate for each health care provider. The fund and all
20 income from the fund shall be held in trust, deposited in a
21 segregated account and invested and reinvested by the director,
22 and shall not become a part of the General Fund of the
23 Commonwealth.

24 (b) Surcharge.--An annual surcharge shall be levied on or
25 after January 1 on all health care providers entitled to
26 participate in the fund. The surcharge shall be determined by
27 the director appointed pursuant to section 7143 (relating to
28 administration of fund) and shall be subject to the prior
29 approval of the department. The surcharge shall be the
30 percentage of the cost to each health care provider for

1 maintenance of professional liability insurance which is
2 necessary to produce an amount sufficient to reimburse the fund
3 for the payment of all claims paid and expenses incurred during
4 the preceding year and to provide an amount necessary to
5 maintain an additional \$15,000,000. Health care providers having
6 approved self-insurance plans shall be surcharged an amount
7 equal to the surcharge imposed on a health care provider of like
8 class, size, risk and kind as determined by the director.

9 (c) Computation and payment of claims.--All claims shall be
10 computed annually on August 31 for all claims which became final
11 between that date and September 1 of the preceding year. All
12 such claims shall be paid on or before December 31 following the
13 August 31 by which they became final.

14 (d) Emergency surcharge.--Notwithstanding subsection (b),
15 the department may during September of each year determine and
16 levy an emergency surcharge on all health care providers then
17 entitled to participate in the fund if the fund would be
18 exhausted by the payment in full of all claims which have become
19 final and the expenses of the office of the director. The
20 emergency surcharge shall be the percentage of the cost to each
21 health care provider for maintenance of professional liability
22 insurance which is necessary to produce an amount sufficient to
23 allow the fund to pay in full all claims determined to be final
24 as of August 31 of the year it is levied and the expenses of the
25 office of the director as of December 31 of the previous year.

26 (e) Financing.--The annual and emergency surcharges on
27 health care providers and any income realized by investment or
28 reinvestment shall constitute the sole and exclusive sources of
29 funding for the fund. Claims or expenses against the fund shall
30 not be deemed to constitute a debt of the Commonwealth or a

1 charge against the General Fund of the Commonwealth.

2 (f) Regulations and fees.--The director shall issue
3 regulations regarding the establishment and operation of the
4 fund including all procedures and the levying, payment and
5 collection of the surcharges, except that the department shall
6 issue regulations regarding the imposition of the emergency
7 surcharge. A fee shall be charged by the director to all self-
8 insurers for examination and approval of their plans.

9 § 7143. Administration of fund.

10 (a) Director.--The director of the fund shall be appointed
11 by the Governor. The salary of the director shall be fixed by
12 the Executive Board. The director may employ and fix the
13 compensation of such clerical and other assistants as are
14 necessary and may promulgate rules and regulations relating to
15 procedures for the reporting of claims to the fund. The director
16 shall be provided with adequate offices in which the records
17 shall be kept and official business shall be transacted and
18 shall also be provided with necessary office furniture and other
19 supplies.

20 (b) Powers and duties.--The director shall have the
21 following powers and duties:

22 (1) To administer the fund.

23 (2) To defend, litigate, settle or compromise any claim
24 payable by the fund, and to adjust or compromise any claim
25 payable by the fund.

26 (3) To purchase, on behalf of the fund, as much
27 insurance or reinsurance as is necessary to preserve the
28 fund.

29 (c) Claim exceeding coverage.--The basic coverage insurer or
30 self-insured provider shall promptly notify the director of any

1 case where it reasonably believes that the value of the claim
2 exceeds the basic insurer's coverage or self-insurance plan or
3 falls under subsection (e). This information shall be
4 confidential, notwithstanding the act of July 19, 1974 (P.L.486,
5 No.175), referred to as the Public Agency Open Meeting Law, and
6 the act of June 21, 1957 (P.L.390, No.212), referred to as the
7 Right-to-Know Law. Failure to so notify the director shall make
8 the basic coverage insurer or self-insured provider responsible
9 for the payment of the entire award or verdict if the fund has
10 been prejudiced by the failure of notice.

11 (d) Defense of the claim.--The basic coverage insurer or
12 self-insured provider shall be responsible to provide a defense
13 to the claim, including defense of the fund, except as provided
14 for in subsection (e). If the director has been notified in
15 accordance with subsection (c), the director may join in the
16 defense of the claim and be represented by counsel.

17 (e) Statute of limitation.--If any claim is made against a
18 health care provider subject to the provisions of this
19 subchapter more than four years after the breach of contract or
20 tort occurred which is filed within the statute of limitations,
21 the claim shall be defended and paid by the fund. If the claim
22 is made after four years because of the willful concealment by
23 the health care provider or his insurer, the fund shall have the
24 right of full indemnity, including defense costs, from the
25 health care provider or his insurer.

26 (f) Settlement.--If the basic coverage insurer or self-
27 insured provider enters into a settlement with the claimant to
28 the full extent of its liability as provided in section 7141(b)
29 (relating to professional liability insurance), it may obtain a
30 release from the claimant to the extent of its payment, which

1 payment shall have no effect upon any excess claim against the
2 fund or its duty to continue the defense of the claim. A health
3 care provider's basic coverage insurer may approve or disapprove
4 any settlement entered into by the director on behalf of its
5 insured health care provider. If the basic coverage insurer does
6 not disapprove a settlement prior to execution by the director,
7 it shall be deemed approved by the basic insurance coverage
8 carrier. If more than one health care provider defendant is
9 party to a settlement, the health care provider's basic coverage
10 insurer may approve or disapprove only that portion of the
11 settlement which is contributed on behalf of its insured health
12 care provider.

13 § 7144. Liability of excess carriers.

14 An insurer providing excess professional liability insurance
15 to any health care provider eligible for coverage under the fund
16 shall not be liable for payment of any claim against a health
17 care provider for any loss or damages except those in excess of
18 the limits of liability provided by the fund. A carrier
19 providing excess professional liability insurance for a health
20 care provider covered by the fund shall not be liable for any
21 loss resulting from the insolvency or dissolution of the fund.

22 § 7145. Licensure penalties.

23 The failure of any health care provider to comply with any of
24 the provisions of section 7141 (relating to professional
25 liability insurance) or 7142 (relating to Medical Professional
26 Liability Catastrophe Loss Fund) or any of the regulations
27 issued by the director shall result in the suspension or
28 revocation of the health care provider's license by the
29 licensure board.

30

SUBCHAPTER E

1 AVAILABILITY OF INSURANCE

2 Sec.

3 7151. Plan to assure availability of insurance.

4 7152. Participation in plan.

5 7153. Plan operation, rates and deficits.

6 7154. Authority of department.

7 7155. Financing and payment of premiums.

8 7156. Selection of insurer to administer plan.

9 7157. Approval of policies on claims made basis.

10 7158. Annual reports to department.

11 7159. Studies and recommendations.

12 ~~7160. Coverage by joint underwriting association.~~ <—

13 ~~7161. Applicability of certain provisions.~~

14 7160. PROFESSIONAL CORPORATIONS, PROFESSIONAL <—

15 ASSOCIATIONS AND PARTNERSHIPS.

16 § 7151. Plan to assure availability of insurance.

17 The department shall establish and implement or approve and
18 supervise a plan assuring that professional liability insurance
19 will be conveniently and expeditiously available, subject only
20 to payment or provisions for payment of the premium, to those
21 providers who cannot conveniently obtain insurance through
22 ordinary methods at rates not in excess of those applicable to
23 similarly situated health care providers under the plan. The
24 plan may provide reasonable means for the transfer of health
25 care providers insured thereunder into the ordinary insurance
26 market, at the same or lower rates pursuant to regulations
27 established by the department. The plan may be implemented by a
28 joint underwriting association that results in all applicants
29 being conveniently afforded access to the insurance coverage on
30 reasonable and not unfairly discriminatory terms.

1 § 7152. Participation in plan.

2 The plan shall consist of all insurers authorized to write
3 insurance pursuant to section 3302(c)(4) and (11) (relating to
4 authorized classes of insurance). The plan shall provide for
5 equitable apportionment of the financial burdens of insurance
6 provided to applicants under the plan and the costs of operation
7 of the plan among all participating insurers writing such
8 insurance coverage.

9 § 7153. Plan operation, rates and deficits.

10 (a) Cooperation of insurers.--Subject to the supervision and
11 approval of the department, insurers may consult and agree with
12 each other and with other appropriate persons as to the
13 organization, administration and operation of the plan and as to
14 rates and rate modifications for insurance coverages provided
15 under the plan. Rates and rate modifications adopted or changed
16 for insurance coverages provided under the plan shall be
17 approved by the department in accordance with Chapter 19
18 (relating to insurance rates), except as inconsistent with
19 subsection (c).

20 (b) Deficit of joint underwriting association.--If the joint
21 underwriting association suffers a deficit in any year, its
22 board of directors shall so certify to the director of the fund
23 and the department. This certification shall be subject to the
24 review and approval of the department. Within 60 days following
25 the certification and approval the director of the fund shall
26 make sufficient payment to the association to compensate for the
27 deficit. A deficit shall exist whenever the sum of the earned
28 premiums collected by the association and the investment income
29 therefrom is exhausted by virtue of payment of or allocation for
30 the association's necessary administrative expenses, taxes,

1 losses, loss adjustment expenses and reserves, including
2 reserves for losses incurred and reported, losses incurred but
3 not reported, loss adjustment expenses and unearned premiums.

4 (c) Premium increase.--Within 60 days after the
5 certification that the association has suffered a deficit, the
6 board of directors of the association shall file with the
7 department and the department shall approve a premium increase
8 sufficient to generate the requisite income to:

9 (1) reimburse the fund for any payment made by the fund
10 to compensate for the deficit; and

11 (2) increase premiums to a level actuarially sufficient
12 to avoid an operating deficit by the association during the
13 following 12 months.

14 The association shall reimburse the fund with interest at a rate
15 equal to that earned by the fund on its invested assets within
16 one year of any payment made by the fund as compensation for any
17 deficit incurred by the association.

18 § 7154. Authority of department.

19 (a) General rule.--To carry out the objectives of this
20 subchapter, the department may enter into agreements with other
21 governmental or private entities and individuals and form and
22 operate or authorize the formation and operation of bureaus and
23 other legal entities.

24 (b) Powers with respect to private market.--If the private
25 insurance market unfairly discriminates against higher risk
26 physicians by denying professional liability insurance coverage
27 to 50% or more of all physicians in insurance rating class 3, 4
28 or 5 or their equivalents, the department, after notice in the
29 Pennsylvania Bulletin and public hearings, may declare that the
30 plan established under this subchapter shall be the exclusive

1 source of professional liability insurance for health care
2 providers in this Commonwealth. The department may dissolve the
3 plan if it determines that the plan is no longer necessary and
4 that an adequate market will be maintained for professional
5 liability insurance for health care providers by the private
6 insurance market. The department may thereafter reestablish the
7 plan if it finds that the private industry has failed to provide
8 an adequate market for professional liability insurance by
9 denying professional liability insurance coverage to 50% or more
10 of all rating class 3, 4 or 5 or their equivalents, and may
11 declare it the sole and exclusive source of such insurance under
12 the procedure set forth in this subsection.

13 § 7155. Financing and payment of premiums.

14 The plan shall assure that there is available through the
15 private sector or otherwise, to all applicants, adequate premium
16 financing or provision for the installment payment of premiums
17 subject to customary terms and conditions.

18 § 7156. Selection of insurer to administer plan.

19 The department may select an authorized insurer to administer
20 any plan established pursuant to this article.

21 § 7157. Approval of policies on claims made basis.

22 The department shall not approve a policy written on a claims
23 made basis by any insurer doing business in this Commonwealth
24 unless the insurer guarantees to the department the continued
25 availability of suitable liability protection for health care
26 providers subsequent to the discontinuance of professional
27 practice by the health care provider or the sooner termination
28 of the insurance policy by the insurer or the health care
29 provider for as long as there is a reasonable probability of a
30 claim for injury for which the health care provider may be held

1 liable.

2 § 7158. Annual reports to department.

3 The plan shall report to the department annually on a date
4 and on a form prescribed by the department the total amount of
5 premium dollars collected, the total amount of claims paid and
6 expenses incurred therewith, the total amount of reserve set
7 aside for future claims, the nature and substance of each claim,
8 the date and place in which each claim arose, the amounts paid,
9 if any, the disposition of each claim and such additional
10 information as the department requires.

11 § 7159. Studies and recommendations.

12 The plan shall conduct studies and review member records for
13 the purpose of determining the causes of patient compensation
14 claims and make recommendations for legislative, regulatory and
15 other changes necessary to reduce the frequency and severity of
16 such claims.

17 § 7160. ~~Coverage by joint underwriting association~~ PROFESSIONAL <—
18 CORPORATIONS, PROFESSIONAL ASSOCIATIONS AND
19 PARTNERSHIPS.

20 (a) General rule.--The joint underwriting association shall
21 offer basic coverage insurance to all professional corporations,
22 professional associations and partnerships entirely owned by
23 health care providers who cannot conveniently obtain insurance
24 through ordinary methods at rates not in excess of those
25 applicable to those similarly situated.

26 (b) Excess coverage.--If a professional corporation,
27 professional association or partnership entirely owned by health
28 care providers elects to be covered by basic coverage insurance,
29 and pays the annual surcharge as required by section 7142
30 (relating to Medical Professional Liability Catastrophe Loss

1 Fund), it shall be entitled to excess coverage from the fund as
2 provided in Subchapter D (relating to Medical Professional
3 Liability Catastrophe Loss Fund).

4 (c) Participation requirement.--Any professional
5 corporation, professional association or partnership which
6 acquires basic coverage insurance from the joint underwriting
7 association pursuant to subsection (a) or from an authorized
8 insurer shall participate in and contribute to the fund.

9 ~~§ 7161. Applicability of certain provisions.~~ <—

10 (D) PARTICIPATION IN FUND.--Any professional corporation, <—
11 professional association or partnership which participates in or
12 contributes to the fund shall be subject to all other provisions
13 of this chapter.

14 SUBCHAPTER F

15 DISCIPLINARY PROCEEDINGS

16 Sec.

17 7171. Investigations.

18 7172. Hearings.

19 7173. Decisions of hearing examiners.

20 7174. Evidence.

21 7175. Review and decision by licensing boards.

22 7176. Disposition of certain moneys.

23 § 7171. Investigations.

24 The State Board of ~~Medical Education and Licensure~~ MEDICINE, <—
25 the State Board of Osteopathic ~~Examiners~~ MEDICINE and the State <—
26 Board of Podiatry ~~Examiners~~ shall employ such qualified <—
27 investigators and attorneys as are necessary to implement their
28 authority to revoke, suspend, limit or otherwise regulate the
29 licenses of physicians; issue reprimands or impose fines;
30 require refresher educational courses; or require licensees to

1 submit to medical treatment.

2 § 7172. Hearings.

3 (a) Appointment of hearing examiners.--The State Board of
4 ~~Medical Education and Licensure~~ MEDICINE, the State Board of <—
5 Osteopathic ~~Examiners~~ MEDICINE and the State Board of Podiatry <—
6 ~~Examiners~~ shall appoint, with the approval of the Governor, such <—
7 hearing examiners as shall be necessary to conduct hearings in
8 accordance with the disciplinary authority granted by the act of
9 ~~July 20, 1974 (P.L.551, No.190), known as the Medical Practice~~ <—
10 ~~Act of 1974,~~ DECEMBER 20, 1985 (P.L.457, NO.112), KNOWN AS THE <—
11 MEDICAL PRACTICE ACT OF 1985, the act of October 5, 1978
12 (P.L.1109, No.261), known as the Osteopathic Medical Practice
13 Act, and the act of March 2, 1956 (1955 P.L.1206, No.375), known
14 as the Podiatry Act of 1956.

15 (b) Regulations.--The State Board of ~~Medical Education and~~ <—
16 ~~Licensure~~ MEDICINE, the State Board of Osteopathic ~~Examiners~~ <—
17 MEDICINE or the State Board of Podiatry ~~Examiners~~ may promulgate <—
18 regulations with respect to the powers and duties of the hearing
19 examiners appointed under this section.

20 (c) Powers of hearing examiners.--The hearing examiners
21 shall have the power to conduct hearings in accordance with the
22 regulations of the State Board of ~~Medical Education and~~ <—
23 ~~Licensure~~ MEDICINE, the State Board of Osteopathic ~~Examiners~~ <—
24 MEDICINE or the State Board of Podiatry ~~Examiners~~ to administer <—
25 oaths and to issue subpoenas requiring the attendance and
26 testimony of individuals or the production of pertinent books,
27 records, documents and papers by persons whom they believe to
28 have information relevant to any matter pending before the
29 examiner.

30 § 7173. Decisions of hearing examiners.

1 The hearing examiner shall hear evidence submitted and
2 arguments of counsel with reasonable dispatch and shall promptly
3 record his decision, including findings of fact. A copy of the
4 decision shall immediately be sent to the State Board of ~~Medical~~ <—
5 ~~Education and Licensure~~ MEDICINE, the State Board of Osteopathic <—
6 ~~Examiners~~ MEDICINE or the State Board of Podiatry ~~Examiners~~ and <—
7 to counsel of record, or the parties if not represented.

8 § 7174. Evidence.

9 In all hearings proof may be made by oral testimony or by
10 deposition or interrogatories. Depositions shall be taken in the
11 manner and upon the notice required by the rules for taking
12 depositions in civil cases and may be introduced into evidence
13 without regard to the availability of the witness to testify at
14 the time of trial. Any witness, however, may be subpoenaed by
15 any party to the controversy to testify pursuant to the rules
16 appropriate to civil actions and shall be considered to be the
17 witness of the party who offered the deposition.

18 § 7175. Review and decision by licensing boards.

19 (a) Review.--If application for review is made to the State
20 Board of ~~Medical Education and Licensure~~ MEDICINE, the State <—
21 Board of Osteopathic ~~Examiners~~ MEDICINE or the State Board of <—
22 Podiatry ~~Examiners~~ within 20 days from the date of any decision <—
23 made as a result of a hearing held by a hearing examiner, the
24 board shall review the evidence, and may hear argument and
25 additional evidence.

26 (b) Decision.--As soon as practicable, the State Board of
27 ~~Medical Education and Licensure~~ MEDICINE, the State Board of <—
28 Osteopathic ~~Examiners~~ MEDICINE or the State Board of Podiatry <—
29 ~~Examiners~~ shall make a decision including findings of facts and <—
30 shall send a copy thereof to each of the parties to the dispute.

1 § 7176. Disposition of certain moneys.

2 All fees, charges and fines:

3 (1) collected under the act of ~~July 20, 1974 (P.L.551,~~ <—
4 ~~No.190)~~ DECEMBER 20, 1985 (P.L.457, NO.112), known as the <—
5 Medical Practice Act of ~~1974~~ 1985, are specifically <—
6 appropriated for the exclusive use by the State Board of
7 ~~Medical Education and Licensure~~ MEDICINE in carrying out the <—
8 provisions of this subchapter;

9 (2) collected under the act of October 5, 1978
10 (P.L.1109, No.261), known as the Osteopathic Medical Practice
11 Act, are specifically appropriated for the exclusive use by
12 the State Board of Osteopathic ~~Examiners~~ MEDICINE in carrying <—
13 out the provisions of this subchapter; or

14 (3) collected under the provisions of the act of March
15 2, 1956 (1955 P.L.1206, No.375), known as the Podiatry
16 PRACTICE Act of ~~1956~~, are specifically appropriated for the <—
17 exclusive use by the State Board of Podiatry ~~Examiners~~ in <—
18 carrying out the provisions of this subchapter.

19 SUBCHAPTER G

20 MISCELLANEOUS PROVISIONS

21 Sec.

22 7181. Existing contract provisions.

23 7182. Joint committee.

24 7183. APPLICABILITY OF CHAPTER. <—

25 § 7181. Existing contract provisions.

26 Every express contract between a patient and health care
27 provider in existence on January 13, 1976, containing provisions
28 inconsistent with the terms and provisions of this chapter,
29 remains unimpaired and effective as to all parties until the
30 contract expires or is rescinded by law or the mutual agreement

1 of the parties.

2 § 7182. Joint committee.

3 There shall be a committee consisting of the commissioner as
4 chairman, the Secretary of Health and two members of the Senate,
5 one member of each party, to be appointed by the President pro
6 tempore of the Senate and two members of the House of
7 Representatives, one member of each party, to be appointed by
8 the Speaker of the House of Representatives. The committee shall
9 study the distribution of professional liability insurance costs
10 as among the various classes of physicians and health care
11 providers and shall report its findings and recommendations to
12 the General Assembly. The committee shall also study all phases
13 and the financial impact of the operations of the fund. The
14 committee shall study the provisions, application and operation
15 of this chapter to determine if any changes in the law are
16 necessary or advisable. This study shall include consideration
17 of the advisability and potential effect of the application of
18 this chapter to mental health-mental retardation facilities. The
19 committee shall annually report on this study on or before July
20 1.

21 § 7183. APPLICABILITY OF CHAPTER.

<—

22 THIS CHAPTER DOES NOT APPLY TO INJURIES OR DEATH FROM
23 SERVICES RENDERED OR WHICH SHOULD HAVE BEEN RENDERED BY A HEALTH
24 CARE PROVIDER WHICH OCCURRED BEFORE JANUARY 13, 1976.

25 CHAPTER 73

26 HEALTH MAINTENANCE ORGANIZATIONS

27 Subchapter

28 A. General Provisions

29 B. Operation and Regulation

30 SUBCHAPTER A

GENERAL PROVISIONS

Sec.

7301. Short title of chapter.

7302. Purpose of chapter.

7303. Definitions.

7304. Applicability of chapter.

7305. Applicability of other law.

7306. Exemption from taxation.

7307. Regulations.

§ 7301. Short title of chapter.

This chapter shall be known and may be cited as the Health Maintenance Organization Act.

§ 7302. Purpose of chapter.

The purpose of this chapter is to permit and encourage the formation and regulation of health maintenance organizations and to authorize the Department of Health to provide technical advice and assistance to corporations desiring to establish, operate and maintain a health maintenance organization to the end that increased competition and consumer choice offered by diverse health maintenance organizations can constructively serve to advance the purposes of quality assurance, cost-effectiveness and access.

§ 7303. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Basic health services." Those health services, including as a minimum, but not limited to, emergency care, inpatient hospital and physician care, ambulatory physician care and outpatient and preventive medical services.

1 "Direct provider." An individual who is a direct provider of
2 health care services under a benefit plan of a health
3 maintenance organization or an individual whose primary current
4 activity is the administration of health facilities in which
5 such care is provided. An individual shall not be considered a
6 direct provider of health care solely because the individual is
7 a member of the governing body of a health-related organization.

8 "Health maintenance organization." An organized system which
9 combines the delivery and financing of health care and which
10 provides basic health services to voluntarily enrolled
11 subscribers for a fixed prepaid fee.

12 § 7304. Applicability of chapter.

13 (a) Unrelated activities.--Any requirements or privileges
14 granted under this chapter shall apply exclusively to that
15 portion of business or activities which reasonably relates to
16 the establishment, maintenance and operation of a health
17 maintenance organization pursuant to Subchapter B (relating to
18 operation and regulation).

19 (b) Prior authorization.--Any health maintenance
20 organization program approved by the department or the
21 Department of Health and operating under Chapter 75 (relating to
22 hospital plan corporations) or 77 (relating to professional
23 health services plan corporations) or under any statute
24 superseded thereby, prior to February 17, 1981, may continue to
25 operate thereunder.

26 § 7305. Applicability of other law.

27 (a) Exemptions from general insurance law.--Except as
28 otherwise provided in this chapter, a health maintenance
29 organization operating under Subchapter B (relating to operation
30 and regulation) is not subject to the present law of this

1 Commonwealth relating to insurance corporations engaged in the
2 business of insurance nor to any statute hereafter enacted
3 relating to the business of insurance unless the statute is
4 specifically made applicable by its terms. In the case of a
5 health maintenance organization established, operated and
6 maintained by a corporation, this exemption shall apply only to
7 the operations and subscribers of the health maintenance
8 organization.

9 (b) Inclusions.--All health maintenance organizations are
10 subject to Chapter 15 (relating to unfair insurance practices).
11 Any rehabilitation, liquidation or conservation of a health
12 maintenance organization shall be deemed to be the
13 rehabilitation, liquidation or conservation of an insurance
14 company and shall be conducted under the supervision of the
15 department under Chapter 39 (relating to suspension of business
16 and dissolution) and other applicable law.

17 § 7306. Exemption from taxation.

18 Every health maintenance organization established, maintained
19 and operated by a corporation not-for-profit shall be deemed a
20 charitable and benevolent institution, and its income, funds,
21 investments and property shall be exempt from taxation by the
22 Commonwealth or its political subdivisions.

23 § 7307. Regulations.

24 The department and the Department of Health shall promulgate
25 reasonable regulations as necessary to effectuate the purposes
26 and provisions of this chapter.

27 SUBCHAPTER B

28 OPERATION AND REGULATION

29 Sec.

30 7321. Scope of authorization.

- 1 7322. Certificates of authority.
- 2 7323. Foreign health maintenance organizations.
- 3 7324. Filing of rates and contract forms.
- 4 7325. Reports and examinations.
- 5 7326. Contracts.
- 6 7327. Services performed outside service area.
- 7 7328. Additional requirements.
- 8 7329. Penalties.
- 9 § 7321. Scope of authorization.

10 (a) General rule.--Notwithstanding any law to the contrary,
11 any corporation may establish, maintain and operate a health
12 maintenance organization upon receipt of a certificate of
13 authority to do so under this subchapter.

14 (b) Required services.--The health maintenance organization
15 shall:

16 (1) Provide basic health services, either directly or
17 through arrangements with other persons, ~~to enrolled~~ <—
18 ~~subscribers.~~ TO: <—

19 (I) ENROLLED SUBSCRIBERS; OR

20 (II) OTHER PERSONS.

21 (2) Provide physicians' services:

22 (i) directly through physicians who are employees of
23 the organization;

24 (ii) under arrangements with one or more groups of
25 physicians, organized on a group practice or individual
26 practice basis, under which each such group is reimbursed
27 for its services primarily on the basis of an aggregate
28 fixed sum or on a per capita basis, regardless of whether
29 the individual physician members of any such group are
30 paid on a fee-for-service or other basis; or

(iii) under similar arrangements which are found by the ~~secretary~~ DEPARTMENT OF HEALTH to provide adequate financial incentives for the provision of quality and cost-effective care. <—

§ 7322. Certificates of authority.

(a) Application for certificate.--Every application for a certificate of authority under this subchapter shall be made to the department and the Department of Health in writing and shall be in such form and contain such information as the regulations of the department and the Department of Health shall require.

(b) Criteria for issuance.--A certificate of authority shall be jointly issued by order of the department and the Department of Health when the following requirements are met:

(1) The Department of Health finds and determines that the applicant:

(i) has demonstrated the potential ability to assure both availability and accessibility of adequate personnel and facilities in a manner enhancing availability, accessibility and continuity of services;

(ii) has arrangements for an ongoing quality of health care assurance program; and

(iii) has appropriate mechanisms whereby the health maintenance organization will effectively provide or arrange for the provision of basic health care services on a prepaid basis.

(2) The department finds and determines that the applicant has a reasonable plan to operate the health maintenance organization in a financially sound manner and is reasonably expected to meet its obligations to ~~enrollees~~ SUBSCRIBERS and prospective ~~enrollees~~ SUBSCRIBERS. The <—

1 department may require by regulation a deposit of cash, a
2 guaranty or the maintenance of minimum restricted reserves,
3 to assure that the obligations to subscribers will be
4 performed. In making the determination as to qualification
5 for the certificate, the department may consider the
6 following:

7 (i) The adequacy of working capital and funding
8 sources.

9 (ii) Arrangements for insuring the payment of the
10 cost of health care services or the provision for
11 automatic applicability of an alternative coverage in the
12 event of discontinuance of the health maintenance
13 organization.

14 (iii) Any agreement with providers of health care
15 services whereby they assume financial risk for the
16 provision of services to subscribers.

17 (c) Disposition of applications.--Within 90 days of receipt
18 of a completed application for a certificate of authority, the
19 department and the Department of Health shall jointly either
20 approve the application and issue a certificate of authority or
21 disapprove the application and specify in writing the reasons
22 for the disapproval. Any disapproval of an application may be
23 appealed in accordance with Title 2 (relating to administrative
24 law and procedure).

25 (d) Exclusions.--Certificates of authority shall not be
26 required of:

27 (1) Any health maintenance organization offered by an
28 employer for the exclusive enrollment of his employees or by
29 a union for the sole use of its members.

30 (2) Any plan, program or service offered by an employer

1 for the prevention of disease among his employees.

2 § 7323. Foreign health maintenance organizations.

3 (a) Authorization.--A health maintenance organization
4 approved and regulated under the law of another state may be
5 authorized by issuance of a certificate of authority to do
6 business in this Commonwealth by satisfying the department and
7 the Department of Health that it is fully and legally organized
8 under the law of its state and that it complies with all
9 requirements for health maintenance organizations organized in
10 this Commonwealth.

11 (b) Waivers.--The department and the Department of Health
12 may waive or modify the provisions of this chapter under which
13 they have authority to act, if they determine that the
14 provisions are not appropriate to a particular health
15 maintenance organization of another state and that the waiver or
16 modification will be consistent with the purposes and provisions
17 of this chapter and will not result in unfair discrimination in
18 favor of the health maintenance organization of another state.

19 (c) Reciprocal agreements.--The department and the
20 Department of Health shall develop with other states reciprocal
21 licensing agreements concerning the licensure of health
22 maintenance organizations which permit the department and the
23 Department of Health to accept audits, inspections and reviews
24 of agencies from other states to determine whether health
25 maintenance organizations licensed in other states meet the
26 requirements of this Commonwealth.

27 § 7324. Filing of rates and contract forms.

28 All rates charged subscribers or groups of subscribers by a
29 health maintenance organization and the form and content of all
30 contracts between a health maintenance organization and its

1 subscribers or groups of subscribers, all rates of payment to
2 hospitals made by a health maintenance organization pursuant to
3 contracts provided for in this subchapter, budgeted acquisition
4 costs in connection with the solicitation of subscribers and the
5 certificates issued by a health maintenance organization
6 representing its agreements with subscribers shall, at all
7 times, be on file with the department and shall be deemed
8 approved unless explicitly rejected within 60 days of filing.
9 These filings shall be made to the department in such form, and
10 shall set forth such information, as the department may require
11 to carry out the provisions of this chapter. Any disapproval of
12 a filing by the department may be appealed in accordance with
13 Title 2 (relating to administrative law and procedure).

14 § 7325. Reports and examinations.

15 (a) Annual reports.--The corporation shall, on or before
16 March 1 of each year, file with the department a statement,
17 verified by at least two of the principal officers of the
18 corporation, summarizing its financial activities during the
19 preceding calendar or fiscal year and showing its financial
20 condition at the close of that calendar or fiscal year. The
21 statement shall be in such form and shall contain such matter as
22 the department shall prescribe.

23 (b) Examinations and special reports.--The financial affairs
24 and status of every such corporation shall be examined by the
25 department not less frequently than once in every three years.
26 For this purpose the department shall be entitled to the aid and
27 cooperation of the officers and employees of the corporation and
28 shall have convenient access to all records and documents that
29 relate to the financial affairs of the corporation. The
30 department may examine under oath the officers, agents,

1 employees and subscribers for the health services of the
2 corporation, and all other persons having a substantial part in
3 the business of the corporation, in relation to its ~~financial~~ <—
4 affairs, TRANSACTIONS and financial condition. The department <—
5 may at any time, without making this examination, call on the
6 corporation for a written report, authenticated by at least two
7 of its principal officers, concerning the financial affairs and
8 condition of the corporation.

9 (c) Financial records.--A corporation shall maintain its
10 financial records in such a manner that the revenues and
11 expenses associated with the establishment, maintenance and
12 operation of its prepaid health care delivery system under this
13 subchapter are identifiable and distinct from other activities
14 it engages in which are not directly related thereto.

15 (d) Other records.--The ~~secretary~~ DEPARTMENT OF HEALTH shall <—
16 have convenient access to all documents that relate to the
17 business of the corporation, other than financial.

18 § 7326. Contracts.

19 (a) Health service contracts.--Contracts enabling the
20 corporation to provide the services authorized under section
21 7321 (relating to scope of authorization) made with hospitals
22 and practitioners of medical, dental and related services shall
23 be filed with the Department of Health. The Department of Health
24 may have the power to require immediate renegotiation of such
25 contracts whenever it determines that they provide for excessive
26 payments, or that they fail to include reasonable incentives for
27 cost control, or that they otherwise substantially and
28 unreasonably contribute to escalation of the costs of providing
29 health care services to subscribers or that they are otherwise
30 inconsistent with the purposes of this chapter.

1 (b) Administrative contracts.--A health maintenance
2 organization may reasonably contract with any person for the
3 performance on its behalf of other necessary functions,
4 including, but not limited to, marketing, enrollment and
5 administration, and may contract with an insurance company
6 authorized to do an accident and health business in this
7 Commonwealth or a hospital plan corporation or a professional
8 health service corporation for the provision of insurance or
9 indemnity or reimbursement against the cost of health care
10 services provided by the health maintenance organization as it
11 deems necessary. These contracts shall be filed with the
12 department.

13 (c) Third-party payment contracts.--A health maintenance
14 organization established under this subchapter may receive and
15 accept from governmental or private agencies payments covering
16 all or part of the cost of subscriptions to provide its
17 services, facilities, appliances, medicines or supplies.

18 § 7327. Services performed outside service area.

19 If a subscriber entitled to services provided by the
20 corporation necessarily incurs expenses for such services while
21 outside the service area, the health maintenance organization to
22 which the person is a subscriber may, if satisfied that the
23 services were necessary and were such as the subscriber would
24 have been entitled to under similar circumstances in the service
25 area, reimburse the subscriber or pay on his behalf all or part
26 of the reasonable expenses incurred for the services. The
27 decision for reimbursement shall be subject to review by the
28 department at the request of a subscriber.

29 § 7328. Additional requirements.

30 (a) Board of directors.--At least one-third of the

1 membership of the board of directors of any health maintenance
2 organization authorized under this subchapter shall be selected
3 from the subscribers of the organization. The board of directors
4 shall be elected in the manner stated in the corporation's
5 charter or bylaws.

6 (b) Solicitors and agents.--Solicitors or agents compensated
7 directly or indirectly by any corporation subject to this
8 subchapter shall meet such prerequisites as the department by
9 regulation shall require.

10 (c) Grievance procedure.--A health maintenance organization
11 shall establish and maintain a grievance resolution system
12 satisfactory to the Department of Health whereby the complaints
13 of its subscribers shall be acted upon promptly and
14 satisfactorily.

15 (d) Optometric care.--If a health maintenance organization
16 offers eye care which is within the scope of the practice of
17 optometry, it shall make optometric care available to its
18 subscribers, and shall make the same reimbursement whether the
19 service is provided by an optometrist or a physician.

20 § 7329. Penalties.

21 (a) Grounds.--The department or the Department of Health may
22 suspend or revoke any certificate of authority issued to a
23 health maintenance organization under this subchapter, or impose
24 a penalty of not more than \$1,000 for each unlawful act
25 committed, if they find that any of the following conditions
26 exist:

27 (1) The health maintenance organization is providing
28 inadequate or poor quality care, thereby creating a threat to
29 the health and safety of its subscribers.

30 (2) The health maintenance organization is unable to

1 fulfill its contractual obligations to its subscribers.

2 (3) The health maintenance organization or any person on
3 its behalf has advertised its services in an untrue,
4 misrepresentative, misleading, deceptive or unfair manner.

5 (4) The health maintenance organization has otherwise
6 failed to substantially comply with this chapter.

7 (b) Procedure.--Before the department or the Department of
8 Health, whichever is appropriate, takes any action under
9 subsection (a), it shall give written notice to the health
10 maintenance organization accused of violating the law, stating
11 specifically the nature of the alleged violation and fixing a
12 time and place, at least ten days thereafter, when a hearing of
13 the matter shall be held. The hearing procedure and appeals from
14 decisions of the department or the Department of Health shall be
15 as provided in Title 2 (relating to administrative law and
16 procedure).

17 CHAPTER 74

18 CONTINUING CARE PROVIDERS

19 Sec.

20 7401. Short title of chapter.

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15 § 7401. Short title of chapter.

16 This chapter shall be known and may be cited as the
17 Continuing Care Provider Registration and Disclosure Act.

18 § 7402. Purpose of chapter.

19 The General Assembly recognizes that continuing care
20 communities have become an important and necessary alternative
21 for the long-term residential social and health maintenance
22 needs for many of the elderly citizens of this Commonwealth. The
23 General Assembly finds and declares that tragic consequences can
24 result to citizens of this Commonwealth when a provider of
25 services under a continuing care agreement becomes insolvent or
26 unable to provide responsible care. The General Assembly
27 recognizes the need for full disclosure with respect to the term
28 of agreements between prospective residents and the provider and
29 the operations of such providers. Accordingly, the General
30 Assembly has determined that these providers should be regulated

1 in accordance with the provisions of this chapter. The
2 provisions of this chapter shall be the minimum requirements to
3 be imposed upon any person or organization offering or providing
4 continuing care as set forth in this chapter.

5 § 7403. Definitions.

6 The following words and phrases when used in this chapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Continuing care." The furnishing to an individual, other
10 than an individual related by consanguinity or affinity to the
11 person furnishing such care, of board and lodging together with
12 nursing services, medical services or other health-related
13 services, regardless of whether or not the lodging and services
14 are provided at the same location and pursuant to an agreement
15 effective for the life of the individual or for a period in
16 excess of one year, including mutually terminable contracts and
17 in consideration of the payment of an entrance fee with or
18 without other periodic charges.

19 "Entrance fee." An initial or deferred transfer to a
20 provider of a sum of money or other property made or promised to
21 be made as full or partial consideration for acceptance of a
22 specified individual as a resident in a facility. The term does
23 not include a fee which is less than the sum of the regular
24 periodic charges for one year of residence.

25 "Facility." The place or places in which a person undertakes
26 to provide continuing care to an individual.

27 "Living unit." A room, apartment, cottage or other area
28 within a facility set aside for the exclusive use or control of
29 one or more identified individuals.

30 "Manager." A person who operates a facility for the

1 provider.

2 "Provider." A person undertaking to provide continuing care
3 in a facility. If the provider is a corporation, partnership or
4 association, the term includes persons operating not-for-profit
5 as well as for-profit.

6 "Resident." An individual entitled to receive continuing
7 care in a facility.

8 "Solicit." All actions of a provider or manager in seeking
9 to have individuals residing in this Commonwealth pay an
10 application fee and enter into a continuing care agreement by
11 any means, including, but not limited to, personal, telephone or
12 mail communication or any other communication directed to and
13 received by any individual in this Commonwealth and any
14 advertisements in any media distributed or communicated by any
15 means to individuals in this Commonwealth.

16 § 7404. Certificates of authority.

17 (a) General rule.--A provider shall not engage in the
18 business of providing continuing care in this Commonwealth
19 without a certificate of authority therefor obtained from the
20 department as provided in this chapter.

21 (b) Filing.--The application for a certificate of authority
22 shall be filed with the department by the provider on forms
23 prescribed by the department and shall include all information
24 required by the department pursuant to regulations promulgated
25 under this chapter, including, but not limited to, the
26 disclosure statement meeting the requirements of this chapter.

27 (c) Approval or rejection of applications.--Upon receipt of
28 the application for a certificate of authority in proper form,
29 the department shall, within ten business days, issue a notice
30 of filing to the applicant. Within 60 days of the notice of

1 filing, the department shall enter an order issuing the
2 certificate of authority or rejecting the application.

3 (d) Defective application.--If the department determines
4 that any of the requirements of this chapter have not been met,
5 the department shall notify the applicant that the department
6 requires the application to be corrected within 30 days in such
7 particulars as designated by the department. If the requirements
8 are not met within the time allowed, the department may enter an
9 order rejecting the application, which shall include the
10 findings of fact upon which the order is based and which shall
11 not become effective until 20 days after the end of the 30-day
12 period. During the 20-day period, the applicant may petition for
13 reconsideration and shall be entitled to a hearing.

14 (e) Temporary certificate.--With respect to a provider who
15 has offered continuing care agreements to existing or
16 prospective residents in a facility established prior to
17 December 18, 1984, which facility has one or more residents
18 living there pursuant to such agreements entered into prior to
19 December 18, 1984, and if such a provider is unable to comply
20 with section 7409 (relating to reserves) within the time
21 provided, the department may, upon the filing of a petition by
22 the provider, issue a temporary certificate of authority to the
23 provider. The provider may then enter into continuing care
24 agreements in compliance with all other applicable provisions of
25 this chapter until the permanent certificate of authority has
26 been issued. This temporary certificate may only be issued to
27 those existing providers who will be able to comply with the
28 provisions of section 7409 within a period of time agreed to by
29 the department, which period shall not exceed two years. If a
30 provider is not in compliance on or before the expiration date

1 of the temporary certificate, it may petition the department for
2 an extension. Providers who may be able to comply with section
3 7409, as determined by the department, may be granted an
4 extension of up to three years.

5 (f) Disclosure to residents.--If an existing provider is
6 granted a permanent certificate of authority, any resident who
7 entered into an agreement before the certificate of authority
8 was granted shall be provided with all amendments to the
9 application for registration and the initial disclosure
10 statement.

11 (g) Remedies of residents.--If an existing provider is
12 denied a permanent certificate of authority, any resident who
13 entered into a continuing care agreement before the certificate
14 of authority shall be entitled to all the appropriate remedies
15 as provided in this chapter.

16 (h) Alternative accreditation.--If a facility is accredited
17 by a process approved by the department as substantially
18 equivalent to the requirements of this section, then the
19 facility shall be deemed to have met the requirements of this
20 section and the department shall issue a certificate of
21 authority to the facility.

22 § 7405. Revocation of certificate of authority.

23 (a) General rule.--The certificate of authority of a
24 provider shall remain in effect until revoked after notice and
25 hearing, upon written findings of fact by the department, that
26 the provider has:

27 (1) willfully violated this chapter;

28 (2) failed to file an annual disclosure statement or
29 resident agreement as required by this chapter;

30 (3) failed to deliver to prospective residents the

disclosure statements required by this chapter;

(4) delivered to prospective residents a disclosure statement which makes an untrue statement or omits a material fact and the provider, at the time of the delivery of the disclosure statement, had actual knowledge of the misstatement or omission; or

(5) failed to comply with a cease and desist order.

(b) Disclosure of grounds.--Findings of fact in support of revocation, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(c) Cease and desist order.--If the department finds good cause to believe that the provider has been guilty of a violation for which revocation could be ordered, the department may first issue an order directed at the provider requiring the provider to cease and desist from continuing the violation. If the cease and desist order is not or cannot be effective in remedying the violation, the department may, after notice and hearing, order that the certificate of authority be revoked and surrendered. The cease and desist order may be appealed to the Commonwealth Court.

§ 7406. Sales or transfers of ownership.

Any provider desiring to sell or transfer ownership of a facility shall notify the department 30 days in advance of the completion of the sale or transfer. The department may revoke, after notice and hearing, upon written findings of fact, the certificate of authority of any provider based upon a substantial change in control or ownership of the provider if the change is found not to be in the best interests of the residents of any facilities owned or controlled by the provider

1 such that such facilities are in imminent danger of becoming
2 insolvent or that the care of present or prospective residents
3 is threatened thereby.

4 § 7407. Disclosure statements.

5 (a) Requirement.--At the time of or prior to the execution
6 of a contract to provide continuing care or at the time of or
7 prior to the transfer of any money or other property to a
8 provider by or on behalf of a prospective resident, whichever
9 first occurs, the provider shall deliver a disclosure statement
10 to the person with whom the contract is to be entered into.

11 (b) Contents.--The statement shall contain all of the
12 following information unless the information is in the contract,
13 a copy of which is required to be attached to the statement:

14 (1) The name and business address of the provider and a
15 statement of whether the provider is a partnership,
16 corporation or other type of legal entity.

17 (2) The names and business addresses of the officers,
18 directors, trustees, managing or general partners, and any
19 person having a 10% or greater equity or beneficial interest
20 in the provider and a description of such person's interest
21 in or occupation with the provider.

22 (3) With respect to the provider, any person named in
23 response to paragraph (2) and, if the facility will be
24 managed on a daily basis by a person other than an individual
25 directly employed by the provider, the proposed manager, the
26 statement shall include:

27 (i) A description of the business experience of the
28 person, if any, in the operation or management of similar
29 facilities.

30 (ii) The name and address of any professional

1 service, firm, association, trust, partnership or
2 corporation in which the person has, or which has in the
3 person, a 10% or greater interest and which it is
4 presently intended will or may provide goods, leases or
5 services to the facility of a value of \$500 or more,
6 within any year, including:

7 (A) A description of the goods, leases or
8 services and the probable or anticipated cost thereof
9 to the facility or provider.

10 (B) The process by which the contract was
11 awarded.

12 (C) Any additional offers that were received.

13 The department may request additional information,
14 detailing why a contract was awarded, as may be
15 necessary.

16 (iii) A description of any matter in which the
17 person:

18 (A) has been convicted of a felony or pleaded
19 nolo contendere to a felony charge or been held
20 liable or enjoined in a civil action by final
21 judgment if the felony or civil action involved
22 fraud, embezzlement, fraudulent conversion or
23 misappropriation of property; or

24 (B) is subject to a currently effective
25 injunctive or restrictive order of a court of record,
26 or within the past five years had any state or
27 Federal license or permit suspended or revoked as a
28 result of an action brought by a governmental agency
29 or department, arising out of or relating to business
30 activity or health care, including, without

1 limitation, actions affecting a license to operate a
2 foster care facility, nursing home, retirement home,
3 home for the aged or facility registered under this
4 chapter or a similar statute in another state.

5 (4) A statement as to the following:

6 (i) Whether the provider is or ever has been
7 affiliated with a religious, charitable or other
8 nonprofit organization.

9 (ii) The nature of the affiliation, if any.

10 (iii) The extent to which the affiliate organization
11 will be responsible for the financial and contract
12 obligations of the provider.

13 (iv) Any provision of the Internal Revenue Code (68A
14 Stat. 3, 26 U.S.C. § 1 et seq.) under which the provider
15 or affiliate is exempt from the payment of Federal income
16 tax.

17 (5) The location and description of the physical
18 property or properties of the facility, existing or proposed,
19 and, to the extent proposed, the estimated completion date or
20 dates, whether or not construction has begun and the
21 contingencies subject to which construction may be deferred.

22 (6) The services provided or proposed to be provided
23 under contracts for continuing care at the facility,
24 including the extent to which medical care is furnished. The
25 disclosure statement shall clearly state which services are
26 included in basic contracts for continuing care and which
27 services are made available at or by the facility at extra
28 charge.

29 (7) A description of all fees required of residents,
30 including any entrance fees and periodic charges. The

1 description shall include the manner by which the provider
2 may adjust periodic charges or other recurring fees and any
3 limitations on such adjustments. If the facility is already
4 in operation or if the provider or manager operates one or
5 more similar facilities in this Commonwealth, there shall be
6 included tables showing the frequency and average dollar
7 amount of each increase in periodic rates at each facility
8 for the previous five years or such shorter period as the
9 facility may have been operated by the provider or manager.

10 (8) Any provisions that have been made or will be made
11 to provide reserve funding or security to enable the provider
12 to fully perform its obligations under contracts to provide
13 continuing care at the facility, including the establishment
14 of escrow accounts, trusts or reserve funds, together with
15 the manner in which the funds will be invested and the names
16 and experience of persons who will make the investment
17 decisions.

18 (9) Certified financial statements of the provider,
19 including the following:

20 (i) A balance sheet as of the end of the two most
21 recent fiscal years.

22 (ii) Income statements of the provider for the two
23 most recent fiscal years or such shorter period of time
24 as the provider shall have been in existence.

25 (10) If operation of the facility has not yet commenced,
26 a statement of the anticipated source and application of the
27 funds used or to be used in the purchase or construction of
28 the facility, including the following:

29 (i) An estimate of the cost of purchasing or
30 constructing and equipping the facility including such

1 related costs as financing expense, legal expense, land
2 costs, occupancy development costs and all other similar
3 costs which the provider expects to incur or become
4 obligated for prior to the commencement of operations.

5 (ii) A description of any mortgage loan or other
6 long-term financing intended to be used for the financing
7 of the facility, including the anticipated terms and
8 costs of such financing.

9 (iii) An estimate of the total entrance fees to be
10 received from or on behalf of residents at or prior to
11 commencement of operation on the facility.

12 (iv) An estimate of any funds anticipated to be
13 necessary to defray start-up losses and provide reserve
14 funds to assure full performance of the obligations of
15 the provider under contracts for the provision of
16 continuing care.

17 (v) A projection of estimated income from fees and
18 charges other than entrance fees, showing individual
19 rates presently anticipated to be charged and including a
20 description of the assumptions used for calculating the
21 estimated occupancy rate of the facility and the effect
22 on the income of the facility of any government subsidies
23 for health care services to be provided pursuant to the
24 contracts for continuing care.

25 (vi) A projection of estimated operating expenses of
26 the facility, including a description of the assumptions
27 used in calculating the expenses and any separate
28 allowances for the replacement of equipment and
29 furnishings and anticipated major structural repairs or
30 additions.

(vii) Identification of any assets pledged as collateral for any purpose.

(viii) An estimate of annual payments of principal and interest required by any mortgage loan or other long-term financing.

(11) Such other material information concerning the facility or the provider as may be required by the department or as the provider wishes to include.

(12) On the cover page of the statement, in a prominent location and type face, the date of the disclosure statement and that the issuance of a certificate of authority does not constitute approval, recommendation or endorsement of the facility by the department, nor is it evidence of, nor does it attest to, the accuracy or completeness of the information set out in the disclosure statement.

(13) A copy of any standard forms of contract for continuing care used by the provider, attached as an exhibit to the statement.

(c) Annual statements.--The provider shall file with the department, annually within four months following the end of the provider's fiscal year, an annual disclosure statement which shall contain the information required by this chapter for the initial disclosure statement. The annual disclosure statement shall also be accompanied by a narrative describing any material differences between the pro forma income statements filed under this chapter either as part of the application for registration or as part of the most recent annual disclosure statement, and the actual results of operations during the fiscal year. The annual disclosure statement shall also contain a revised pro forma income statement for the next fiscal year. The department

1 may request additional income statements when it is shown that
2 these are necessary.

3 (d) Delivery of statements.--From the date an annual
4 disclosure statement is filed until the date the next succeeding
5 annual disclosure statement is filed with the department and
6 prior to the provider's acceptance of part or all of any
7 application fee or part of the entrance fee or the execution of
8 the continuing care agreement by the resident, whichever first
9 occurs, the provider shall deliver the current annual disclosure
10 statement to the current or prospective residents with whom the
11 continuing care agreement is or may be entered into.

12 (e) Amendment.--In addition to filing the annual disclosure
13 statement, the provider may amend its currently filed disclosure
14 statement at any other time if, in the opinion of the provider,
15 an amendment is necessary to prevent the disclosure statement
16 and annual disclosure statement from containing any material
17 misstatement of fact or omission to state a material fact
18 required to be stated therein. Any such amendment or amended
19 disclosure statement must be filed with the department before it
20 is delivered to any resident or prospective resident and is
21 subject to all the requirements, including those as to content
22 and delivery, of this chapter.

23 § 7408. False information.

24 (a) Statements.--A provider shall not make, publish,
25 disseminate, circulate or place before the public, or cause,
26 directly or indirectly, to be made, published, disseminated,
27 circulated or placed before the public, in a newspaper or other
28 publication, or in the form of a notice, circular, pamphlet,
29 letter or poster, or over any radio or television station, or in
30 any other way, an advertisement, announcement or statement

1 containing any assertion, representation or statement which is
2 untrue, deceptive or misleading.

3 (b) Financial statements.--A provider shall not file with
4 the department or make, publish, disseminate, circulate or
5 deliver to any person or place before the public, or cause,
6 directly or indirectly, to be made, published, disseminated,
7 circulated or delivered to any person or placed before the
8 public, any financial statement which does not accurately state
9 its true financial condition.

10 § 7409. Reserves.

11 Each provider shall establish and maintain liquid reserves in
12 an amount equal to or exceeding the greater of:

13 (1) the total of all principal and interest payments due
14 during the next 12 months on account of any mortgage loan or
15 other long-term financing of the facility; or

16 (2) ten percent of the projected annual operating
17 expenses of the facility exclusive of depreciation.

18 The provider shall notify the department in writing at least ten
19 days prior to reducing the funds available to satisfy this
20 requirement and may expend no more than one-twelfth of the
21 required balance each calendar month. In facilities where some
22 residents are not under continuing care agreements, the reserve
23 shall be computed only on the proportional share of financing or
24 operating expenses that is applicable to residents under
25 continuing care agreements at the end of the provider's most
26 recent fiscal year. Funds in escrow accounts may be used to
27 satisfy this reserve requirement if such funds are available to
28 make payments when operating funds are insufficient for those
29 purposes.

30 § 7410. Reserve fund escrow.

1 The department may require the provider to establish and to
2 maintain on a current basis, in escrow with a bank, trust
3 company or other escrow agent approved by the department, a
4 portion of all entrance fees received by the provider in an
5 aggregate amount not to exceed the total of all principal and
6 interest payments due during the next 12 months on account of
7 any first mortgage loan or other long-term financing of the
8 facility. The funds in the escrow account may be invested with
9 the earnings thereon payable to the provider. If the provider so
10 requests in writing, the escrow agent shall release up to one-
11 twelfth of the original principal balance of the escrow account.
12 A release of funds shall not be made more than once during any
13 calendar month and then only after the escrow agent has given
14 written notice to the department at least ten days prior to the
15 release. The amount of this escrow fund shall be included in
16 satisfying the reserves required under this chapter. This
17 section shall only apply when the department has cause to
18 believe that additional protection may be necessary to secure
19 the obligations assumed under all resident agreements.

20 § 7411. Liens on behalf of residents.

21 Prior to the issuance of a certificate of authority under
22 this chapter or at such other time as the department may
23 determine it in the best interests of residents of a facility,
24 the department may file a lien on the real and personal property
25 of the provider or facility to secure the obligations of the
26 provider pursuant to existing and future contracts for
27 continuing care. A lien filed under this section shall be
28 effective for a period of ten years after filing and may be
29 extended by the department upon a finding that the extension is
30 advisable for the protection of residents of the facility. The

1 lien may be foreclosed upon the liquidation of the facility or
2 the insolvency or bankruptcy of the provider, and, in such
3 event, the proceeds thereof shall be used in full or partial
4 satisfaction of obligations of the provider pursuant to
5 contracts for continuing care then in effect. The lien provided
6 for in this section shall be subordinate to the lien of any
7 first mortgage on the real property of the facility and may be
8 subordinated with the written consent of the department to the
9 claims of other persons if the department determines that
10 subordination is advisable for the efficient operation of the
11 facility.

12 § 7412. Entrance fee escrow.

13 The department shall require, as a condition of issuing a
14 certificate of authority, that the provider establish an
15 interest-bearing escrow account with a bank, trust company or
16 other escrow agent approved by the department. Any entrance fees
17 or payments that are in excess of 5% of the then existing
18 entrance fee for the unit, received by the provider prior to the
19 date the resident is permitted to occupy the living unit in the
20 facilities, shall be placed in the escrow account subject to
21 release as follows:

22 (1) If the entrance fee gives the resident the right to
23 occupy a living unit which has been previously occupied, the
24 entrance fee and any income earned thereon shall be released
25 to the provider at such time as the living unit becomes
26 available for occupancy by the new resident.

27 (2) If the entrance fee applies to a living unit which
28 has not been previously occupied, the entrance fee shall be
29 released to the provider at such time as the department is
30 satisfied that the following requirements are met:

1 (i) Aggregate entrance fees received or receivable
2 by the provider pursuant to executed continuing care
3 agreements equal not less than 50% of the sum of the
4 entrance fees due at full occupancy of the portion of the
5 facility under construction. For the purpose of this
6 subparagraph, entrance fees receivable pursuant to an
7 agreement will be counted only if the facility has
8 received a deposit of 35% or more of the entrance fee due
9 from the individual, or individuals, signing the
10 contract.

11 (ii) The entrance fees received or receivable
12 pursuant to subparagraph (i), plus anticipated proceeds
13 of any first mortgage loan or other long-term financing
14 commitment plus funds from other sources in the actual
15 possession of the provider, are equal to not less than
16 50% of the aggregate cost of constructing or purchasing,
17 equipping and furnishing the facility, plus not less than
18 50% of the funds estimated in the statement of
19 anticipated source and application of funds submitted by
20 the provider as part of its application to be necessary
21 to fund start-up losses of the facility.

22 (iii) A commitment has been received by the provider
23 for any permanent mortgage loan or other long-term
24 financing described in the statement of anticipated
25 source and application of funds submitted as part of the
26 application for certificate of authority and any
27 conditions of the commitment prior to disbursement of
28 funds thereunder, other than completion of the
29 construction or closing of the purchase of the facility,
30 have been substantially satisfied.

1 (3) If the funds in an escrow account to which
2 paragraphs (1) and (2) apply and any interest earned thereon
3 are not released within 36 months, or such greater time as
4 has been specified by the provider with the consent of the
5 department, then such funds shall be returned by the escrow
6 agent to the persons who made the payment to the provider.

7 (4) This section does not require the escrow of any
8 nonrefundable application fee charged to prospective
9 residents.

10 (5) In lieu of any escrow which is required by the
11 department under this section, a provider may post a letter
12 of credit from a financial institution, negotiable securities
13 or a bond by a surety authorized to do business in this
14 Commonwealth, approved by the department as to form and in an
15 amount not to exceed the amount required by paragraph (2)(i).
16 The bond, letter of credit or negotiable securities shall be
17 executed in favor of the department on behalf of individuals
18 who may be found entitled to a refund of entrance fees from
19 the provider.

20 (6) An entrance fee held in escrow may be returned by
21 the escrow agent at any time to the person who paid the fee
22 to the provider upon receipt by the escrow agent of notice
23 from the provider that the person is entitled to a refund of
24 the entrance fee.

25 § 7413. Cross-collateralization.

26 Only the unencumbered assets of a continuing care facility
27 may be pledged by the provider as collateral for the purpose of
28 securing loans for other continuing care facilities, whether
29 proposed or existing.

30 § 7414. Residents' agreements.

1 (a) General rule.--In addition to such other provisions as
2 may be considered proper to effectuate the purpose of any
3 continuing care agreement, each agreement executed on and after
4 the date of the promulgation of the regulations under this
5 chapter shall be written in nontechnical language easily
6 understood by a layperson and shall do the following:

7 (1) Provide for the continuing care of only one
8 resident, or for two or more persons occupying space designed
9 for multiple occupancy, under appropriate procedures
10 established by the provider.

11 (2) Show the value of all property transferred,
12 including donations, subscriptions, fees and any other
13 amounts paid or payable by, or on behalf of, the resident or
14 residents.

15 (3) Specify all services which are to be provided by the
16 provider to each resident, including, in detail, all items
17 which each resident will receive and whether the items will
18 be provided for a designated time period or for life and the
19 average annual cost to the provider of providing the care.
20 These items may include, but not be limited to, food,
21 shelter, nursing care, drugs, burial and incidentals.

22 (4) Describe the health and financial conditions upon
23 which the provider may have the resident relinquish his space
24 in the designated facility.

25 (5) Describe the health and financial conditions
26 required for a person to continue as a resident.

27 (6) Describe the circumstances under which the resident
28 will be permitted to remain in the facility in the event of
29 financial difficulties of the resident.

30 (7) State the fees that will be charged if the resident

1 marries while at the designated facility, the terms
2 concerning the entry of a spouse to the facility and the
3 consequences if the spouse does not meet the requirements for
4 entry.

5 (8) Provide that the agreement may be canceled upon the
6 giving of notice of cancellation of at least 30 days by the
7 provider or the resident. If an agreement is canceled because
8 there has been a good faith determination in writing, signed
9 by the medical director and the administrator of the
10 facility, that a resident is a danger to himself or others,
11 only such notice as is reasonable under the circumstances
12 shall be required.

13 (9) Provide, in print no smaller than the largest type
14 used in the body of said agreement, the terms governing the
15 refund of any portion of the entrance fee.

16 (10) State the terms under which an agreement is
17 canceled by the death of the resident. The agreement may
18 contain a provision to the effect that, upon the death of the
19 resident, the money paid for the continuing care of the
20 resident shall be considered earned and become the property
21 of the provider.

22 (11) Provide for advance notice to the resident, of not
23 less than 30 days, before any change in fees or charges or
24 the scope of care or services may be effective, except for
25 changes required by State or Federal assistance programs.

26 (12) Provide that charges for care paid in one lump sum
27 shall not be increased or changed during the duration of the
28 agreed upon care, except for changes required by State or
29 Federal assistance programs.

30 (b) Rescission.--A resident shall have the right to rescind

1 a continuing care agreement, without penalty or forfeiture,
2 within seven days after making an initial deposit or executing
3 the agreement. A resident shall not be required to move into the
4 facility designated in the agreement before the expiration of
5 the seven-day period. If a resident dies before the occupancy
6 date, or through illness, injury or incapacity is precluded from
7 becoming a resident under the terms of the continuing care
8 agreement, the agreement is automatically rescinded and the
9 resident or his legal representative shall receive a full refund
10 of all moneys paid to the facility, except those costs
11 specifically incurred by the facility at the request of the
12 resident and set forth in writing in a separate addendum, signed
13 by both parties to the agreement.

14 (c) Limitations on dismissal.--An agreement for care shall
15 not permit dismissal or discharge of the resident from the
16 facility providing care prior to the expiration of the agreement
17 without just cause for such a removal. "Just cause" includes,
18 but is not limited to, a good faith determination in writing,
19 signed by the medical director and the administrator of the
20 facility, that a resident is a danger to himself or others while
21 remaining in the facility. If a facility dismisses a resident
22 for just cause, the facility shall pay to the resident any
23 refund due in the same manner as if the resident's agreement was
24 terminated under this chapter.

25 (d) Protection from waiver.--An act, agreement or statement
26 of any resident, or of an individual purchasing care for a
27 resident under any agreement to furnish care to the resident,
28 shall not constitute a valid waiver of any provision of this
29 chapter intended for the benefit or protection of the resident
30 or the individual purchasing care for the resident.

1 (e) Prior agreements.--Those agreements entered into prior
2 to December 18, 1984, or prior to the issuance of a certificate
3 of authority to the provider shall be valid and binding upon
4 both parties in accordance with their terms.

5 § 7415. Organizational rights of residents.

6 (a) General rule.--Residents living in a facility holding a
7 certificate of authority under this chapter shall have the right
8 of self-organization.

9 (b) Quarterly meetings.--The board of directors, a
10 designated representative or other governing body of a
11 continuing care facility shall hold quarterly meetings with the
12 residents of the continuing care facility for the purpose of
13 free discussion of subjects which may include income,
14 expenditures and financial matters as they apply to the facility
15 and proposed changes in policies, programs and services.
16 Residents shall be entitled to at least seven days' notice of
17 each quarterly meeting.

18 § 7416. Rehabilitation or liquidation.

19 (a) General rule.--If, at any time, the department
20 determines, after notice and an opportunity for the provider to
21 be heard, that:

22 (1) a portion of a reserve fund escrow required under
23 this chapter has been or is proposed to be released;

24 (2) a provider has been or will be unable, in such a
25 manner as may endanger the ability of the provider to fully
26 perform its obligations pursuant to contracts for continuing
27 care, to meet the pro forma income or cash flow projections
28 previously filed by the provider;

29 (3) a provider has failed to maintain the reserves
30 required under this chapter; or

1 (4) a provider is bankrupt or insolvent, or in imminent
2 danger of becoming bankrupt or insolvent;
3 the department may apply to the appropriate court of this
4 Commonwealth or to the Federal bankruptcy court which has taken
5 jurisdiction over the provider or facility for an order
6 directing the department or authorizing the department to
7 appoint a trustee to rehabilitate or liquidate a facility.

8 (b) Contents of rehabilitation order.--An order to
9 rehabilitate a facility shall direct the department or trustee
10 to take possession of the property of the provider and to
11 conduct the business thereof, including the employment of such
12 managers or agents as the department or trustee may deem
13 necessary, and to take such steps as the court may direct toward
14 removal of the causes and conditions which have made
15 rehabilitation necessary.

16 (c) Termination of rehabilitation order.--If, at any time,
17 the court finds, upon petition of the department, trustee or
18 provider, or on its own motion, that the objectives of an order
19 to rehabilitate a provider have been accomplished and that the
20 facility can be returned to the provider's management without
21 further jeopardy to the residents of the facility, creditors,
22 owners of the facility and the public, the court may, upon a
23 full report and accounting of the conduct of the facility's
24 affairs during the rehabilitation and of the facility's current
25 financial condition, terminate the rehabilitation and, by order,
26 return the facility and its assets and affairs to the provider's
27 management.

28 (d) Bond of provider.--An order for rehabilitation under
29 this section shall be refused or vacated if the provider posts a
30 bond, by a recognized surety authorized to do business in this

1 Commonwealth and executed in favor of the department on behalf
2 of persons who may be found entitled to a refund of entrance
3 fees from the provider or other damages in the event the
4 provider is unable to fulfill its contracts to provide
5 continuing care at the facility, in an amount determined by the
6 court to be equal to the reserve funding which would otherwise
7 need to be available to fulfill such obligations.

8 (e) Order of liquidation.--If, at any time, the department
9 determines that further efforts to rehabilitate the provider
10 would be useless, the department may apply to the court for an
11 order of liquidation. An order to liquidate a facility may be
12 issued upon application of the department whether or not there
13 has been issued a prior order to rehabilitate the facility. The
14 order shall act as a revocation of the certificate of authority
15 of the facility under this chapter and shall direct the
16 department or a trustee to marshal and liquidate all of the
17 provider's assets located in this Commonwealth.

18 (f) Protection of contracting persons.--In applying for an
19 order to rehabilitate or liquidate a facility, the department
20 shall give due consideration in the application to the manner in
21 which the welfare of persons who have previously contracted with
22 the provider for continuing care may be best served. In
23 furtherance of this objective, the proceeds of any lien obtained
24 by the department under this chapter may be:

- 25 (1) used in full or partial payment of entrance fees;
- 26 (2) used on behalf of residents of a facility being
27 liquidated; or
- 28 (3) paid to other facilities operated by providers who
29 have registered the facilities under this chapter.

30 § 7417. Civil liability.

1 (a) Cause of action.--Any person who, as a provider, or on
2 behalf of a provider:

3 (1) enters into a contract for continuing care at a
4 facility which does not have a certificate of authority under
5 this chapter;

6 (2) enters into a contract for continuing care at a
7 facility without having first delivered a disclosure
8 statement meeting the requirements of this chapter to the
9 person contracting for continuing care; or

10 (3) enters into a contract for continuing care at a
11 facility with a person who has relied on a disclosure
12 statement which omits a material fact required to be stated
13 therein or necessary in order to make the statements made
14 therein, in light of the circumstances under which they are
15 made, not misleading;

16 shall be liable to the person contracting for the continuing
17 care for damages and repayment of all fees paid to the provider,
18 facility or person violating this chapter, less the reasonable
19 value of care and lodging provided to the resident by or on
20 whose behalf the contract for continuing care was entered into
21 prior to discovery of the violation, misstatement or omission or
22 the time the violation, misstatement or omission should
23 reasonably have been discovered, together with court costs and
24 reasonable attorney fees.

25 (b) Knowledge.--Liability under this section shall exist
26 regardless of whether or not the provider or person liable had
27 actual knowledge of the misstatement or omission.

28 (c) Offer of rescission.--A person may not file or maintain
29 an action under this section if the person, before filing the
30 action, received an offer, approved by the department, to refund

1 all amounts paid the provider, facility or person violating this
2 chapter together with interest from the date of payment, less
3 the reasonable value of care and lodging provided prior to
4 receipt of the offer, and the person failed to accept the offer
5 within 30 days of its receipt. At the time a provider makes a
6 written offer of rescission, the provider shall file a copy with
7 the department. The rescission offer shall include a statement
8 of the provisions of this section.

9 (d) Limitation on action.--An action shall not be maintained
10 to enforce a liability created under this chapter unless brought
11 before the expiration of six years after the execution of the
12 contract for continuing care which gave rise to the violation.

13 (e) Other civil liability.--Except as expressly provided in
14 this chapter, civil liability in favor of a private party shall
15 not arise against a person, by implication, from or as a result
16 of the violation of this chapter. This chapter does not limit a
17 liability which may exist by virtue of any other statute or
18 under common law if this chapter were not in effect.

19 § 7418. Investigations and compulsory process.

20 (a) Investigations.--The department may make such public or
21 private investigations in or outside this Commonwealth as the
22 department deems necessary:

23 (1) to determine whether any person has violated or is
24 about to violate this chapter; or

25 (2) to aid in the enforcement of this chapter or in the
26 prescribing of regulations and forms under this chapter.

27 The department may publish information concerning any violation
28 of this chapter.

29 (b) Compulsory process.--For the purpose of any
30 investigation or proceeding under this chapter, the department

1 or any officer designated by the department may administer
2 oaths, subpoena witnesses, compel their attendance, take
3 evidence and require the production of any books, papers,
4 correspondence, memoranda, agreements or other documents or
5 records which the department deems relevant to the inquiry, all
6 of which may be enforced in court.

7 § 7419. Audits.

8 The department shall visit each facility to examine its books
9 and records at least once every four years. A multifacility
10 provider may be required to provide the financial statements of
11 the facilities under its control at the request of the
12 department. The financial statements need not be certified
13 audited reports.

14 § 7420. Consumers' guides.

15 The department shall publish and distribute a consumers'
16 guide to continuing care facilities and an annual directory of
17 continuing care facilities.

18 § 7421. Civil relief from violations.

19 Whenever it appears to the department that any person has
20 engaged in, or is about to engage in, any act or practice
21 constituting a violation of this chapter, the department may:

22 (1) issue an order directed at the person requiring the
23 person to cease and desist from engaging in the act or
24 practice; or

25 (2) bring an action in court to enjoin the act or
26 practice and to enforce compliance with this chapter.

27 Upon a proper showing, a permanent or temporary injunction,
28 restraining order or order of mandamus shall be granted, and a
29 receiver or conservator may be appointed for the defendant or
30 the defendant's assets. The department shall not be required to

1 post a bond.

2 § 7422. Criminal penalties.

3 (a) General rule.--Any person who willfully and knowingly
4 violates this chapter commits a misdemeanor of the second
5 degree.

6 (b) Reference to prosecutors.--The department may refer such
7 evidence as is available concerning violations of this chapter
8 to the Attorney General or the proper county attorney who may,
9 with or without such a reference, institute the appropriate
10 criminal proceedings under this chapter.

11 (c) Other crimes.--This chapter does not limit the power of
12 the Commonwealth to punish any person for any conduct which
13 constitutes a crime under any other statute.

14 § 7422.1. REGULATIONS.

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15 THE DEPARTMENT MAY ADOPT, AMEND OR REPEAL SUCH REGULATIONS AS
16 ARE REASONABLY NECESSARY FOR THE ENFORCEMENT OF THIS CHAPTER.

17 § 7423. Fees and expenses.

18 The regulations promulgated by the department shall determine
19 those transactions which shall require the payment of fees by a
20 provider and the fees which shall be charged. The department may
21 be reimbursed for any expenses it reasonably incurs in pursuing
22 its investigative and rehabilitation activities under this
23 chapter.

24 § 7424. Compliance period.

25 Any provider may be given a reasonable time, not to exceed
26 one year from the date of publication of any applicable
27 regulations promulgated under this chapter, within which to
28 comply with the regulations and to obtain a certificate of
29 authority.

30

CHAPTER 75

HOSPITAL PLAN CORPORATIONS

Subchapter

A. Preliminary Provisions

B. Certification

C. Regulation

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

7501. Definitions.

7502. (Reserved).

7503. Penalties.

§ 7501. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Hospital plan corporation." A corporation not-for-profit engaged in the business of maintaining and operating a nonprofit hospital plan.

"Nonprofit hospital plan." A plan whereby for prepayment, periodical or lump-sum payment hospitalization or related health benefits may be provided to subscribers to the plan.

§ 7502. (Reserved).

§ 7503. Penalties.

(a) Offenses.--Any person who:

(1) violates any of the provisions of this chapter or any regulation or order of the department made pursuant thereto;

(2) hinders or prevents the department in the discharge of any duty imposed on it by this chapter;

(3) fraudulently procures or attempts to procure any

benefit from any hospital plan corporation holding a
certificate of authority under this chapter; or

(4) willfully makes any false statement in any
proceeding or report under this chapter;

commits a misdemeanor of the third degree.

(b) Persons liable.--Any act or default by any corporation,
association or common law trust, in violation of any provision
of this chapter or of any regulation or order of the department
made pursuant thereto, shall be deemed to be the act or default
of the officers or directors who participated in authorizing or
effecting the act or default or who knowingly permitted it.

SUBCHAPTER B

CERTIFICATION

Sec.

7511. Certification of hospital plan corporations.

7512. Exemptions for hospital plan corporations.

7513. Uncertified plans.

§ 7511. Certification of hospital plan corporations.

(a) General rule.--A corporation not-for-profit incorporated
for the purpose of establishing, maintaining and operating a
nonprofit hospital plan shall not commence business until it has
received from the department a certificate of authority
authorizing the corporation to establish, maintain and operate
such a nonprofit hospital plan.

(b) Exemption.--Subsection (a) does not apply to any
nonprofit corporation incorporated with the approval of the
department under the former provisions of section 218 of the act
of May 5, 1933 (P.L.289, No.105), known as the Nonprofit
Corporation Law OF 1933. For the purposes of this chapter, such
a corporation shall be deemed to be a holder of a certificate of

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1 authority issued under this section.

2 (c) Form of application.--Every application for a
3 certificate of authority under this section shall be made to the
4 department in writing and shall be in such form and contain such
5 information as the regulations of the department require.

6 (d) Standards for issuance of certificate.--A certificate of
7 authority shall be issued by ORDER OF the department only if and <—
8 when the department finds and determines that the application
9 complies with this chapter and the regulations of the department
10 thereunder.

11 (e) Procedure.--For the purpose of enabling the department
12 to make the FINDING OR determination required by subsection (d), <—
13 the department, by publication of notice in the Pennsylvania
14 Bulletin, shall afford reasonable opportunity for hearing, which
15 shall be public. Before or after the hearing, it may make such
16 inquiries, audits and investigations, and may require the
17 submission of such supplemental studies and information, as
18 necessary to enable it to reach a finding or determination. The
19 department, in granting a certificate of authority, may impose
20 just and reasonable conditions. In every case the department
21 shall make a finding or determination in writing, stating
22 whether or not the application has been approved, and if it has
23 been approved in part only, specifying the part which has been
24 approved and the part which has been denied. Any holder of a
25 certificate of authority, exercising the authority conferred
26 thereby, shall be deemed to have waived any and all objections
27 to the terms and conditions of such certificate.

28 (f) Judicial review.--Orders of the department upon an
29 application for a certificate of authority under this section
30 shall be subject to judicial review as provided by law.

1 § 7512. Exemptions for hospital plan corporations.

2 (a) General insurance law.--Except as otherwise expressly
3 provided in this title, a hospital plan corporation holding a
4 certificate of authority under this chapter is not subject to
5 any other provision of this title or other law of this
6 Commonwealth relating to the business of insurance. No statute
7 hereafter enacted relating to the business of insurance shall
8 apply to such a corporation unless the statute specifically
9 refers and applies to such corporations.

10 (b) Taxation.--Every hospital plan corporation holding a
11 certificate of authority under this chapter shall be deemed a
12 charitable and benevolent institution, and all its funds and
13 investments shall be exempt from taxation by the Commonwealth or
14 its political subdivisions.

15 § 7513. Uncertified plans.

16 A person, other than a hospital plan corporation holding a
17 certificate of authority under this chapter, shall not
18 establish, maintain or operate a nonprofit hospital plan in this
19 Commonwealth.

20 SUBCHAPTER C

21 REGULATION

22 Sec.

23 7521. Eligible hospitals.

24 7522. Action as agent under Federal and other programs.

25 7523. Investment of funds.

26 7524. Rates and contracts.

27 7525. Reports and examinations.

28 7526. Solicitors and agents.

29 7527. Dissolution or liquidation.

30 § 7521. Eligible hospitals.

1 Any hospital plan corporation may enter into contracts for
2 the rendering of hospitalization to any of its subscribers only
3 with hospitals operated by the Commonwealth, or by political
4 subdivisions, or by corporations organized under the law of this
5 Commonwealth for hospital purposes or with hospitals approved by
6 the Department of Public Welfare.

7 § 7522. Action as agent under Federal and other programs.

8 (a) General rule.--Any hospital plan corporation may, with
9 the approval of the department, act as a carrier under section
10 1842 of the Social Security Act (Public Law 89-97, 42 U.S.C. §
11 1395u) with power to perform all the services which may be
12 required of such a ~~subcarrier~~ CARRIER. The corporation may <—
13 perform administrative services similar or related to:

14 (1) those which may be required of an agency or
15 organization thereunder in connection with a Federal, state
16 or local governmental health care program; and

17 (2) those which may be required of such an agency or
18 organization in connection with or associated with
19 nongovernmental organizations, individuals, groups and
20 agencies in the health care field.

21 (b) Legislative amendment of stated purposes--The stated
22 purposes of all existing hospital plan corporations are amended
23 so as to include the performance of the activities authorized by
24 subsection (a).

25 § 7523. Investment of funds.

26 Any statute to the contrary notwithstanding, the assets of
27 any hospital plan corporation shall be invested in compliance
28 with the requirements of SUBCHAPTER A OF Chapter 53 (relating to <—
29 life insurance) for the investment of the assets of life <—
30 ~~insurance~~ INVESTMENTS AND CORPORATE OPERATIONS companies. <—

1 § 7524. Rates and contracts.

2 (a) General rule.--The rates charged to subscribers by
3 hospital plan corporations, all rates of payments to hospitals
4 made by ~~the~~ THOSE corporations pursuant to the contracts <—
5 provided for in this chapter, all acquisition costs in
6 connection with the solicitation of subscribers to ~~the~~ NONPROFIT <—
7 hospital plans, the reserves to be maintained by ~~the~~ THOSE <—
8 corporations, the certificates issued by ~~the~~ THOSE corporations <—
9 representing their agreements with subscribers and all contracts
10 entered into by ~~the~~ ANY SUCH corporation with any hospital shall <—
11 at all times be subject to the prior approval of the department.

12 (b) Procedure.--Every application for approval under
13 subsection (a) shall be made to the department in writing and
14 shall be subject to the provisions of section 7511(c) through
15 (f) (relating to certification of hospital plan corporations),
16 except that the department may substitute the publication in the
17 Pennsylvania Bulletin of notice of reasonable opportunity to
18 submit written comments for the publication of opportunity for a
19 hearing in any case where the right to an oral hearing is not
20 conferred by the Constitution of the United States or the
21 Constitution of Pennsylvania. Within 60 days after the filing of
22 the application, the department shall approve or refuse it.

23 (c) Maintenance of contractual relationships.--

24 (1) Declaration of necessity.--The General Assembly
25 finds that many subscribers to nonprofit hospital plans make
26 payments over long periods of time prior to becoming entitled
27 to benefits under the plan and that it is important in the
28 public interest that the reasonable expectations of
29 subscribers as to coverage should be fulfilled if possible.

30 It is declared to be essential for the maintenance of the

1 health of the residents of this Commonwealth that subscribers
2 to nonprofit hospital plans be assured receipt of the
3 hospitalization and related health benefits prepaid by them
4 through payment of the rates approved under this chapter and
5 charged by a hospital plan corporation and that, to
6 accomplish this essential purpose, termination of contracts
7 between hospital plan corporations and hospitals entered into
8 pursuant to section 7521 (relating to eligible hospitals) and
9 this section ~~shall~~ be subject to prior approval by the <—
10 department under this subsection.

11 (2) Notification period.--A contract between a hospital
12 plan corporation and any hospital providing for the rendering
13 of hospitalization to subscribers to the hospital plan shall
14 not be terminated unless the party seeking termination gives
15 90 days' advance written notice to the other party to the
16 contract and to the department of the proposed termination.

17 (3) Hearing period.--Whenever a termination subject to
18 paragraph (2) involves contracts with hospitals having more
19 than 5% of the beds in the area served by a hospital plan
20 corporation, the department shall hold public hearings on at
21 least 15 days' notice for the purpose of investigating the
22 reasons for the termination. Pending completion of the
23 investigation by the department, termination of the hospital
24 contracts shall be suspended for a period not to exceed six
25 months from the expiration of the period provided for in
26 paragraph (2). All terms and conditions of the contract
27 between the hospital plan corporation and the hospital or
28 hospitals shall continue in effect during the investigation
29 by the department. Based on the record made during the
30 hearings, the department shall make specific findings as to

1 the facts of the dispute and shall either approve termination
2 of the contracts or recommend such terms for continuation of
3 the contract as are in the public interest, based upon the
4 facts, the right of a hospital to be paid its costs for
5 hospitalization services to subscribers and the need of
6 subscribers for efficient, reliable hospitalization at a
7 reasonable cost.

8 (4) Negotiation period.--If the department recommends
9 terms for continuation of the contract, the hospital plan
10 corporation and the hospitals involved shall renew their
11 negotiations in order to determine whether a new agreement
12 can be reached substantially on the basis of the terms for
13 continuation recommended by the department. Pending these
14 negotiations, the termination of the hospital contracts shall
15 be suspended for a further period not to exceed 90 days from
16 the date of the decision of the department. If the hospital
17 plan corporation and the hospitals are unable to consummate a
18 new contract within the further period of 90 days, they shall
19 so advise the department. The department shall then approve
20 termination of the contracts effective at the end of a
21 further period of 30 days and shall prescribe the form and
22 extent of notice which the hospital plan corporation shall
23 use in advising its subscribers that hospitalization in the
24 hospitals involved is not covered by a contract between the
25 hospital plan corporation and the hospitals.

26 (5) Retroactivity.--Upon the settlement of any dispute
27 between a hospital plan corporation and any hospital pursuant
28 to paragraphs (2) and (4), the terms and conditions of any
29 new contract shall be retroactive to the date of expiration
30 of the contract previously in effect between the parties.

1 § 7525. Reports and examinations.

2 (a) Annual report.--On or before March 1 of each year, every
3 hospital plan corporation shall file with the department a
4 statement, verified by at least two of the principal officers of
5 the corporation, showing its condition at the end of the
6 preceding calendar year. The statement shall be in such form and
7 shall contain such matters as the department prescribes.

8 (b) Examination.--Every hospital plan corporation shall be
9 subject to examination not less frequently than every three
10 years by the department which shall have convenient access to
11 all documents that relate to the business of the corporation,
12 and the power to examine under oath the officers, agents and
13 employees of the corporation and the subscribers to its
14 nonprofit hospital plan in relation to the affairs, transactions
15 and financial condition of the corporation. These examinations
16 shall be made at such times as the department believes
17 necessary.

18 § 7526. Solicitors and agents.

19 Solicitors and agents for every hospital plan corporation
20 shall meet the prerequisites provided by ~~law for agents of~~ <—
21 ~~insurance companies.~~ SUBCHAPTER A OF CHAPTER 11 (RELATING TO <—
22 AGENTS).

23 § 7527. Dissolution or liquidation.

24 A hospital plan corporation shall not be dissolved under the
25 provisions of Title 15 (relating to corporations and
26 unincorporated associations) or under any other provision of law
27 except with the prior approval of the department. Articles of
28 dissolution for a hospital plan corporation filed in the
29 Department of State, whether pursuant to a decree of court
30 liquidating the corporation or otherwise, shall not be effective

1 unless and until approved by the department. Any dissolution or
2 liquidation of a hospital plan corporation shall be under the
3 supervision of the department, which shall have all powers with
4 respect thereto granted to it under Chapter 39 (relating to
5 suspension of business and dissolution).

6 CHAPTER 77

7 PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS

8 Subchapter

9 A. Preliminary Provisions

10 B. Certification

11 C. Regulation Generally

12 SUBCHAPTER A

13 PRELIMINARY PROVISIONS

14 Sec.

15 7701. Applicability of chapter.

16 7702. Definitions.

17 7703. Purpose of chapter.

18 7704. Penalties.

19 7705. Enforcement.

20 § 7701. Applicability of chapter.

21 (a) General rule.--This chapter applies to every person
22 engaged in the business of maintaining and operating a nonprofit
23 health service plan and to every person who violates this
24 chapter.

25 (b) Exceptions.--Notwithstanding subsection (a), this
26 chapter does not apply to:

27 (1) Any hospital plan corporation as defined in section
28 7501 (relating to definitions).

29 (2) Any fraternal benefit society subject to regulation
30 under Chapter 45 (relating to ~~Fraternal Benefit Society Code~~) <—

1 FRATERNAL BENEFIT SOCIETIES). <—

2 § 7702. Definitions.

3 (a) General rule.--The following words and phrases when used
4 in this chapter shall have the meanings given to them in this
5 section unless the context clearly indicates otherwise:

6 ~~"Ancillary health services." The general and usual services~~ <—
7 ~~rendered and care administered by ancillary health service~~
8 ~~providers.~~

9 "Ancillary health service providers." Persons holding a
10 permit to operate a clinical laboratory under the act of
11 September 26, 1951 (P.L.1539, No.389), known as The Clinical
12 Laboratory Act.

13 "ANCILLARY HEALTH SERVICES." THE GENERAL AND USUAL SERVICES <—
14 RENDERED AND CARE ADMINISTERED BY ANCILLARY HEALTH SERVICE
15 PROVIDERS.

16 "Chiropractic services." The general and usual services
17 rendered and care administered by a chiropractor.

18 ~~"Chiropractor." An individual licensed under the laws of~~ <—
19 ~~this Commonwealth to practice chiropractic, as defined in the~~
20 ~~act of December 16, 1986 (P.L.1646, No.188), known as the~~
21 ~~Chiropractic Practice Act.~~

22 "Dental service corporation." A corporation not-for-profit
23 engaged in the business of maintaining and operating a nonprofit
24 dental service plan.

25 "Dental services." The general and usual services rendered
26 and care administered by a dentist.

27 "General medical service corporation." A corporation not-
28 for-profit engaged in the business of maintaining and operating
29 a nonprofit professional health service plan.

30 "Health service doctor." A dentist, physician, optometrist,

1 ~~osteopath, osteopathic surgeon~~ PODIATRIST, chiropractor or <—
2 physical therapist.

3 "Low income." Low income as set forth in section 7725
4 (relating to eligibility determination).

5 "Medical services." The general and usual services rendered
6 and care administered by a ~~physician~~ DOCTOR OF MEDICINE. <—

7 "Nonprofit dental service plan." A plan whereby for
8 prepayment, periodical or lump-sum payment dental services only
9 may be provided to persons of low income or over-income and
10 their dependents.

11 "Nonprofit optometric service plan." A plan whereby for
12 prepayment, periodical or lump-sum payment optometric services
13 only may be provided to persons of low income and over-income
14 and their dependents.

15 "Nonprofit professional health service plan." A plan whereby
16 for prepayment, periodical or lump-sum payment professional
17 health services may be provided to persons of low income or
18 over-income and their dependents. The term does not include a
19 plan which is primarily a nonprofit dental service plan or a
20 nonprofit optometric service plan.

21 "Optometric service corporation." A corporation not-for-
22 profit engaged in the business of maintaining and operating a
23 nonprofit optometric service plan.

24 "Optometric services." The general and usual services
25 rendered and care administered by an optometrist.

26 "Osteopathic services." The general and usual services
27 rendered and care administered by an osteopath or osteopathic
28 surgeon.

29 "Over-income." Over-income as set forth in section 7725
30 (relating to eligibility determination).

1 "Person with dependents." Any person who furnishes other
2 persons with their chief support, whether or not such dependent
3 person is related to or living with him.

4 ~~"Physical therapist." An individual licensed to practice~~ <—
5 ~~physical therapy, as defined in the act of October 10, 1975~~
6 ~~(P.L.383, No.110), known as the Physical Therapy Practice Act.~~

7 "Physical therapy services." The general and usual services
8 rendered and care administered by a physical therapist.

9 ~~"Physician." An individual licensed under the laws of this~~ <—
10 ~~Commonwealth to practice medicine and surgery, as defined in act~~
11 ~~of December 20, 1985 (P.L.457, No.112), known as the Medical~~
12 ~~Practice Act of 1985.~~

13 ~~"Podiatrist." An individual licensed under the laws of this~~
14 ~~Commonwealth to practice podiatric medicine, as defined in the~~
15 ~~act of March 2, 1956 (1955 P.L.1206, No.375), known as the~~
16 ~~Podiatry Practice Act.~~

17 "Podiatry services." The general and usual services rendered
18 and care administered by a podiatrist.

19 "Professional health service corporation." A dental service
20 corporation, a general medical service corporation or an
21 optometric service corporation.

22 "Professional health services." Dental services, medical
23 services, optometric services, osteopathic services, podiatry
24 services, chiropractic services, physical therapy services or
25 any one or more of them.

26 "Subscribers of low income." Persons of low income who
27 subscribe to a nonprofit professional health service plan, a
28 nonprofit dental service plan or a nonprofit optometric service
29 plan.

30 "Subscribers of over-income." Persons of over-income who

1 subscribe to a nonprofit professional health service plan, a
2 nonprofit dental service plan or a nonprofit optometric service
3 plan.

4 (b) Rule of construction.--The definitions specified in
5 subsection (a) are for the purpose of this chapter only and not
6 for the purpose of defining dental practice, medical practice,
7 optometric practice, osteopathic practice, podiatry practice,
8 chiropractic practice or physical therapy practice as such.

9 § 7703. Purpose of chapter.

10 (a) Declaration of necessity.--The General Assembly declares
11 that adequate professional health services are essential for the
12 maintenance of the physical and mental health of the residents
13 of this Commonwealth and that it is necessary that provision be
14 made for adequate professional health services to persons of low
15 income who are unable to provide these services for themselves
16 or their dependents without depriving themselves or their
17 dependents of such necessities of life as food, clothing and
18 shelter.

19 (b) Construction of chapter.--The purpose and intent of this
20 chapter is to authorize qualified persons to provide adequate
21 professional health services for residents of this Commonwealth
22 who are unable to provide these services for themselves or their
23 dependents at their own cost without depriving themselves or
24 their dependents of such necessities of life as food, clothing
25 and shelter and to provide persons of over-income with the
26 limited professional health services benefits set forth in this
27 chapter.

28 § 7704. Penalties.

29 (a) Offenses.--Any person who:

30 (1) violates this chapter or any regulation or order

1 of the Department of Health or the department made
2 pursuant thereto;

3 (2) hinders or prevents the Department of Health or
4 the department in the discharge of any duty imposed on it
5 by this chapter;

6 (3) fraudulently procures or attempts to procure any
7 benefit from any professional health service corporation
8 holding a certificate of authority under this chapter; or

9 (4) willfully makes any false statement in any
10 proceeding or report under this chapter;

11 commits a misdemeanor of the third degree.

12 (b) Persons liable.--Any act or default by any corporation,
13 association or common law trust, in violation of any provision
14 of this chapter or any regulation or order of the Department of
15 Health or the department made pursuant thereto, shall be deemed
16 to be the act or default of the officers or directors who
17 participated in authorizing or effecting the act or default or
18 who knowingly permitted it.

19 § 7705. Enforcement.

20 When necessary to effect the purposes of this chapter, in
21 addition to all other remedies in law or equity, the Department
22 of Health or the department, or both, may commence an action in
23 mandamus or for an injunction to prevent any violation of this
24 chapter or the continuance of any such violation, or to enforce
25 compliance with this chapter.

26 SUBCHAPTER B

27 CERTIFICATION

28 Sec.

29 7711. Certification of professional health service
30 corporations.

1 7712. Initial reserves.

2 7713. Incorporators.

3 7714. Exemptions for professional health service
4 corporations.

5 7715. Uncertificated plans.

6 § 7711. Certification of professional health service
7 corporations.

8 (a) General rule.--A corporation not-for-profit incorporated
9 for the purpose of establishing, maintaining and operating a
10 nonprofit professional health service plan, nonprofit dental
11 service plan or nonprofit optometric service plan shall not
12 commence business until it has received from the department a
13 certificate of authority authorizing the corporation to
14 establish, maintain and operate such a plan.

15 (b) Exemptions.--Subsection (a) does not apply to any
16 nonprofit corporation incorporated with the approval of the
17 department under ~~the~~ former sections 219 (relating to special <—
18 procedures for incorporation of certain nonprofit corporations)
19 or 220 (relating to procedure for incorporation of special
20 nonprofit dental service corporations) of the act of May 5, 1933
21 (P.L.289, No.105), known as the Nonprofit Corporation Law OF <—
22 1933. For the purposes of this chapter, such a corporation shall
23 be deemed to be a holder of a certificate of authority issued
24 under this section as:

25 (1) An optometric service corporation, if incorporated
26 under ~~the~~ former section 219 of the Nonprofit Corporation Law <—
27 OF 1933 for the primary purpose of providing a nonprofit <—
28 optometric service plan.

29 (2) A general medical service corporation, if
30 incorporated under ~~the~~ former section 219 of the Nonprofit <—

Corporation Law OF 1933 for any other purpose.

<—

(3) A dental service corporation, if incorporated under
~~the~~ former section 220 of the Nonprofit Corporation Law OF
1933.

<—

(c) Form of application.--Every application for a
certificate of authority under this section shall be made to the
department in writing and shall be in such form and contain such
information as the regulations of the Department of Health and
the department may require. The department shall forward the
application to the Department of Health for action thereon and
the Department of Health shall thereafter report to the
department.

(d) Standards for issuance of certificate.--A certificate of
authority shall be issued by order of the department only if and
when the Department of Health and the department severally find
and determine that the application complies with the provisions
of this chapter and the regulations of the Department of Health
and the department thereunder.

(e) Procedure.--The proceedings before the Department of
Health and the department shall be subject to the provisions of
section 7511(e) (relating to certification of hospital plan
corporations), except that the responsibilities of the
department shall also be performed by the Department of Health.
The Department of Health and the department shall each make a
thorough investigation of the applicant and the area in and the
plan under which it proposes to operate.

(f) Judicial review.--The final orders of the Department of
Health and the department upon an application for a certificate
of authority under this section shall be deemed to be a single
order for the purposes of judicial review and to have been

1 issued on the date the department issues its final order after
2 having considered the final action of the Department of Health
3 upon the application. The order, and all other orders of the
4 Department of Health or the department, shall be subject to
5 judicial review as provided by law.

6 § 7712. Initial reserves.

7 A professional health service corporation shall not receive a
8 certificate of authority under this chapter unless it has set up
9 a minimum reserve of \$25,000 for the exclusive purpose of
10 meeting the contractual obligations of its subscribers. All or
11 any part of the \$25,000 may be in the form of borrowed money to
12 be repaid in whole or in part from surplus. Money borrowed to
13 satisfy the requirements of this section may be repaid only when
14 authorized by two-thirds of the board of directors of the
15 corporation in office and by the department.

16 § 7713. Incorporators.

17 A certificate of authority shall not be issued to a
18 professional health service corporation unless all of its
19 incorporators are residents of this Commonwealth and citizens of
20 the United States.

21 § 7714. Exemptions for professional health service
22 corporations.

23 (a) General insurance law.--A professional health service
24 corporation shall be subject to regulation and supervision by
25 the Department of Health and the department under this chapter.
26 Except as otherwise expressly provided in this title, a
27 professional health service corporation holding a certificate of
28 authority under this chapter is not subject to any other
29 provision of this title or other law of this Commonwealth
30 relating to the business of insurance. No statute hereafter

1 enacted relating to the business of insurance shall apply to
2 such a corporation unless the statute specifically refers and
3 applies to such a corporation.

4 (b) Taxation.--Every professional health service corporation
5 holding a certificate of authority under this chapter shall be
6 deemed a charitable and benevolent institution, and all its
7 income, funds, investments and property are exempt from all
8 taxation by the Commonwealth or its political subdivisions.

9 § 7715. Uncertificated plans.

10 (a) General rule.--A person, other than a professional
11 health service corporation holding a certificate of authority
12 under this chapter relating to the plan being maintained or
13 operated by the corporation, shall not establish, maintain or
14 operate in this Commonwealth a nonprofit dental service plan, a
15 nonprofit optometric service plan or a nonprofit professional
16 health service plan.

17 (b) Exemptions.--Subsection (a) does not prohibit any person
18 from furnishing professional health services for the prevention
19 of disease among his employees or from furnishing any of such
20 services as required under the act of June 2, 1915 (P.L.736,
21 No.338), known as The Pennsylvania Workmen's Compensation Act,
22 and related statutes, when the employee is not charged for such
23 service.

24 SUBCHAPTER C

25 REGULATION GENERALLY

26 Sec.

27 7721. Required reserves.

28 7722. Scope of service.

29 7723. Action as agent under Federal and other programs.

30 7724. Health service doctors.

1 7725. Eligibility determination.
2 7726. Authorized contract provisions.
3 7727. Subscriptions provided by government agencies.
4 7728. Board of directors.
5 7729. Rates and contracts.
6 7730. Investment of funds.
7 7731. Reports and examinations.
8 7732. Regulation by Department of Health.
9 7733. Dental service agents.
10 7734. Dissolution or liquidation.
11 7735. Ancillary health services.
12 § 7721. Required reserves.

13 A professional health service corporation shall at all times
14 while engaged in business maintain reserves, in such form and
15 amount as the department may determine, to insure its
16 subscribers against loss through the failure of the corporation
17 to provide the services agreed to in its contracts.

18 § 7722. Scope of service.

19 (a) Territory of service.--The certificate of authority of a
20 professional health service corporation shall define the limits
21 of the area in which it may operate. If the corporation is
22 deemed to be a holder of a certificate of authority under
23 section 7711(b) (relating to certification of professional
24 health service corporations), the articles of incorporation of
25 the corporation on February 13, 1973, regardless of any
26 subsequent amendment to those articles, shall be deemed to be
27 its initial certificate of authority for the purposes of this
28 section.

29 (b) Classes and kinds of services.--The certificate of
30 authority, bylaws or resolutions of the board of directors of a

1 professional health service corporation may limit the
2 professional health services that will be provided for its
3 subscribers, and may divide such professional health services as
4 it elects to provide into classes or kinds. The corporation may
5 enter into contracts with its subscribers or groups of
6 subscribers to secure professional health services of any kind
7 or class so delimited. A general medical services corporation
8 shall make available to its subscribers or groups of
9 subscribers, upon request of any individual for his individual
10 subscriptions or any group for its group subscriptions,
11 contracts which provide coverage for professional health
12 services with appropriate premiums.

13 (c) Services provided only by licensed persons.--A
14 professional health service corporation shall not provide
15 professional health services for its subscribers otherwise than
16 through health service doctors duly licensed to practice in
17 their respective fields under the law of this Commonwealth.

18 (d) Services provided only to domiciliaries.--A professional
19 health service corporation shall provide professional health
20 services only to persons domiciled in this Commonwealth. If a
21 subscriber, regularly domiciled in this Commonwealth and
22 entitled to professional health services, or any of his
23 dependents so entitled, employs professional health services
24 while absent from this Commonwealth, a professional health
25 service corporation to which he is a subscriber may, IN ITS
26 DISCRETION, AND if satisfied that the services were necessary
27 and were such as the subscriber would have been entitled to
28 under similar circumstances in this Commonwealth, pay to the
29 persons who rendered the services the fees and charges which
30 would have been payable if the services had been rendered in

<—

1 this Commonwealth. A professional health service corporation
2 organized under the law of, and operating near the boundaries
3 of, this Commonwealth may, with the consent of the proper
4 officers of and as authorized by the law of the adjacent state,
5 provide professional health services therein; all operations of
6 the corporation, whether in or outside this Commonwealth, shall
7 be subject to this chapter.

8 (e) Liability of corporation limited.--All professional
9 health services provided by or on behalf of a professional
10 health service corporation shall be in accordance with the best
11 professional health service practice in the community at the
12 time, but the corporation providing such services shall not be
13 liable for injuries resulting from negligence, misfeasance,
14 malfeasance, nonfeasance or malpractice on the part of any
15 officer or employee or on the part of any health service doctor
16 in the course of rendering professional health services to
17 subscribers, and the corporation may so provide in its contracts
18 with subscribers.

19 (f) Legislative amendment of stated purposes.--The stated
20 purposes of all existing general medical service corporations
21 are amended so as to include the furnishing of osteopathic,
22 dental, optometric, podiatry, chiropractic and physical therapy
23 services through osteopaths, dentists, optometrists, podiatrists
24 and chiropractors and physical therapists, respectively.

25 § 7723. Action as agent under Federal and other programs.

26 (a) General rule.--Any professional health service
27 corporation may, with the approval of the department, act as a
28 carrier under section 1842 of the Social Security Act (Public
29 Law 89-97, 42 U.S.C. § 1395u) with power to perform all the
30 services which may be required of such a carrier. The

1 corporation may perform administrative services similar or
2 related to:

3 (1) Those which may be required of an agency or
4 organization thereunder in connection with a Federal, state
5 or local governmental health care program.

6 (2) Those which may be required of such an agency or
7 organization in connection with or associated with
8 nongovernmental organizations, individuals, groups and
9 agencies in the health care field.

10 (b) Legislative amendment of stated purposes.--The stated
11 purposes of all existing professional health service
12 corporations are amended so as to include the performance of the
13 activities authorized by subsection (a).

14 § 7724. Health service doctors.

15 (a) Admission to plan.--Every health service doctor
16 practicing within the area covered by any professional health
17 service corporation may, upon complying with such requirements
18 as the corporation may prescribe with the approval of the
19 Department of Health, register with the corporation for such
20 general or special professional health services as he may be
21 licensed to practice within that area, but the corporation may,
22 with the approval of the Department of Health, refuse to place
23 the name of any health service doctor on its register. Any
24 professional health service corporation may, with the approval
25 of the Department of Health, remove from its register the name
26 of any health service doctor after due notice and opportunity
27 for hearing for cause satisfactory to the corporation.

28 (b) Freedom from control.--Subject to section 7722(e)
29 (relating to scope of service), a professional health service
30 corporation shall impose no restrictions on the health service

1 doctors who administer to its subscribers as to methods of
2 diagnosis or treatment. The relation between a subscriber, or
3 any of his dependents, and the health service doctor shall be
4 identical with the relation that ordinarily exists in the
5 community between a health service doctor and his patient.
6 Subject to the provisions of subsection (a), a person shall not
7 be permitted to interfere with the choice or selection by a
8 patient of his health service doctor after that choice or
9 selection has been made by a competent adult.

10 (c) Disputes.--All matters, disputes or controversies
11 relating to the professional health services rendered by the
12 health service doctors, or any questions involving professional
13 ethics, shall be considered and determined only by health
14 service doctors as selected in a manner prescribed in the bylaws
15 of the professional health service corporation.

16 § 7725. Eligibility determination.

17 (a) Income standards.--

18 (1) Every professional health service corporation shall
19 from time to time, by action of its members, fix the
20 standards for persons of low income eligible for benefits
21 under this chapter. These standards shall afford due
22 consideration to the marital status and to the number of
23 dependents of the applicant or subscriber and shall be
24 consistent with section 7703(a) (relating to purpose of
25 chapter). These standards shall be subject to the approval of
26 the department.

27 (2) All persons not meeting the standards for persons of
28 low income as thus fixed are persons of over-income.

29 (b) Determination of income status.--

30 (1) The professional health service corporation shall

1 determine whether an applicant for subscription is in receipt
2 of a low income or over-income. After the application has
3 been approved, the subscriber shall be deemed to be of low
4 income or over-income until his status has been redetermined
5 by the corporation, which redetermination may be made at any
6 time.

7 (2) The professional health service corporation, in
8 determining the income status of any applicant or subscriber,
9 may, through its officers and agents, examine under oath any
10 applicant or subscriber claiming a low income status and any
11 other person consenting thereto who is believed to have
12 material knowledge concerning the income status of the
13 applicant or subscriber. The determination of the corporation
14 shall be final.

15 (c) Effect of status.--Every person of low income and every
16 person of over-income, residing in the area served by a
17 professional health service corporation, may obtain, upon
18 complying with requirements adopted by that corporation and the
19 payment of such initiation and other fees as are authorized by
20 the department, the services of any health service doctor
21 registered with the corporation, under such terms and conditions
22 as are customary in professional health services in the
23 community, but only within the limits of services for which the
24 health service doctors are registered. A professional health
25 service corporation may for cause refuse to enter into
26 contractual relations with an applicant and may, for cause,
27 after due notice and opportunity for hearing, rescind any
28 contract that it has entered into with any subscriber and refund
29 any unearned portion of any fees paid. The corporation may, on
30 default in payment of the agreed dues, fees, payments or any

1 charges by subscriber or someone on his behalf, discontinue
2 coverage without notice and opportunity for hearing, after
3 having notified a subscriber of his default, and having allowed
4 him two days to procure such coverages. Any payment made by the
5 corporation to health service doctors for services rendered to
6 subscribers of over-income shall be a payment only to the extent
7 agreed upon between the corporation and the health service
8 doctors on account of any greater sum which may be due the
9 health service doctors for rendering those services.

10 (d) Prohibited contracts.--A contract by or on behalf of any
11 professional health service corporation shall not provide for
12 any periodic payment or any other payment by that corporation to
13 a subscriber unless the payment is related to the value of the
14 service provided to the subscriber on account of illness or
15 injury. Such payments shall not be related to the payment of any
16 such benefit by any other entity.

17 § 7726. Authorized contract provisions.

18 A professional health service corporation may, as a condition
19 precedent to entering into a contract with an applicant or group
20 of applicants for professional health service, require any of
21 the following:

22 (1) A physical examination of the applicant and of each
23 of his dependents, if any, and proof of his or their
24 substantial freedom from any disease or condition requiring
25 immediate professional health service or likely to require it
26 within the next 12 months, before a contract becomes
27 effective.

28 (2) A waiting period after a contract is entered into
29 and before the subscriber is entitled to professional health
30 service.

1 (3) An agreement that the subscriber or someone on his
2 behalf shall pay the stated fee or fees for professional
3 health services in the case of any given illness or injury or
4 other condition requiring professional health service, before
5 becoming entitled to treatment under the terms of the
6 contract.

7 (4) An agreement that, as a condition precedent to
8 payment by the corporation for professional health services
9 performed for the subscriber, the subscriber or someone on
10 his behalf will submit to the corporation such information as
11 is reasonably necessary to enable it to determine the amount
12 of the payment, which information shall be submitted in the
13 form and verified in the manner prescribed by the
14 corporation.

15 (5) An agreement that any rights of the subscriber to
16 receive services or payments under his contract with the
17 corporation are personal to the subscriber and may not be
18 assigned.

19 § 7727. Subscriptions provided by government agencies.

20 Every government agency which is charged by law with the duty
21 of providing professional health services for persons unable to
22 provide it at their own expense, or to procure it through
23 persons to whose support and assistance they are by law
24 entitled, may provide such services if it is in the public
25 interest so to do, through a subscription or subscriptions, paid
26 for from any lawfully available public funds, with any
27 professional health service corporation on behalf of any person
28 entitled to such a benefit.

29 § 7728. Board of directors.

30 (a) General rule.--The business of every professional health

1 service corporation, except a general medical service
2 corporation, shall be managed by a board of directors of at
3 least nine persons, all of whom shall be residents of this
4 Commonwealth.

5 (b) General medical service corporation.--

6 (1) A general medical service corporation shall be
7 managed by a board of not less than 21, nor more than 36
8 members, all of whom shall be residents of this Commonwealth.

9 (2) Not less than 50% of the board shall be subscribers
10 who have coverage under a contract issued by the corporation,
11 who are generally representative of broad segments of
12 subscribers covered under contracts issued by the corporation
13 and whose background and experience indicate that they are
14 qualified to act in the interests of the subscribers. A board
15 member shall not be counted toward satisfying this paragraph
16 if the member or the member's spouse derives substantial
17 income from the delivery or administration of health care.

18 (3) The bylaws of every general medical service
19 corporation shall provide appropriate procedures for the
20 nomination and election or appointment of the directors of
21 the corporation and the nomination and election or
22 appointment of committees of the board in such a manner that
23 the interests of the subscribers of the corporation will be
24 justly and reasonably represented.

25 (4) All directors of the corporation shall be members of
26 the corporation.

27 (5) A health service doctor, who provides professional
28 health services for the corporation's subscribers, may be a
29 director but shall not be counted among the directors who
30 represent subscribers.

1 (6) Every general medical service corporation shall
2 submit its bylaws for review by the Department of Health and
3 the department. Whenever a general medical service
4 corporation changes its bylaws, the change shall be submitted
5 within 30 days to the Department of Health and the department
6 for their review to determine whether the changes meet the
7 standards of this section.

8 (7) If the Department of Health or the department finds,
9 after notice to the corporation and hearing, that a general
10 medical service corporation has not met the requirements of
11 this section, the Department of Health or the department
12 shall notify the corporation of the findings and order the
13 corporation, in specific terms, to meet the requirements of
14 this section. The findings and order shall be subject to
15 judicial review as provided by law.

16 § 7729. Rates and contracts.

17 (a) General rule.--All rates charged subscribers or groups
18 of subscribers by any professional health service corporation,
19 and the form and content of all contracts between the
20 corporation and its subscribers or groups of subscribers, all
21 methods and rates of payment by the corporation to health
22 service doctors serving its subscribers, all acquisition costs
23 in procuring subscribers, the reserves to be maintained by the
24 corporation and all contracts entered into by the corporation
25 and extending over a period of more than one year or calling for
26 the expenditure by the corporation of any amount in excess of
27 20% of its reserves shall be approved by the department before
28 they become effective.

29 (b) Procedure.--Every application for such approval shall be
30 made to the department in writing and shall be subject to

1 section 7511(c) through (f) (relating to certification of
2 hospital plan corporations), except that the department may
3 substitute publication in the Pennsylvania Bulletin of notice of
4 reasonable opportunity to submit written comments for
5 publication of opportunity for hearing in any case where the
6 right to an oral hearing is not conferred by the Constitution of
7 the United States or the Constitution of Pennsylvania. Within 60
8 days after the filing of the application, the department shall
9 approve or refuse the application.

10 § 7730. Investment of funds.

11 Any statute to the contrary notwithstanding, the assets of
12 any professional health service corporation shall be invested in
13 compliance with the requirements of SUBCHAPTER A OF Chapter 53 <—
14 (relating to ~~life insurance~~ INVESTMENTS AND CORPORATE <—
15 OPERATIONS) for the investment of the assets of life insurance
16 companies.

17 § 7731. Reports and examinations.

18 (a) Annual reports.--Every professional health service
19 corporation shall, on or before March 1 of each year, file with
20 the department a statement, verified by at least two of the
21 principal officers of the corporation, summarizing its financial
22 activities during the preceding calendar year and showing its
23 financial condition at the end of that year. The statement shall
24 be in such form and shall contain such matters as the department
25 prescribes.

26 (b) Examinations and special reports.--Every professional
27 health service corporation shall be subject to examination not
28 less frequently than once in every three years by the
29 department. The department shall have convenient access to all
30 documents that relate to the business of the corporation and the

1 power to examine the officers, agents, employees and subscribers
2 for the professional health services of the corporation, all
3 health service doctors registered with the corporation and all
4 other persons having a substantial part in the business of the
5 corporation, in relation to its financial affairs and financial
6 condition. This examination shall be made at such times as the
7 department believes necessary. The department may at any time,
8 without making this examination, call on the corporation for a
9 written report, authenticated by at least two of its principal
10 officers, concerning the financial affairs and condition of the
11 corporation.

12 § 7732. Regulation by Department of Health.

13 (a) Annual reports.--Every professional health service
14 corporation shall, on or before March 1 of each year, file with
15 the Department of Health a report of its activities, other than
16 its financial activities, during the preceding calendar year.
17 The report shall be verified by at least two of the principal
18 officers of the corporation. The report shall be in such form
19 and shall contain such matters as the Department of Health
20 prescribes. The Department of Health may inquire into the
21 activities of every professional health service corporation and
22 determine whether the corporation is providing adequate
23 professional health services to its subscribers in accordance
24 with the best professional health service practice in the
25 community.

26 (b) Examination and special reports.--The Department of
27 Health shall have convenient access to all documents that relate
28 to the business of the corporation, other than financial, and
29 the power to examine the officers, agents, employees and
30 subscribers for the professional health services of the

<—

1 corporation, all health service doctors registered with the
2 corporation and all other persons having a substantial part in
3 the business of the corporation, IN RELATION TO ITS AFFAIRS,
4 TRANSACTIONS AND CONDITION, other than financial. This
5 examination shall be made at such times as the Department of
6 Health believes necessary. The Department of Health may, at any
7 time, without making this examination, call on the corporation
8 for a written report, authenticated by at least two of its
9 principal officers, concerning the affairs of the corporation
10 other than its financial affairs.

11 (c) Extension or improvement of service pursuant to order.--
12 If the Department of Health finds that a professional health
13 service corporation does not provide adequate professional
14 health services to its subscribers in accordance with the best
15 professional health service practice in the community, the
16 Department of Health may notify the corporation of its findings
17 and order the corporation, in specific terms, to extend or
18 improve the professional health services furnished by the
19 corporation. This order shall be entered after notice and
20 opportunity for hearing and shall be subject to judicial review
21 as provided by law.

22 § 7733. Dental service agents.

23 Any dental service corporation may select any person to act
24 as its agent in the performance of any of its functions.

25 § 7734. Dissolution or liquidation.

26 A professional health service corporation shall not be
27 dissolved under Title 15 (relating to corporations and
28 unincorporated associations) or under any other provision of
29 law, except with the prior approval of the department. Articles
30 of dissolution for a professional health service corporation

1 filed in the Department of State, whether pursuant to a decree
2 of court liquidating the corporation or otherwise, shall not be
3 effective unless and until approved by the department. Any
4 dissolution or liquidation of a professional health service
5 corporation shall be under the supervision of the department,
6 which shall have all powers with respect thereto granted to it
7 under Chapter 39 (relating to suspension of business and
8 dissolution).

9 § 7735. Ancillary health services.

10 Notwithstanding anything in this chapter to the contrary, a
11 professional health service corporation may provide ancillary
12 health services through ancillary health service providers. An
13 ancillary health service provider may register with a
14 professional health service corporation as a participating
15 provider and continue as such upon complying with the
16 requirements adopted by the corporation with the approval of the
17 Department of Health.

18 CHAPTER 79

19 SURETY COMPANIES

20 Sec.

21 7901. Corporate sureties.

22 7902. Conditions for doing business.

23 7903. Certificates of authority.

24 7904. Annual statements.

25 7905. Power to execute obligations.

26 7906. Liability of companies.

27 7907. Guaranteed arrest bond certificates.

28 § 7901. Corporate sureties.

29 (a) Scope of surety authorization.--Every company authorized
30 to act as a surety under this chapter shall be authorized to

1 guarantee the fidelity of persons holding places of public or
2 private trust, to guarantee the performance of contracts other
3 than insurance policies and to execute bonds and undertakings
4 required or permitted by law.

5 (b) Acceptance of sureties.--Any head of a department, court
6 or other officer who is required to approve the sufficiency of
7 any bond or undertaking shall approve the company as sole surety
8 of the bond or undertaking if the company has filed, ~~in the~~ <—
9 ~~office of the prothonotary~~ WITH THE COURT of the county in which <—
10 the bond or undertaking is to be approved, a certificate issued
11 by the department under section 7903 (relating to certificates
12 of authority) authorizing it to do business as a surety company,
13 unless the certificate has been revoked by the department. This
14 certificate shall be conclusive proof of the solvency, credit
15 and sufficiency of the company for all purposes and of its
16 qualifications to be accepted as sole surety.

17 § 7902. Conditions for doing business.

18 (a) General requirements.--In order to become authorized to
19 do business as a surety, the corporation shall do the following:

20 (1) Comply with all provisions of this title applicable
21 to it.

22 (2) If a foreign or alien entity, be authorized to act
23 as a surety in the state or country where it is incorporated.

24 (3) Be authorized to act as a surety under its corporate
25 charter or act of incorporation.

26 (4) Have at least \$100,000 invested in securities
27 created by Federal law, or by or under the law of the state
28 or country wherein it is incorporated, or in other safe,
29 marketable and interest-bearing securities, the value of
30 which shall be at or above par and deposited with or held by

1 the department or the corresponding department of the state
2 or country in which it is authorized to transact business, in
3 trust for the benefit of the holders of the obligations of
4 the company.

5 (5) Have available assets exceeding its liabilities,
6 which liabilities shall include its capital stock, its
7 outstanding debts and a premium reserve equal to 50% of the
8 annual premium on all outstanding risks in force.

9 (6) File with the department before transacting business
10 in this Commonwealth under this chapter a certified copy of
11 its charter or act of incorporation and a written application
12 to be authorized to do business under this chapter.

13 (7) File with the department a statement, signed and
14 sworn to by its president or one of its vice presidents and
15 its secretary, or one of its assistant secretaries, stating:

16 (i) The amount of its paid-up cash capital.

17 (ii) Each specific item of investment.

18 (iii) The amount of premium on existing bonds upon
19 which it is surety.

20 (iv) The amount of liability for unearned portion
21 thereof, estimated at 50% of the annual premium on all
22 outstanding premiums for one year or less, and pro rata
23 for terms of more than one year.

24 (v) The amount of its outstanding debts of all
25 kinds.

26 (b) Risk limitations.--A surety company authorized to do
27 business in this Commonwealth shall not expose itself to any
28 loss or hazard on any one fidelity or surety risk in an amount
29 exceeding 10% of its capital and surplus unless it is protected
30 in excess of that amount by one of the following:

1 (1) Reinsurance in a corporation authorized to transact
2 the fidelity or surety business in this Commonwealth, in such
3 a form as to enable the obligee or beneficiary to maintain an
4 action thereon against the company reinsured jointly with the
5 reinsurer, and, upon recovering judgment against the
6 reinsured, to have recovery against the reinsurer for payment
7 to the extent in which it may be liable under the reinsurance
8 and in discharge thereof.

9 (2) The co-suretyship of such a corporation similarly
10 authorized.

11 (3) A deposit with it, in pledge or conveyance to it in
12 trust, for its protection, of property.

13 (4) A conveyance or mortgage for its protection.

14 (5) In case a suretyship obligation was made on account
15 of a fiduciary holding property in a trust capacity, a
16 deposit or other disposition of a portion of the property
17 held in trust that no future sale, mortgage, pledge or other
18 disposition can be made thereof without the consent of the
19 corporation, except by order of court.

20 (c) Exceptions.--Notwithstanding this section, the following
21 provisions apply:

22 (1) A surety corporation may execute transportation or
23 warehousing bonds for United States internal revenue taxes to
24 an amount equal to 50% of its capital and surplus.

25 (2) When the penalty of the suretyship obligation
26 exceeds the amount of a judgment described therein as
27 appealed from and thereby secured, or exceeds the amount of
28 the subject matter in controversy or of the estate in the
29 hands of the fiduciary for the performance of whose duties it
30 is conditioned, the bond may be executed if the amount so

1 secured is not in excess of such limitation.

2 (3) When the penalty of the suretyship obligation
3 executed for the performance of a contract exceeds the
4 contract price, the latter shall be taken as the basis for
5 estimating the limit of risk within the meaning of this
6 section.

7 (d) Guarantee of deposits in financial institutions.--

8 Notwithstanding anything to the contrary in this section, no
9 surety corporation shall execute suretyship obligations
10 guaranteeing the deposits of any single financial institution in
11 an aggregate amount in excess of 10% of the capital and surplus
12 of such corporate surety, unless it is protected in excess of
13 that amount by credits in accordance with subsection (b)(1),
14 (2), (3) or (4).

15 (e) Civil penalties.--Upon proof of the violation of this
16 section by any entity or its members, officers, directors or
17 attorney-in-fact, the department may take any one or more of the
18 following courses of action:

19 (1) Revoke the certificate of authority of the entity.

20 (2) Refuse, for a period of not to exceed one year
21 thereafter, to issue a new license to the entity.

22 (3) Impose a fine of not more than \$1,000 for each
23 violation.

24 (f) Criminal penalties.--Any company, or the officers,
25 directors, members or attorney-in-fact of any entity, or any
26 other person violating this section, commits a summary offense.
27 § 7903. Certificates of authority.

28 If the department is satisfied that the company applying for
29 authorization to do business under this chapter has in all
30 respects complied with and is qualified under this chapter, the

1 department shall issue to the company, and to each of its agents
2 in this Commonwealth, the certificate of the department that it
3 is authorized to become and be accepted as sole surety under
4 section 7901 (relating to corporate sureties).

5 § 7904. Annual statements.

6 Every surety company shall by January 31 of each year file
7 the following with the department, verified as the department
8 shall require:

9 (1) A statement including the information required under
10 section 7902(a)(6) (relating to conditions for doing
11 business).

12 (2) A certificate from the officer with whom the deposit
13 required under section 7902(a)(4) is made, describing the
14 securities so deposited and the manner in which they are held
15 by him, and stating that he is satisfied that such securities
16 have a value of at least \$100,000.

17 (3) A statement including such other information
18 concerning the condition and credit of the company as the
19 department requires.

20 § 7905. Power to execute obligations.

21 Any company authorized to do business in this Commonwealth
22 under this chapter is authorized to execute any bond,
23 recognizance or other obligation which is required by law or by
24 the charter, ordinances, rules or regulations of any
25 municipality, board, body or public officer to be given with a
26 surety, and the execution by the company of any such bond,
27 recognizance or obligation shall be a full and complete
28 compliance with that requirement.

29 § 7906. Liability of companies.

30 A surety company having signed a bond, undertaking or

1 obligation shall not be permitted to deny its corporate power to
2 execute such instruments or incur such liability in any
3 proceeding to enforce liability against it thereunder.

4 § 7907. Guaranteed arrest bond certificates.

5 (a) Authority.--Any domestic or foreign insurance company
6 which is authorized to transact surety business under this
7 chapter may, in any year, become surety upon compliance with
8 subsection (b), in an amount not exceeding \$200 with respect to
9 each of the guaranteed arrest bond certificates issued in the
10 year by an automobile club or association or by a company
11 authorized to write automobile liability insurance in this
12 Commonwealth.

13 (b) Application.--Any company wishing to become authorized
14 to transact business under this section shall file an
15 application with the department, in the form prescribed by it,
16 which shall state the following:

17 (1) The names and addresses of the automobile clubs,
18 automobile associations or insurance company or companies
19 with respect to the guaranteed arrest bond certificates of
20 which the surety company undertakes to be surety.

21 (2) The unqualified obligation of the surety company to
22 pay the fine or forfeiture, in an amount not exceeding \$200,
23 of any one person who, after posting a guaranteed arrest bond
24 certificate with respect to which the surety company has
25 undertaken to be surety, fails to make the appearance for
26 which the guaranteed arrest bond certificate was posted.

27 (c) Use of certificates.--Any guaranteed arrest bond
28 certificate with respect to which a surety company has become a
29 surety or a guaranteed arrest bond certificate issued by a
30 properly authorized insurance company shall, when posted by the

1 person whose signature appears thereon, be accepted in lieu of
2 cash bail in an amount not exceeding \$200 as a bail bond to
3 guarantee the timely appearance of the person in any court or
4 before any district justice in this Commonwealth when the person
5 is arrested or formally charged for any violation of Title 75
6 (relating to vehicles) or an ordinance of a local authority
7 pertaining to vehicles, except for misdemeanors or felonies as
8 defined in Title 75. Any guaranteed arrest bond certificate
9 posted as bail bond in court shall be subject to the forfeiture
10 and enforcement provisions of law applicable to a bail bond.

11 (d) Definition.--As used in this section the term
12 "guaranteed arrest bond certificate" means any printed card or
13 other certificate issued by an automobile club, association or
14 insurance company to any of its members or insureds, signed by
15 the member or insured and containing a printed statement that
16 the automobile club, association or insurance company and a
17 surety company or an insurance company authorized to transact
18 both automobile liability insurance and surety business,
19 guarantee the appearance of the person whose signature appears
20 on the card or certificate and that they will, in the event of
21 the failure of the person to appear in court or before a
22 district justice in this Commonwealth, pay any fine or
23 forfeiture imposed on the person in an amount not exceeding
24 \$200, when the person is arrested or formally charged for any
25 violation Title 75 or any ordinance of local authority
26 pertaining to vehicles except as provided in this section.

27 CHAPTER 81

28 PROPERTY AND CASUALTY INSURANCE

29 GUARANTY ASSOCIATION

30 Subchapter

- 1 A. General Provisions
- 2 B. Pennsylvania Insurance Guaranty Association
- 3 C. Assessments
- 4 D. Powers and Duties of Department
- 5 E. Recovery Procedure

6 SUBCHAPTER A

7 GENERAL PROVISIONS

8 Sec.

9 8101. Short title of chapter.

10 8102. Purposes of chapter.

11 8103. Definitions.

12 8104. Immunity.

13 8105. References to association in advertising.

14 § 8101. Short title of chapter.

15 This chapter shall be known and may be cited as the Property
16 and Casualty Insurance Guaranty Association Act.

17 § 8102. Purposes of chapter.

18 The purposes of this chapter are to:

19 (1) Provide a means for the payment of covered claims
20 under certain property and casualty insurance policies, to
21 avoid excessive delay in the payment of such claims and to
22 avoid financial loss to claimants or policyholders as a
23 result of the insolvency of an insurer.

24 (2) Assist in the detection and prevention of insurer
25 insolvencies.

26 (3) Provide for the formulation and administration by
27 Pennsylvania Insurance Guaranty Association of a plan of
28 operation necessary to effectuate the purposes of this
29 chapter.

30 § 8103. Definitions.

1 The following words and phrases when used in this chapter
2 shall have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Account." Any account provided for under section 8121(a)
5 (relating to assessments).

6 "Association." The Pennsylvania Insurance Guaranty
7 Association established under this chapter.

8 "Covered claim." An unpaid claim, including a claim for
9 unearned premiums, which arises under a property and casualty
10 insurance policy of an insolvent insurer and arises from an
11 insured event which results in loss or liability relating to a
12 resident of this Commonwealth or to property permanently
13 situated in this Commonwealth. The term does not include any
14 amount due any insurer, reinsurer, insurance pool or
15 underwriting association, as a subrogation recovery or otherwise
16 or any amount in excess of the applicable limits of the policy.

17 "Insolvent insurer." An insurer determined to be insolvent
18 or in such condition that its further transaction of business
19 will be hazardous to its policyholders, its creditors or the
20 public, by a court of the insurer's domiciliary state.

21 "Insurer" or "member insurer." Any insurance entity
22 authorized to write and engaged in writing within this
23 Commonwealth, on a direct basis, property and casualty insurance
24 policies.

25 "Net direct written premiums." Direct gross premiums written
26 in this Commonwealth on property and casualty insurance
27 policies, including policies issued to self-insurers, whether or
28 not designated as reinsurance contracts, less return premiums
29 thereon and dividends paid or credited to policyholders of such
30 policies, but does not include premiums on contracts between

1 insurers or reinsurers.

2 "Property and casualty insurance policy." Any contract,
3 including any endorsement, rider, written or oral, binder, cover
4 note, certificate or other instrument of insurance attached or
5 relating thereto, without regard to the nature of the form of
6 the same, which provides any of the coverages enumerated in
7 section 3302 (relating to authorized classes of insurance),
8 except the following:

9 (1) Life insurance and annuities.

10 (2) Health and accident insurance.

11 (3) Title insurance.

12 (4) Credit insurance on accounts receivable.

13 (5) Mortgage guaranty insurance.

14 (6) Surety insurance.

15 (7) Ocean marine insurance.

16 (8) Workmen's compensation insurance.

17 § 8104. Immunity.

18 A cause of action of any nature shall not arise against any
19 member insurer, the association or its agents or employees, the
20 board of directors, the department or any representatives of the
21 department for any action taken by any of them in the
22 performance of their respective powers and duties under this
23 chapter.

24 § 8105. References to association in advertising.

25 A member insurer shall not, directly or indirectly, make,
26 publish or place before the public in a newspaper or other
27 publication, or in the form of a notice, circular, pamphlet,
28 letter or poster, or over any radio or television station or in
29 any other way, an advertisement or statement of any sort
30 containing any reference to the coverage of association.

SUBCHAPTER B

PENNSYLVANIA INSURANCE GUARANTY ASSOCIATION

Sec.

8111. Pennsylvania Insurance Guaranty Association.

8112. Plan of operation.

8113. Examination of association.

8114. Annual and other statements.

8115. Limitation on taxability of association.

§ 8111. Pennsylvania Insurance Guaranty Association.

(a) Membership.--Every insurer shall participate in the Pennsylvania Insurance Guaranty Association as a condition of its authority to write property and casualty insurance policies in this Commonwealth.

(b) Powers and duties.--

(1) The association shall do the following:

(i) Make payment to the extent of the covered claims of an insolvent insurer existing prior to the determination of the insurer's insolvency, and covered claims arising within 30 days after the determination of insolvency, or before the policy expiration date if less than 30 days after the determination, or before the insured replaces the policy or causes its cancellation, if he does so within 30 days of the determination. The obligation under this subparagraph shall include only that amount of each covered claim which is in excess of \$100 and is less than \$300,000. The association shall not be obligated on a covered claim in an amount in excess of the obligation of the insolvent insurer under the policy under which the claim arises.

(ii) Act as the insurer to the extent of its

1 obligation on the covered claims and to this extent it
2 shall have all rights, duties and obligations of the
3 insolvent insurer as if that insurer had not become
4 insolvent.

5 (iii) Assess member insurers in accordance with
6 Subchapter C (relating to assessments) the amounts
7 necessary to pay the obligations of the association under
8 subparagraph (i), the expenses of handling covered
9 claims, the cost of examinations under section 8113
10 (relating to examination of association) or 8131(a)(3)
11 (relating to powers and duties of department) and other
12 expenses authorized by this chapter.

13 (iv) Investigate claims brought against the
14 association and adjust, compromise, settle and pay
15 covered claims to the extent of the association's
16 obligation and deny all other claims. The association may
17 review settlements, releases and judgments to which the
18 insolvent insurer or its insureds were parties to
19 determine the extent to which such settlements, releases
20 and judgments may be properly contested.

21 (v) Give such notice as the department may direct
22 under section 8131(b)(1).

23 (vi) Handle claims through its employees or through
24 any of its member insurers agreeing to do so or through
25 other persons designated with the prior approval of the
26 department as servicing facilities.

27 (vii) Reimburse each servicing facility for
28 obligations of the association paid by the facility and
29 for expenses incurred by the facility while handling
30 claims on behalf of the association.

1 (viii) Notify the department of any information
2 indicating any member insurer may be insolvent or in such
3 condition that its further transaction of business will
4 be hazardous to its policyholders, its creditors or the
5 public.

6 (ix) Within 90 days of the conclusion of any insurer
7 insolvency in which the association was obligated to pay
8 covered claims, prepare a report on the history and
9 causes of such insolvency, based on the information
10 available to the association, and submit such report to
11 the department.

12 (2) The association may do the following:

13 (i) Employ or retain such persons as are necessary
14 to perform the duties of the association.

15 (ii) Borrow funds necessary to effect the purposes
16 of this chapter in accordance with the plan of operation
17 under section 8112 (relating to plan of operation).

18 (iii) Sue or be sued.

19 (iv) Negotiate and become, with the prior approval
20 of the department, a party to such contracts as are
21 necessary to carry out the purposes of this chapter.

22 (v) Request that the department order an examination
23 of any member insurer which it in good faith believes may
24 be in such condition that its further transaction of
25 business will be hazardous to its policyholders, its
26 creditors or the public.

27 (vi) Make reports and recommendations to the
28 department upon any matter germane to the solvency,
29 liquidation, rehabilitation or conservation of any member
30 insurer. These reports and recommendations shall not be

1 public documents.

2 (vii) Make recommendations to the department for the
3 detection and prevention of insurer insolvencies.

4 (viii) Perform such other acts as are necessary or
5 proper to effectuate the purposes of this chapter.

6 (c) Board of directors.--The association shall be governed
7 by a board of seven directors, serving terms as established in
8 the plan of operation. The members of the board shall be
9 selected by the member insurers subject to the approval of the
10 department. Any vacancy on the board shall be filled for the
11 remaining period of the term in the same manner as the initial
12 selections. If a vacancy remains unfilled for more than 15 days,
13 the department may appoint the directors necessary to constitute
14 a full board. In approving selections for the board, the
15 department shall consider among other things whether all member
16 insurers are fairly represented. Members of the board may be
17 reimbursed from the assets of the association for reasonable
18 expenses incurred by them as members.

19 § 8112. Plan of operation.

20 (a) Contents of plan.--The association shall operate
21 pursuant to the plan of operations approved by the department
22 under the former section 201(c) (relating to The Pennsylvania
23 Insurance Guaranty Association) of the act of November 25, 1970
24 (P.L.716, No.232), known as The Pennsylvania Insurance Guaranty
25 Association Act, as the plan may be amended under the former
26 section 202(c) of that act (relating to plan of operation) or
27 under subsection (c) of this section. The plan of operation
28 shall establish fair, reasonable and equitable procedures for
29 the performance of the powers and duties of the association
30 under section 8111(b) (relating to Pennsylvania Insurance

1 Guaranty Association), including, but not limited to:

2 (1) Procedures for handling assets of the association.

3 (2) Procedures by which claims may be filed with the
4 association and the specification of acceptable forms of
5 proof of covered claims.

6 (3) Procedures for records to be kept of all financial
7 transactions of the association.

8 (b) Delegation.--The plan of operation may provide that any
9 or all powers and duties of the association, except those under
10 section 8111(b)(1)(iii) and (2)(ii) may be delegated to a
11 corporation, association or other organization which performs or
12 will perform functions similar to those of the association, in
13 two or more states. The corporation, association or organization
14 shall be reimbursed on the same basis as would a servicing
15 facility and shall be compensated for the performance of any
16 other functions delegated to it by the association. A delegation
17 under this subsection shall take effect only upon the approval
18 of both the board of directors and the department, and may be
19 made only to a corporation, association or organization which
20 extends protection not substantially less favorable and
21 effective than that provided by this chapter.

22 (c) Amendment.--The plan of operation may be amended by the
23 association, subject to prior approval by the department or, at
24 the direction of the department, the association shall amend the
25 plan of operation.

26 § 8113. Examination of association.

27 The operations of the association shall be subject to the
28 supervision and regulation of the department, which may examine
29 these operations at any time. In connection therewith, the
30 department shall have the powers granted it under section 512

1 (relating to powers with regard to examinations), and the
2 expenses of the examination shall be borne and paid as provided
3 therein.

4 § 8114. Annual and other statements.

5 The association shall file with the department, not later
6 than March 30 of each year, a statement which shall contain
7 information with respect to its condition, operations and
8 affairs during the preceding year. The statement shall contain
9 such matters and information as are prescribed by the department
10 and shall be in the form approved by it. The department may at
11 any time require the association to furnish it with additional
12 information with respect to the association's condition,
13 operations and affairs or any matter connected therewith which
14 the department considers to be material and which will assist
15 the department in evaluating its operation.

16 § 8115. Limitation on taxability of association.

17 The association shall be exempt from the payment of all fees
18 and all taxes levied or assessed by the Commonwealth or any of
19 its political subdivisions except taxes upon the real or
20 personal property of the association.

21 SUBCHAPTER C

22 ASSESSMENTS

23 Sec.

24 8121. Assessments.

25 8122. Refunds.

26 8123. Recognition of assessments in rates.

27 8124. Assessments of other states.

28 § 8121. Assessments.

29 (a) Accounts.--For the purposes of assessment, the
30 association shall maintain two accounts: an automobile or motor

1 vehicle insurance account and an account for all other insurance
2 to which this chapter applies. Subsequent to an insurer having
3 been determined to be an insolvent insurer, the association
4 shall allocate between the two accounts and assess member
5 insurers separately for each account such amounts as are
6 necessary for the purpose of paying the obligations of the
7 association under section 8111(b)(1)(i) (relating to
8 Pennsylvania Insurance Guaranty Association) and the expenses of
9 handling covered claims of the insolvent insurer. The
10 association shall also assess member insurers for the expenses
11 of examinations under sections 8113 (relating to examination of
12 association) and 8131(a)(3) (relating to powers and duties of
13 department) and for any other expenses authorized by this
14 chapter.

15 (b) Amount.--The assessments of each member insurer shall be
16 in the proportion that the net direct written premiums of the
17 member insurer for the preceding calendar year on the kinds of
18 insurance to which the account pertains bears to the aggregate
19 net direct written premiums of all member insurers for the
20 preceding calendar year on those kinds of insurance. A member
21 insurer may not be assessed in any year on an account an amount
22 greater than 2% of insurer's net direct written premiums for the
23 preceding calendar year on the kinds of insurance to which the
24 account pertains.

25 (c) Time of notification.--Each member insurer shall be
26 notified of any assessment not later than 30 days before it is
27 due.

28 (d) Insufficient accounts.--If the maximum assessments of
29 all member insurers on an account, together with the other
30 assets in the account, do not provide in any one year an amount

1 sufficient to meet all obligations of the association under that
2 account, the funds available shall be prorated among such
3 obligations and the unpaid portions of the same shall be paid as
4 soon thereafter as funds become available.

5 (e) Exemption of insurer.--The association may, in whole or
6 in part, exempt from assessment any member insurer or defer the
7 assessment of any member insurer, if the assessment would cause
8 the insurer's financial statement to reflect amounts of capital
9 or surplus less than the minimum amounts required for a
10 certificate of authority by any jurisdiction in which the
11 insurer is authorized to transact insurance.

12 § 8122. Refunds.

13 The association may refund to its member insurers in
14 proportion to the contribution of each to an account of the
15 association that amount by which the assets of the account at
16 the end of any calendar year exceed its estimated liabilities
17 for the coming year.

18 § 8123. Recognition of assessments in rates.

19 The rates and premiums charged by a member insurer for
20 policies to which this chapter applies shall appropriately
21 reflect assessments paid to the association by the insurer less
22 any amounts returned to the insurer by the association.

23 § 8124. Assessments of other states.

24 Assessments made by insurance guaranty associations or
25 similar entities pursuant to the laws of any other state shall
26 not be considered burdens or prohibitions under section 510
27 (relating to additional restrictions of other states).

28 SUBCHAPTER D

29 POWERS AND DUTIES OF DEPARTMENT

30 Sec.

1 8131. Powers and duties of department.

2 § 8131. Powers and duties of department.

3 (a) Duties.--The department shall do the following:

4 (1) Notify the association of the existence of an
5 insolvent insurer not later than three days after the
6 department receives notice of the determination of the
7 insolvency.

8 (2) Upon request of the association, provide it with a
9 statement of the net direct written premiums of each member
10 insurer.

11 (3) Begin an examination of a member insurer within 30
12 days of receipt of a request by the association for the
13 examination under section 8111(b)(2)(v) (relating to
14 Pennsylvania Insurance Guaranty Association). The expenses of
15 such an examination shall be paid by the association.

16 (b) Powers.--The department may do the following:

17 (1) Require that the association notify the insureds of
18 the insolvent insurer and any other interested parties of the
19 determination of insolvency and of their rights under this
20 chapter. This notification shall be by mail at their last
21 known address and by publication in such newspapers of
22 general circulation as the department shall specify.

23 (2) After notice and hearing, suspend or revoke the
24 certificate of authority to transact insurance in this
25 Commonwealth of any member insurer or levy a penalty payable
26 to the Commonwealth upon any such insurer which fails to pay
27 an assessment when due and after demand having been made or
28 otherwise fails to comply with the plan of operation. The
29 penalty levied for failure to pay an assessment when due
30 shall be not less than \$100 a month nor more than 5% of such

1 unpaid assessment a month. The penalty for otherwise failing
2 to comply with the plan of operation shall be not less than
3 \$100 nor more than \$1,000 a month for each month that the
4 insurer continues, after notice having been given, to fail to
5 comply with the plan of operation.

6 (3) Revoke the approval of any servicing facility
7 designated pursuant to section 8111(b)(1)(vi) if it finds
8 that claims are not being handled satisfactorily.

9 (c) Other law.--The powers and duties of the department
10 under this chapter are in addition to and not in limitation of
11 any other powers and duties of the department prescribed by law.

12 SUBCHAPTER E

13 RECOVERY PROCEDURE

14 Sec.

15 8141. Notice of claims.

16 8142. Effect of paid claims.

17 8143. Duplication of recovery.

18 8144. Proceedings involving insolvent insurers.

19 § 8141. Notice of claims.

20 Notice of claims to the receiver or liquidator of the
21 insolvent insurer shall be deemed notice to the association or
22 its agent. A list of these claims shall be periodically
23 submitted to the association or similar organization in another
24 state by the receiver or liquidator.

25 § 8142. Effect of paid claims.

26 (a) Assignment.--Any person recovering from the association
27 under this chapter shall be deemed to have assigned his rights
28 under the policy to the association to the extent of his
29 recovery from the association. Every insured or claimant seeking
30 the protection of this chapter shall cooperate with the

1 association to the same extent as the person would have been
2 required to cooperate with the insolvent insurer by the policy
3 under which the claim arises. The association shall have no
4 cause of action against the insured of the insolvent insurer for
5 any sums it has paid out except such causes of action as the
6 insolvent insurer would have had if the sums had been paid by
7 the insolvent insurer. In the case of an insolvent insurer
8 operating on a plan with assessment liability, payments of
9 claims by the association shall not operate to reduce the
10 liability of insureds to the receiver or liquidator for unpaid
11 assessments.

12 (b) Priority of claims.--The receiver or liquidator of an
13 insolvent insurer shall be bound by settlements of covered
14 claims by the association or a similar organization in another
15 state. The court having jurisdiction shall grant such claims
16 priority equal to that which the claimant would have been
17 entitled in the absence of this chapter against the assets of
18 the insolvent insurer. The expenses of the association or
19 similar organization in another state in handling claims shall
20 be accorded the same priority as the expenses of the receiver or
21 liquidator.

22 (c) Statements of claims.--The association shall
23 periodically file with the receiver or liquidator of the
24 insolvent insurer statements of the covered claims paid by the
25 association and estimates of anticipated claims on the
26 association which shall preserve the rights of the association
27 against the assets of the insolvent insurer.

28 § 8143. Duplication of recovery.

29 (a) Other insurer.--Any person having a claim against an
30 insurer under an insurance policy, other than a policy of an

1 insolvent insurer which is also a covered claim, shall first be
2 required to exhaust his rights under the policy of the insurer
3 who is not insolvent. Any amount payable on a covered claim
4 under this chapter shall be reduced by the amount of any
5 recovery under such insurance policy.

6 (b) Other guaranty association.--Any person having a claim
7 which may be recovered under more than one insurance guaranty
8 association or its equivalent shall seek recovery first from the
9 association of the insured's place of residence, except that if
10 it is a first party claim for damage to property with a
11 permanent location, he shall seek recovery first from the
12 association of the location of the property. Any recovery under
13 this chapter shall be reduced by the amount of recovery from any
14 other insurance guaranty association or its equivalent.

15 § 8144. Proceedings involving insolvent insurers.

16 (a) Stay of proceedings.--All proceedings in which the
17 insolvent insurer is a party or is obligated to defend a party
18 in any court shall be stayed for 90 days from the date the
19 insolvency is determined to permit proper defense by the
20 association of all pending causes of action.

21 (b) Reopening of default judgments.--As to any covered
22 claims arising from a judgment under any decision, verdict or
23 finding based on the default of the insolvent insurer or its
24 failure to defend an insured, the association either on its own
25 behalf or on behalf of the insured may apply to have the
26 judgment, order, decision, verdict or finding set aside by the
27 court that made it and shall be permitted to defend against the
28 claim on the merits.

29 CHAPTER 83

30 LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

- 1 Subchapter
- 2 A. General Provisions
- 3 B. Organization of Association
- 4 C. Assessments
- 5 D. Powers and Duties of Department
- 6 E. Impaired and Insolvent Insurers

7 SUBCHAPTER A

8 GENERAL PROVISIONS

9 Sec.

10 8301. Short title of chapter.

11 8302. Purpose of chapter.

12 8303. Applicability.

13 8304. Definitions.

14 8305. Immunity.

15 8306. Prohibited advertisement.

16 § 8301. Short title of chapter.

17 This chapter shall be known and may be cited as the Life and
18 Health Insurance Guaranty Association Act.

19 § 8302. Purpose of chapter.

20 The purpose of this chapter is to protect policyowners,
21 insureds, beneficiaries, annuitants, payees and assignees of
22 life insurance policies, health and accident insurance policies,
23 annuity contracts, endorsements, riders and contracts
24 supplemental thereto, including, but not limited to, settlement
25 options, subject to certain limitations, against failure in the
26 performance of contractual obligations due to the impairment or
27 insolvency of the insurer issuing the policies or contracts. To
28 provide this protection an association of insurers is created to
29 enable the guaranty of payment of benefits and of continuation
30 of coverages, the members of the association are subject to

1 assessment to provide funds to carry out the purpose of this
2 chapter, and the association is authorized to assist the
3 department in the detection and prevention of insurer
4 impairments or insolvencies.

5 § 8303. Applicability.

6 (a) Inclusions.--This chapter applies to direct written
7 individual and group life insurance policies, health and
8 accident insurance policies, annuity contracts, endorsements,
9 riders and contracts supplemental thereto, including, but not
10 limited to, settlement options, issued by member insurers
11 authorized to transact such insurance.

12 (b) Exclusions.--This chapter does not apply to the
13 following:

14 (1) The part of a variable life insurance or variable
15 annuity contract not guaranteed by an insurer.

16 (2) The part of any policy or contract under which the
17 risk is borne by the policyholder.

18 (3) A policy or contract or part thereof assumed by the
19 impaired or insolvent insurer under a contract of
20 reinsurance, other than reinsurance for which assumption
21 certificates have been issued.

22 (4) A certificate or contract issued by a fraternal
23 benefit society pursuant to its underwriting powers.

24 (5) A certificate, contract or subscriber agreement
25 issued by a health maintenance organization under Chapter 73
26 (relating to health maintenance organizations).

27 (6) A certificate, contract or subscriber agreement
28 issued by a hospital plan corporation or a nonprofit hospital
29 plan as defined in section 7501 (relating to definitions).

30 (7) A certificate, contract or subscriber agreement

1 issued by a professional health service corporation, a
2 nonprofit dental service plan, a nonprofit optometric service
3 plan or a nonprofit professional health service plan, as
4 defined in section 7702 (relating to definitions).

5 § 8304. Definitions.

6 The following words and phrases when used in this chapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Account." Any of the three accounts created under section
10 8311(b) (relating to Pennsylvania Life and Health Insurance
11 Guaranty Association).

12 "Association." The Pennsylvania Life and Health Insurance
13 Guaranty Association.

14 "Contractual obligation." Any obligation under covered
15 policies or contracts.

16 "Covered policy." Any policy or contract within the scope of
17 this chapter.

18 "Impaired insurer." A member insurer deemed by the
19 department to be potentially unable to fulfill its contractual
20 obligations but not an insolvent insurer.

21 "Insolvent insurer." A member insurer which becomes
22 insolvent and is placed under a final order of liquidation,
23 rehabilitation or conservation by a court of competent
24 jurisdiction of the insurer's domiciliary state.

25 "Member insurer." Any person licensed to transact in this
26 Commonwealth any kind of insurance to which this chapter
27 applies.

28 "Premiums." Direct written gross insurance premiums and
29 annuity considerations received on covered policies, less return
30 premiums and considerations thereon and dividends paid or

1 credited to policyholders on such business, and experience rated
2 refunds or credits paid or credited to policyholders on such
3 business. The term does not include premiums and considerations
4 on contracts between insurers and reinsurers.

5 "Resident." Any person who resides in this Commonwealth at
6 the time a member insurer is determined to be an impaired or
7 insolvent insurer and to whom contractual obligations are owed.
8 § 8305. Immunity.

9 A cause of action of any nature shall not arise against any
10 member insurer or its agents or employees, the association or
11 its agents or employees, members of the board of directors or
12 the department, or any representatives of the department for any
13 action taken by them in the performance of their powers and
14 duties under this chapter.

15 § 8306. Prohibited advertisement.

16 (a) Prohibition.--A person, including an insurer, agent or
17 affiliate of an insurer, shall not directly or indirectly make,
18 publish, disseminate, circulate or place before the public in
19 any newspaper, magazine or other publication, or in the form of
20 a notice, circular, pamphlet, letter or poster, or over any
21 radio station or television station, or in any other way, any
22 advertisement, announcement or statement which uses the
23 existence of the association for the purpose of sales,
24 solicitation or inducement to purchase any form of insurance
25 covered by this chapter. This section does not apply to the
26 association itself.

27 (b) Penalties.--Any person who violates subsection (a) may
28 be subject, after notice and hearing and upon order of the
29 department, to one or more of the following:

30 (1) A monetary penalty of not more than \$1,000 for each

violation, but not to exceed an aggregate penalty of \$10,000.

(2) Suspension or revocation of his license or
certificate of authority.

SUBCHAPTER B

ORGANIZATION OF ASSOCIATION

Sec.

8311. Pennsylvania Life and Health Insurance Guaranty
Association.

8312. Board of directors.

8313. Powers and duties of association.

8314. Plan of operation.

8315. Tax exemption.

§ 8311. Pennsylvania Life and Health Insurance Guaranty
Association.

(a) General rule.--There shall be a nonprofit,
unincorporated association to be known as the Pennsylvania Life
and Health Insurance Guaranty Association. All member insurers
shall be and remain members of the association as a condition of
their authority to transact any kind of insurance in this
Commonwealth to which this chapter applies. The association
shall perform its functions under a plan of operation and shall
exercise its powers through a board of directors. The
association shall be subject to examination and regulation by
the department and shall be subject to this title.

(b) Accounts.--For the purposes of administration and
assessment, the association shall maintain the following three
accounts:

(1) The life insurance account.

(2) The health and accident insurance account.

(3) The annuity account.

1 Supplementary contracts shall be covered under the account in
2 which the basic policy is covered for purposes of assessment.

3 (c) Records of association.--Records shall be kept of all
4 negotiations and meetings in which the association or its
5 representatives are involved to discuss the activities of the
6 association in carrying out its powers and duties under section
7 8313 (relating to powers and duties of association). Records of
8 such negotiations or meetings shall be made public only upon the
9 termination of a liquidation, rehabilitation or conservation
10 proceeding involving the impaired or insolvent insurer, upon the
11 termination of the impairment or insolvency of the insurer or
12 upon the order of a court. This subsection does not limit the
13 duty of the association to render a report of its activities
14 under section 8313(i).

15 § 8312. Board of directors.

16 (a) Composition.--The board of directors of the association
17 shall consist of not less than five nor more than nine member
18 insurers serving terms as established in the plan of operation.
19 The members of the board shall be selected by member insurers,
20 subject to the approval of the commissioner. Vacancies on the
21 board shall be filled for the remaining period of the term by a
22 majority vote of the remaining board members, subject to the
23 approval of the commissioner. In approving selections to the
24 board, the commissioner shall consider, among other things,
25 whether all member insurers are fairly represented.

26 (b) Reimbursement.--Members of the board may be reimbursed
27 from the assets of the association for reasonable expenses
28 incurred by them as members. They shall not otherwise be
29 compensated by the association for their services.

30 § 8313. Powers and duties of association.

1 (a) Domestic impaired insurer.--In the case of a domestic
2 impaired insurer, the association may, subject to any conditions
3 imposed by the association and approved in writing by the
4 impaired insurer and the department, other than those conditions
5 which impair the contractual obligations of the impaired
6 insurer:

7 (1) guarantee or reinsure, or cause to be guaranteed,
8 assumed or reinsured, any or all of the covered policies of
9 the impaired insurer;

10 (2) provide such moneys, pledges, notes, guarantees or
11 other means as are proper to effectuate paragraph (1) and
12 assure payment of the contractual obligations of the impaired
13 insurer pending action thereunder; or

14 (3) lend money to the impaired insurer.

15 (b) Insolvent insurers.--In the case of an insolvent
16 insurer, the association shall, subject to the written approval
17 of the department:

18 (1) guarantee, assume or reinsure, or cause to be
19 guaranteed, assumed or reinsured, the covered policies of the
20 insolvent insurer;

21 (2) assure payment of the contractual obligations of the
22 insolvent insurer; or

23 (3) provide such moneys, pledges, notes, guarantees or
24 other means as are reasonably necessary to discharge such
25 duties.

26 This subsection does not apply where the department has
27 determined that a foreign or alien member insurer's domiciliary
28 jurisdiction or state of entry provides, by statute or
29 regulation, protection for residents of this Commonwealth
30 substantially similar to that provided by this chapter.

1 (c) Liens.--In carrying out subsection (b), permanent policy
2 liens or contract liens may be imposed in connection with any
3 guarantee, assumption or reinsurance agreement if the court does
4 either of the following:

5 (1) Finds that the amounts which can be assessed under
6 this chapter are less than the amounts needed to assure full
7 and prompt performance of the insolvent insurer's contractual
8 obligations, or that the economic or financial conditions as
9 they affect member insurers are sufficiently adverse to
10 render in the public interest the imposition of policy or
11 contract liens.

12 (2) Approves the specific policy or contract liens to be
13 used.

14 Before being obligated under subsection (b), the association may
15 request that the court approve the imposition of temporary
16 moratoriums or liens on payments of cash values and policy loans
17 in addition to any contractual provisions for deferral of cash
18 or policy loan values.

19 (d) Delay by association.--If the association fails to act
20 under subsection (b) within a reasonable period of time, the
21 department shall have the powers and duties of the association
22 under this chapter with respect to insolvent insurers.

23 (e) Assistance to department.--The association may render
24 assistance and advice to the department, upon its request,
25 concerning rehabilitation, payment of claims, continuance of
26 coverage or the performance of other contractual obligations of
27 any impaired or insolvent insurer.

28 (f) Standing.--The association shall have standing to appear
29 before any court in this Commonwealth with jurisdiction over an
30 impaired or insolvent insurer concerning which the association

1 is or may become obligated under this chapter. Such standing
2 shall extend to all matters germane to the powers and duties of
3 the association, including, but not limited to, proposals for
4 reinsuring or guaranteeing the covered policies of the impaired
5 or insolvent insurer and the determination of the covered
6 policies and contractual obligations.

7 (g) Liability.--The association shall not be liable for any
8 contractual obligations of insolvent insurers which are \$100 or
9 less with respect to the total contractual obligations owing to
10 any one person. The contractual obligations of the insolvent
11 insurer for which the association becomes or may become liable
12 shall otherwise be as great as but no greater than the
13 contractual obligations of the insolvent insurer would have been
14 in the absence of an insolvency unless such obligations are
15 reduced as permitted by subsection (c). However, the aggregate
16 liability of the association on any one life shall not exceed
17 \$100,000 with respect to the payment of cash values, or \$300,000
18 for all benefits; this limitation includes all benefits which
19 become payable after the date of the insolvency and all benefits
20 that may be accrued and unpaid on the date of the insolvency.

21 (h) General powers.--The association may do the following:

22 (1) Enter into such contracts as are necessary or proper
23 to carry out the provisions and purposes of this chapter.

24 (2) Sue or be sued, including taking any legal action
25 necessary or proper for recovery of unpaid assessments under
26 section 8321 (relating to assessments).

27 (3) Borrow money to effect the purposes of this chapter.
28 Notes or other evidence of indebtedness of the association
29 not in default shall be legal investments for domestic
30 insurers and may be carried as admitted assets.

1 (4) Employ or retain such persons as are necessary to
2 handle the financial transactions of the association, and
3 perform such other functions as become necessary or proper
4 under this chapter.

5 (5) Negotiate and contract with any liquidator,
6 rehabilitator, conservator or ancillary receiver to carry out
7 the powers and duties of the association.

8 (6) Take such legal action as may be necessary to avoid
9 payment of improper claims.

10 (7) Exercise, for the purposes of this chapter and to
11 the extent approved by the department, the powers of a
12 domestic life or health and accident insurer, but the
13 association may not issue insurance policies or annuity
14 contracts other than those issued to perform the contractual
15 obligations of the impaired or insolvent insurer.

16 (i) Annual report.--The board of directors shall submit to
17 the department, not later than May 1 of each year, a financial
18 report for the preceding calendar year in a form approved by the
19 department and a report of its activities during the preceding
20 calendar year.

21 § 8314. Plan of operation.

22 (a) General rule.--The association shall operate pursuant to
23 the plan of operation approved by the department under the
24 former section 9(a) (relating to plan of operation) of the act
25 of November 26, 1978 (P.L.1188, No.280), known as the Life and
26 Health Insurance Guaranty Association Act, as the plan may be
27 amended under that act or this section. Amendments to the plan
28 may be proposed by the board of directors of the association and
29 shall become effective upon approval in writing by the
30 department. The plan shall be designed so as to assure the fair,

1 reasonable and equitable administration of the association.

2 (b) Effect of plan.--All member insurers shall comply with
3 the plan of operation.

4 (c) Contents.--The plan of operation shall do the following:

5 (1) Establish procedures for handling the assets of the
6 association.

7 (2) Establish the amount and method of reimbursing
8 members of the board of directors.

9 (3) Establish regular places and times for meetings of
10 the board of directors.

11 (4) Establish procedures for records to be kept of all
12 financial transactions of the association, its agents and the
13 board of directors.

14 (5) Establish the procedures whereby selections for the
15 board of directors will be made and submitted to the
16 commissioner.

17 (6) Establish additional procedures for assessments.

18 (7) Contain additional provisions necessary and proper
19 for the execution of the powers and duties of the
20 association.

21 (d) Delegation.--The plan of operation may provide that any
22 or all powers and duties of the association, except those under
23 sections 8313(h)(3) (relating to powers and duties of
24 association) and 8321 (relating to assessments), are delegated
25 to a corporation, association or other organization which
26 performs or will perform functions similar to those of this
27 association in two or more states. The corporation, association
28 or organization shall be reimbursed for any payments made on
29 behalf of the association and shall be paid for its performance
30 of any function of the association. A delegation under this

1 subsection shall take effect only with the approval of both the
2 board of directors and the department, and may be made only to a
3 corporation, association or organization which extends
4 protection not substantially less favorable and effective than
5 that provided by this chapter.

6 § 8315. Tax exemption.

7 The association shall be exempt from the payment of all fees
8 and taxes levied by the Commonwealth or any of its subdivisions,
9 except taxes levied on real property.

10 SUBCHAPTER C

11 ASSESSMENTS

12 Sec.

13 8321. Assessments.

14 8322. Tax credits for assessments paid.

15 8323. Assessments of other states.

16 8324. Relation to Pennsylvania Insurance Guaranty Association.

17 § 8321. Assessments.

18 (a) Power to assess.--For the purpose of providing the funds
19 necessary to carry out the powers and duties of the association,
20 the board of directors shall assess the member insurers,
21 separately for each account, at such time and for such amounts
22 as the board finds necessary. Assessments shall be due not less
23 than 30 days after written notice to the member insurers and
24 shall accrue interest at 8% a year after the due date.

25 (b) Classes.--There shall be the following classes of
26 assessments:

27 (1) Class A assessments shall be made for the purpose of
28 meeting administrative costs and other general expenses not
29 related to a particular impaired or insolvent insurer and
30 examinations conducted under the authority of section

8341(b)(3) (relating to prevention of insolvencies).

(2) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 8313 (relating to powers and duties of association) with regard to an impaired or insolvent domestic insurer.

(3) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the association under section 8313 with regard to an insolvent foreign or alien insurer.

(c) Amount of assessments.--

(1) The amount of any Class A assessment shall be determined by the board and may be made on a basis other than pro rata. These assessments for costs and expenses other than for examinations shall not exceed \$50 per company in any one calendar year. The amount of any Class B or C assessment shall be allocated for assessment purposes among the accounts under section 8311(b) (relating to Pennsylvania Life and Health Insurance Guaranty Association) in the proportion that the premiums received by the impaired or insolvent insurer on the covered policies under each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bear to the premiums received by the insurer for that calendar year on all covered policies.

(2) Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in that state by the impaired or insolvent insurer

1 on covered policies under each account for the last calendar
2 year preceding the assessment in which the impaired or
3 insolvent insurer received premiums bear to such premiums
4 received in all such states for that calendar year by the
5 impaired or insolvent insurer. The assessments against member
6 insurers shall be in the proportion that the premiums
7 received on business in each such state by each assessed
8 member insurer on covered policies under each account for the
9 last calendar year preceding the assessment bear to such
10 premiums received on business in each state for that calendar
11 year by all assessed member insurers.

12 (3) Class C assessments against member insurers for each
13 account shall be in the proportion that the premiums received
14 on business in this Commonwealth by each assessed member
15 insurer on covered policies under each account for the last
16 calendar year preceding the assessment bear to such premiums
17 received on business in this Commonwealth for that calendar
18 year by all assessed member insurers.

19 (4) Assessments for funds to meet the requirements of
20 the association with respect to an impaired or insolvent
21 insurer shall not be made until necessary to implement the
22 purposes of this chapter. Classification of assessments under
23 subsection (b) and computation of assessments under this
24 paragraph shall be made with a reasonable degree of accuracy,
25 recognizing that exact determinations may not always be
26 possible.

27 (d) Abatement and deferral.--The association may abate or
28 defer, in whole or in part, the assessment of a member insurer
29 if, in the opinion of the board, payment of the assessment would
30 endanger the ability of the insurer to fulfill its contractual

1 obligations, or would cause the insurer's financial statement to
2 reflect amounts of capital or surplus less than the minimum
3 amounts required for a certificate of authority by any
4 jurisdiction in which the insurer is authorized to transact
5 insurance. If an assessment against an insurer is abated or
6 deferred in whole or in part, the amount by which the assessment
7 is abated or deferred may be assessed against the other member
8 insurers in a manner consistent with the basis for assessments
9 set forth in this section.

10 (e) Limitation on amount.--The total of all assessments upon
11 a member insurer for each account shall not in any one calendar
12 year exceed 2% of the insurer's premiums on its policies covered
13 by each account received in this Commonwealth during the
14 calendar year preceding the assessment. If the maximum
15 assessment, together with the other assets of the association in
16 any account, does not provide in any one year in the account an
17 amount sufficient to carry out the responsibilities of the
18 association, the necessary additional funds shall be assessed as
19 soon thereafter as permitted by this chapter.

20 (f) Refunds.--The board may, by an equitable method
21 established in the plan of operation, refund to member insurers,
22 in proportion to the contribution of each insurer to that
23 account, the amount by which the assets of the account exceed
24 the amount necessary to carry out during the coming year the
25 obligations of the association with regard to that account,
26 including assets accruing from net realized gains and income
27 from investments. A reasonable amount may be retained in any
28 account to provide funds for the continuing expenses of the
29 association and for future losses if refunds are impractical.

30 (g) Insurer estimates.--In determining its premium rates and

1 policyowner dividends as to any kind of insurance within the
2 scope of this chapter, any member insurer may consider the
3 amount reasonably necessary to meet its assessment obligations
4 under this chapter.

5 (h) Assessment of insureds.--This chapter does not reduce
6 the liability for unpaid assessments of the insureds of an
7 impaired or insolvent insurer operating under a plan with
8 assessment liability.

9 (i) Certificate of contribution.--The association shall
10 issue to each insurer paying any assessment under this chapter a
11 certificate of contribution, in a form prescribed by the
12 department, for the amount of the assessment so paid. All
13 outstanding certificates shall be of equal priority without
14 reference to amounts or dates of issue. A certificate of
15 contribution may be shown by the insurer in its financial
16 statement as an asset, but may not be shown as an asset on the
17 insurer's financial statement to the extent that the insurer has
18 offset an assessment against its premium tax liability to the
19 Commonwealth.

20 § 8322. Tax credits for assessments paid.

21 (a) General rule.--A member insurer may offset against its
22 premium tax liability to the Commonwealth a proportionate part
23 of the assessment described in section 8321 (relating to
24 assessments) to the extent of 20% of the proportionate part of
25 the assessment for each of the five calendar years following the
26 year in which the assessment was paid. If a member insurer
27 ceases doing business, the uncredited proportionate part of the
28 assessment may be offset against the insurer's premium tax
29 liability for the year it ceases doing business.

30 (b) Proportionate part.--The proportionate part of an

1 assessment which may be offset against the premium tax liability
2 under subsection (a) shall be determined according to a fraction
3 of which the denominator is the total premiums received by the
4 company during the calendar year immediately preceding the year
5 in which the assessment is paid and the numerator is that
6 portion of the premiums received during such year on account of
7 policies of life or health and accident insurance in which the
8 premium rates are guaranteed during the continuance of the
9 respective policies without a right exercisable by the company
10 to increase those premium rates.

11 (c) Refunded amounts.--Any sums acquired by refund, pursuant
12 to section 8321(f), from the association which have theretofore
13 been written off by contributing insurers and offset against
14 premium taxes as provided in this section and are not then
15 needed for purposes of this chapter, shall be paid by the
16 association to the department and deposited by him with the
17 State Treasurer for credit to the General Fund of the
18 Commonwealth.

19 § 8323. Assessments of other states.

20 Assessments made by insurance guaranty associations or
21 similar entities pursuant to the laws of any other state shall
22 not be considered burdens or prohibitions under section 510
23 (relating to additional restrictions of other states).

24 § 8324. Relation to Pennsylvania Insurance Guaranty
25 Association.

26 A member insurer of the Pennsylvania Insurance Guaranty
27 Association shall not be subject to assessment by the
28 Pennsylvania Insurance Guaranty Association for covered claims,
29 as defined in section 8103 (relating to definitions) arising
30 under health and accident policies, endorsements, riders and

1 contracts supplemental thereto written in this Commonwealth by
2 any member insurer adjudicated insolvent on or after January 25,
3 1979, by a court of the insolvent insurer's domiciliary state. A
4 member of the Pennsylvania Life and Health Insurance Guaranty
5 Association who is also a member of the Pennsylvania Insurance
6 Guaranty Association under Chapter 81 (relating to Property and
7 Casualty Insurance Guaranty Association), solely because of
8 health and accident policies written in this Commonwealth may,
9 by written notice to the Pennsylvania Insurance Guaranty
10 Association, withdraw as a member thereof and shall not be
11 subject to any other assessments by the Pennsylvania Insurance
12 Guaranty Association.

13 SUBCHAPTER D

14 POWERS AND DUTIES OF DEPARTMENT

15 Sec.

16 8331. Powers and duties of department.

17 § 8331. Powers and duties of department.

18 (a) General powers.--The department shall do the following:

19 (1) Provide the association with a statement of the
20 premiums in the appropriate states for each member insurer
21 when requested by the board of directors.

22 (2) When an impairment is declared and the amount of the
23 impairment is determined, serve a demand upon the impaired
24 insurer to make good the impairment within a reasonable time.
25 Notice to the impaired insurer shall constitute notice to its
26 shareholders, if any. The failure of the insurer to comply
27 promptly with this demand shall not excuse the association
28 from the performance of its powers and duties under this
29 chapter.

30 (3) In any liquidation or rehabilitation proceeding

1 involving a domestic insurer, be appointed as the liquidator
2 or rehabilitator. If a foreign or alien member insurer is
3 subject to a liquidation proceeding in its domiciliary
4 jurisdiction or state of entry, the department shall be
5 appointed conservator.

6 (b) Sanctions.--The department may suspend or revoke, after
7 notice and hearing, the certificate of authority to transact
8 insurance in this Commonwealth of any member insurer which fails
9 to pay an assessment when due or fails to comply with the plan
10 of operation, or may levy a penalty on any member insurer which
11 fails to pay an assessment when due. The penalty shall be at
12 least \$100 a month, but otherwise shall not exceed 5% of the
13 unpaid assessment a month.

14 (c) Appeals.--An action of the board of directors or the
15 association may be appealed to the department by any member
16 insurer if the appeal is taken within 30 days of the action. A
17 final action or order of the department shall be subject to
18 judicial review under Title 2 (relating to administrative law
19 and procedure).

20 (d) Other law.--The duties and powers of the department as
21 set forth in this chapter are in addition to and not in
22 limitation of any other powers and duties of the department
23 prescribed by law.

24 SUBCHAPTER E

25 IMPAIRED AND INSOLVENT INSURERS

26 Sec.

27 8341. Prevention of insolvencies.

28 8342. Affairs of impaired and insolvent insurers.

29 8343. Proceedings involving insolvent insurers.

30 8344. Timely filing of claims.

1 8345. Duplication of recovery.

2 § 8341. Prevention of insolvencies.

3 (a) Duties of department.--The department shall do the
4 following:

5 (1) Notify the commissioners or departments of all of
6 the other states when it takes any of the following actions
7 against a member insurer based specifically in consideration
8 of the financial solvency of the insurer:

9 (i) Revocation of license.

10 (ii) Suspension of license.

11 (iii) Making of any formal order that the company
12 restrict its premium writing, obtain additional
13 contributions to surplus, withdraw from this
14 Commonwealth, reinsure all or any part of its business or
15 increase its capital surplus or any other account for the
16 security of policyholders or creditors.

17 (2) Mail such notice to all commissioners or departments
18 within 30 days of the date on which the action was taken.

19 (3) Report to the board of directors when it has taken
20 any of the actions set forth in paragraph (1) or has received
21 a report from the commissioner or department of another state
22 indicating that any such action has been taken in another
23 state. The report shall contain all significant details of
24 the action taken or report received from the commissioner or
25 department of another state.

26 (4) Report to the board of directors when it has
27 reasonable cause to believe from any examination, whether
28 completed or in process, that a member company may be an
29 impaired or insolvent insurer, notwithstanding section 511
30 (relating to examination of companies).

(5) Furnish to the board of directors the early warning tests developed by the National Association of Insurance Commissioners.

The board may use the information contained therein in carrying out its duties under this section. The report and the information contained therein shall be kept confidential by the board of directors until it is made public by the department or other lawful authority.

(b) Board of directors.--The department may seek the advice and recommendations of the board of directors concerning any matter affecting its duties regarding the financial condition of member companies and companies seeking to transact insurance business in this Commonwealth. The board of directors may do the following, upon majority vote:

(1) Make reports and recommendations to the department upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or germane to the solvency of any insurance company seeking to do business in this Commonwealth. These reports and recommendations shall not be considered public documents.

(2) Notify the department of any information it has indicating a member insurer may be impaired or insolvent.

(3) Request the department to order an examination of any member insurer which the board in good faith believes may be impaired. The department shall begin such examination within 30 days of the receipt of the request. The examination may be conducted as a National Association of Insurance Commissioners examination or by such persons as the department designates. The cost of the examination shall be paid by the association, and the examination report shall be

1 treated the same as are other examination reports. The
2 examination report shall not be released to the board of
3 directors prior to its release to the public; however, this
4 requirement does not preclude the department from complying
5 with subsection (a). The department shall notify the board of
6 directors when the examination is completed. The request for
7 an examination shall be kept on file by the department and
8 shall not be open to public inspection prior to the release
9 of the examination report to the public.

10 (4) Make recommendations to the department for the
11 detection and prevention of insurer insolvencies.

12 (c) Reports on insolvency.--The board of directors shall, at
13 the conclusion of any insurer insolvency in which the
14 association was obligated to pay covered claims, prepare a
15 report to the department containing such information as it may
16 possess bearing on the history and causes of the insolvency. The
17 board shall cooperate with the board of directors of guaranty
18 associations in other states in preparing a report on the
19 history and causes for insolvency of a particular insurer. It
20 may adopt, by reference, a report prepared by other
21 associations.

22 § 8342. Affairs of impaired and insolvent insurers.

23 (a) Assignment and subrogation.--A person receiving benefits
24 under this chapter shall be deemed to have assigned the rights
25 under the covered policy to the association to the extent of the
26 benefits received because of this chapter, whether the benefits
27 are payments of contractual obligations or continuation of
28 coverage. The association may require an assignment to it of
29 these rights by any payee, policy or contract owner,
30 beneficiary, insured or annuitant as a condition precedent to

1 the receipt of any rights or benefits conferred by this chapter.
2 The association shall be subrogated to these rights against the
3 assets of any insolvent insurer. The subrogation rights of the
4 association under this subsection shall have the same priority
5 against the assets of the insolvent insurer as that possessed by
6 the person entitled to receive benefits under this chapter.

7 (b) Rights of association as creditor.--For the purpose of
8 carrying out its obligations under this chapter, the association
9 shall be deemed to be a creditor of the impaired or insolvent
10 insurer to the extent of assets attributable to covered policies
11 reduced by any amounts to which the association is entitled as
12 subrogee pursuant to subsection (a). All assets of the insurer
13 attributable to covered policies shall be used by the
14 association to continue all covered policies and pay all
15 contractual obligations of the insurer as required by this
16 chapter. For the purposes of this subsection, assets
17 attributable to covered policies under any account, as used in
18 this subsection, shall be determined as being that proportion of
19 the total assets of the insurer which the reserves that should
20 have been established for policies under such account bear to
21 the reserves that should have been established for all policies
22 of insurance written by the insurer.

23 (c) Distribution of insurer's assets.--Prior to the
24 termination of any liquidation, rehabilitation or conservation
25 proceeding, the court may take into consideration the
26 contributions of the respective parties, including the
27 association, the shareholders and policyowners of the insolvent
28 insurer and any other party with a bona fide interest, in making
29 an equitable distribution of the ownership rights of the
30 insurer. In such a determination, consideration shall be given

1 to the welfare of the policyholders of the continuing or
2 successor insurer.

3 (d) Distribution to stockholders.--A distribution to
4 stockholders, if any, of an impaired or insolvent insurer shall
5 not be made until and unless the total amount of valid claims of
6 the association for funds expended in carrying out its powers
7 and duties under section 8313 (relating to powers and duties of
8 association) with respect to the insurer has been fully
9 recovered by the association.

10 (e) Recovery against affiliates.--If an order for
11 liquidation or rehabilitation of a domestic insurer has been
12 entered, the receiver appointed under the order may recover on
13 behalf of the insurer, from any affiliate that controlled it,
14 the amount of distributions, other than stock dividends paid by
15 the insurer on its capital stock, made at any time during the
16 five years preceding the petition for liquidation or
17 rehabilitation subject to the following provisions:

18 (1) The distribution shall not be recoverable if the
19 insurer shows that when paid the distribution was lawful and
20 reasonable in accordance with Chapter 35 (relating to
21 corporate operations).

22 (2) A person who was an affiliate controlling the
23 insurer at the time the distributions were paid shall be
24 liable to the extent of the distributions received by him;
25 whenever two persons are liable with respect to the same
26 distributions, they shall be jointly and severally liable. If
27 any person so liable is insolvent, all the affiliates that
28 controlled it at the time the distribution was paid shall be
29 jointly and severally liable for any resulting deficiency in
30 the amount recovered from the insolvent affiliate.

(3) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

§ 8343. Proceedings involving insolvent insurers.

(a) Stay of proceedings.--All proceedings in which the insolvent insurer is a party in any court shall be stayed 90 days from the date the insolvency is determined by the Commonwealth Court to permit proper legal action by the association on any matters germane to its powers or duties.

(b) Reopening default judgments.--As to any judgment against an insolvent insurer in relation to a contractual obligation under any decision, order, verdict or finding based on default, the association may apply to have the judgment set aside by the same court that made it and shall be permitted to defend against the suit on the merits.

§ 8344. Timely filing of claims.

Notwithstanding any other provision of this chapter, any claim filed after the final date set by the court for the filing of claims against the liquidator of an insolvent insurer shall not be deemed a contractual obligation.

§ 8345. Duplication of recovery.

A person having a claim or benefit payment which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured. A recovery under this chapter shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

CHAPTER 85

INSURANCE PREMIUM FINANCE COMPANIES

1 Subchapter

2 A. General Provisions

3 B. Licensure

4 C. Regulation

5 SUBCHAPTER A

6 GENERAL PROVISIONS

7 Sec.

8 8501. Short title of chapter.

9 8502. Definitions.

10 § 8501. Short title of chapter.

11 This chapter shall be known and may be cited as the Insurance
12 Premium Finance Company Act.

13 § 8502. Definitions.

14 The following words and phrases when used in this chapter
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Insurance premium finance agreement" or "agreement." An
18 agreement by which an insured or prospective insured promises to
19 pay to an insurance premium finance company the amount advanced
20 or to be advanced under the agreement to an insurer or to an
21 insurance agent or broker in payment of premiums and related
22 loss prevention services of an insurance contract together with
23 interest and a service charge pursuant to this chapter.

24 "Insurance premium finance company." A person engaged in the
25 business of entering into insurance premium finance agreements.

26 "Licensee." An insurance premium finance company holding a
27 license issued under this chapter.

28 "Person." Includes a common law trust, joint-stock company
29 or any other group of individuals however organized.

30 SUBCHAPTER B

LICENSURE

Sec.

8511. Licensure requirement.

8512. Issuance and renewal of license.

8513. Revocation or suspension of license.

§ 8511. Licensure requirement.

(a) General rule.--A person shall not engage in the business of an insurance premium finance company in this Commonwealth without first being so licensed by the department. Any solicitation or communication, verbal or written, offering an insurance premium finance agreement and originating outside this Commonwealth but forwarded to and received in this Commonwealth by a resident of this Commonwealth shall be deemed to be doing business in this Commonwealth.

(b) Fee.--The annual license fee shall be \$200. Licenses may be renewed from year to year as of July 1 of each year upon payment of the fee of \$200. The fee for the license shall be paid to the department.

(c) Disclosure by applicant.--The department may at any time require the applicant to disclose the identity of all stockholders, partners, officers and employees and may refuse to issue or renew a license in the name of any firm, partnership or corporation if it is not satisfied that any officer, employee, stockholder or partner thereof who may materially influence the applicant's conduct meets the standards of this chapter.

(d) Exemptions.--The following persons engaged in business otherwise subject to licensure under subsection (a) shall not be required to obtain a license under this section and shall be exempt from this chapter:

(1) Banks, bank and trust companies, savings banks,

savings and loan associations or credit unions which are chartered by the Federal Government or the Commonwealth.

(2) Consumer discount companies licensed by the Commonwealth under the act of April 8, 1937 (P.L.262, No.66), known as the Consumer Discount Company Act.

(3) Authorized insurance entities which engage in the financing of their own sales.

(4) Secondary mortgage loan companies licensed by the Commonwealth under the act of December 12, 1980 (P.L.1179, No.219), known as the Secondary Mortgage Loan Act.

(5) Sales finance companies licensed under the act of June 28, 1947 (P.L.1110, No.476), known as the Motor Vehicle Sales Finance Act.

(6) Holders of retail installment contracts or installment accounts executed, incurred or entered into by a retail buyer pursuant to the act of October 28, 1966 (1st Sp. Sess., P.L.55, No.7), known as the Goods and Services Installment Sales Act.

(7) Home improvement contractors or financing agencies extending credit pursuant to the act of August 14, 1963 (P.L.1082, No.464), known as the Home Improvement Finance Act.

§ 8512. Issuance and renewal of license.

(a) Procedure.--Upon the filing of an application in a form to be specified by the department and the payment of the license fee, the department shall make an investigation of each applicant and shall issue a license if the applicant is qualified in accordance with this chapter. The applicant shall provide the requested information in writing and under oath on such forms or in such other manner as the department shall

1 prescribe. If the department does not find the applicant to be
2 qualified, it shall, within 60 days after it has received the
3 application, at the request of the applicant, give the applicant
4 a full hearing.

5 (b) Requirements.--Before the department shall issue or
6 renew a license, it shall be satisfied that:

7 (1) the applicant is competent, reputable and
8 trustworthy and intends to act in good faith in the business
9 to be licensed;

10 (2) the individuals, officers, members or other
11 individuals connected with or doing business for the
12 applicant have such experience, training or education as to
13 be qualified in the business to be licensed; and

14 (3) if a corporation, the applicant is a corporation
15 incorporated under the law of this Commonwealth or is a
16 foreign corporation authorized to transact business in this
17 Commonwealth.

18 (c) Net worth.--Before the department issues or renews any
19 license under this chapter, it shall ascertain that the
20 applicant has and maintains a net worth of at least \$50,000 as
21 shall be certified on the application.

22 § 8513. Revocation or suspension of license.

23 (a) General rule.--The department may revoke or suspend the
24 license of any insurance premium finance company if after
25 investigation it appears to the department that:

26 (1) any license issued to the company was obtained by
27 fraud;

28 (2) there was any misrepresentation in the application
29 for the license;

30 (3) the holder of the license has otherwise been shown

1 to be untrustworthy or incompetent to act as an insurance
2 premium finance company; or

3 (4) the company has violated this chapter.

4 (b) Procedure.--Before the department revokes, suspends or
5 refuses to renew the license of any insurance premium finance
6 company, the aggrieved person shall be entitled to a hearing
7 under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
8 procedure of Commonwealth agencies). In lieu of revoking or
9 suspending the license for any of the causes enumerated in this
10 section, after hearing, the department may subject the company
11 to a civil penalty of not more than \$1,000 for each violation of
12 this chapter when it finds that the public interest would not be
13 harmed by the continued operation of the company. The penalty
14 shall be paid by the company to the department.

15 (c) Hearing.--If the department refuses to issue to any
16 person a license as an insurance premium finance company, or it
17 revokes, suspends or refuses to renew the license of any
18 insurance premium finance company, or it imposes a penalty on
19 the company, after a hearing as provided under subsection (b),
20 the applicant or licensee may appeal from the refusal to issue a
21 license or from the adjudication under 2 Pa.C.S. Ch. 7 Subch. A
22 (relating to judicial review of Commonwealth agency action).

23 (d) Companies subject to Chapter 15.--In addition to any
24 other law that may be applicable, insurance premium finance
25 companies are subject to Chapter 15 (relating to unfair
26 insurance practices).

27 SUBCHAPTER C

28 REGULATION

29 Sec.

30 8521. Books and records of licensee.

1 8522. Form of agreement.
2 8523. Limitations on interest and other charges.
3 8524. Delinquency and cancellation charges.
4 8525. Cancellation of insurance contract upon default.
5 8526. Return of premiums.
6 8527. Secured transactions.
7 8528. Penalties for ~~violation~~ VIOLATIONS. <—
8 8529. REGULATIONS. <—

9 § 8521. Books and records of licensee.

10 (a) Examination by department.--Every licensee shall
11 maintain and make available all books, records, accounts and
12 other files of its premium finance transactions, and these
13 records shall be made available for examination and
14 investigation by the department or its representative. The
15 department may at any time during regular business hours examine
16 the records at any location at which the records are maintained.

17 (b) Preservation of records.--Every licensee shall preserve
18 all books, records, accounts and other files of the insurance
19 premium finance transactions, including cards used in any card
20 system, for at least three years after making the final entry in
21 respect to any insurance premium finance agreement. The
22 preservation of records in photographic form shall constitute
23 compliance with this requirement.

24 § 8522. Form of agreement.

25 (a) Contents.--An insurance premium finance agreement shall:

26 (1) Be dated and signed by or on behalf of the insured,
27 and the printed portion shall be in at least eight-point
28 type.

29 (2) Be dated and signed by the agent or broker, if any,
30 executing the agreement.

1 (3) Contain the name and principal place of business of
2 the insurance agent negotiating the related insurance
3 contract, the name and residence or the place of business of
4 the insured as specified by him, the name and place of
5 business of the insurance premium finance company to which
6 payments are to be made, a brief description of the insurance
7 contracts involved and the amount of the premium therefor.

8 (4) Comply with all applicable standards set forth in
9 the Federal Truth in Lending Act (Public Law 90-321, 15
10 U.S.C. § 1601 et seq.).

11 (b) Approval of form.--The agreement shall be in a form
12 which has been submitted to the department for review and
13 approved for use. The department shall approve or disapprove a
14 form within 30 days from the date of its submission. If the
15 department fails to act within this time period, the form, as
16 submitted, shall be deemed approved.

17 (c) Agreement period.--The agreement shall be for a period
18 of time no longer than the term of the policy, but not to exceed
19 three years.

20 (d) Prohibited terms.--An agreement shall not contain any of
21 the following terms:

22 (1) A provision that, in the absence of default of the
23 insured, the insurance premium finance company holding the
24 agreement may, arbitrarily and without reasonable cause,
25 accelerate the maturity of any part or all of the amount
26 owing thereunder.

27 (2) A power or attorney to confess judgment in this
28 Commonwealth.

29 (3) A waiver by the insured of any right of action
30 against the insurance premium finance company, any holder of

1 the agreement or any person acting on behalf of either for
2 any violation of this chapter or other wrongful act committed
3 in the enforcement of the contract or agreement.

4 (4) A provision that the seller or holder of the
5 contract or any person acting on his behalf is given
6 authority to take a mortgage or other security against
7 residential real estate of the buyer or any other obligee to
8 the contract.

9 § 8523. Limitations on interest and other charges.

10 (a) General rule.--An insurance premium finance company
11 shall not charge, contract for, receive or collect an interest
12 charge other than as permitted by this chapter.

13 (b) Calculation of interest.--The interest is to be computed
14 on the balance of the premiums due, after subtracting the down
15 payment made by the insured in accordance with the insurance
16 premium finance agreement, from the effective date of the
17 insurance coverage, for which the premiums are being advanced to
18 and including the date when the final installment of the
19 agreement is payable.

20 (c) Limits on interest.--The interest shall not exceed the
21 interest rate as permitted for a retail installment sales
22 contract under the act of October 28, 1966 (1st Sp.Sess.,
23 P.L.55, No.7), known as the Goods and Services Installment Sales
24 Act, plus an additional service charge of \$10 per insurance
25 premium finance agreement, which need not be refunded upon
26 cancellation or prepayment. If the insurance policy whose
27 premiums are being financed is for other than personal, family
28 or household purposes, then the interest shall be at the rate
29 agreed to by the parties and stated in the insurance premium
30 finance agreement. The interest permitted by this subsection

1 anticipates repayment in consecutive monthly installments equal
2 in amount for a period of one year. For repayment in greater or
3 lesser periods or in unequal, irregular or other than monthly
4 installments, the interest may be computed at an equivalent
5 effective rate having due regard for the installments as
6 scheduled.

7 (d) Refunds.--Notwithstanding the provisions of the
8 insurance premium finance agreement, any insured may prepay the
9 obligation in full at any time. In that event, he shall receive
10 a refund credit, which refund credit shall be computed pursuant
11 to the actuarial method. As used in this subsection the term
12 "actuarial method" means the method of allocating payments made
13 on a debt between the amount financed and the finance charge
14 pursuant to which a payment is applied first to the accumulated
15 finance charge and any remainder is subtracted from the unpaid
16 balance of the amount financed. If the amount of the refund
17 credit is less than \$1, no refund need be made.

18 § 8524. Delinquency and cancellation charges.

19 An insurance premium finance agreement may provide for the
20 payment by the insured of a delinquency charge of \$1 to a
21 maximum of 5% of the delinquent installment on any installment
22 which is in default for a period of five days or more.

23 § 8525. Cancellation of insurance contract upon default.

24 (a) Procedure.--When an insurance premium finance agreement
25 contains a power of attorney enabling the insurance premium
26 finance company to cancel any insurance contract listed in the
27 agreement, the insurance contract shall not be canceled by the
28 insurance premium finance company unless the cancellation is
29 effected in accordance with this section.

30 (b) Written notice.--Not less than 15 days' written notice

1 shall be mailed to the insured, at his last known address as
2 shown on the records of the insurance premium finance company,
3 of the intent of the insurance premium finance company to cancel
4 the insurance contract or contracts unless the default is cured
5 within the 15-day period.

6 (c) Curing default.--If, after giving the prescribed notice,
7 the default is not cured within the 15-day period, the insurance
8 premium finance company may cancel the insurance contract by
9 mailing a notice of cancellation to the insurer. The insurance
10 contract shall be canceled as if the notice of cancellation had
11 been submitted by the insured himself but without requiring the
12 return of the insurance contract. The insurance premium finance
13 company shall also mail a notice of cancellation to the insured
14 at his last known address as shown on the records of the
15 company.

16 (d) Legal restrictions.--All statutory, regulatory and
17 contractual restrictions providing that the insurance contract
18 may not be canceled unless notice is given to a governmental
19 agency, mortgagee or other third party shall apply when
20 cancellation is effected under this section. The insurer shall
21 determine the effective date of cancellation, taking into
22 consideration the number of days notice required to complete the
23 cancellation. The insurer shall not be required to send the
24 insured any notice of cancellation when the insurance policy is
25 canceled by an insurance premium finance company under this
26 section.

27 § 8526. Return of premiums.

28 Whenever a financed insurance contract is canceled, the
29 insurer shall return whatever gross unearned premiums are due
30 under the insurance contract to the insurance premium finance

1 company for the account of the insured as soon as reasonably
2 possible, and not more than 60 days after the effective date of
3 cancellation. If the crediting of return premiums to the account
4 of the insured results in a surplus over the amount due from the
5 insured, the insurance premium finance company shall refund the
6 excess to the insured within ten days of receipt of the returned
7 premium from the insurer, but no refund shall be required if the
8 excess is less than \$1.

9 § 8527. Secured transactions.

10 A filing of the insurance premium finance agreement shall not
11 be necessary to perfect the validity of the agreement as a
12 secured transaction as against creditors, subsequent purchasers,
13 pledgees, encumbrancers, successors or assigns.

14 § 8528. Penalties for violations.

15 (a) Violation of chapter.--Any insurance premium finance
16 company or insurer, agent or broker who willfully and knowingly
17 violates this chapter commits a misdemeanor of the third degree.

18 (b) Unlicensed business.--Any person who engages in the
19 business of entering into insurance premium finance agreements
20 without having a license under this chapter commits a
21 misdemeanor of the third degree.

22 § 8529. REGULATIONS.

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23 THE DEPARTMENT MAY ADOPT, AMEND OR REPEAL SUCH REGULATIONS AS
24 ARE REASONABLY NECESSARY FOR THE ADMINISTRATION AND ENFORCEMENT
25 OF THIS CHAPTER.

26 SECTION 3. THE DEFINITIONS OF "OSTEOPATH," "OSTEOPATHIC
27 SURGEON" AND "PHYSICIAN" IN SECTION 1991 OF TITLE 1 ARE AMENDED
28 AND THE SECTION IS AMENDED BY ADDING DEFINITIONS TO READ:

29 § 1991. DEFINITIONS.

30 THE FOLLOWING WORDS AND PHRASES, WHEN USED IN ANY STATUTE

1 FINALLY ENACTED ON OR AFTER SEPTEMBER 1, 1937, UNLESS THE
2 CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE MEANINGS
3 ASCRIBED TO THEM IN THIS SECTION:

4 * * *

5 "CHIROPRACTOR." AN INDIVIDUAL LICENSED UNDER THE LAWS OF
6 THIS COMMONWEALTH TO PRACTICE CHIROPRACTIC.

7 * * *

8 "OSTEOPATH." [A PHYSICIAN] AN INDIVIDUAL LICENSED UNDER THE
9 LAWS OF THIS COMMONWEALTH TO PRACTICE OSTEOPATHY.

10 "OSTEOPATHIC SURGEON." [A PHYSICIAN] AN INDIVIDUAL LICENSED
11 UNDER THE LAWS OF THIS COMMONWEALTH TO PRACTICE OSTEOPATHY AND
12 OSTEOPATHIC SURGERY.

13 * * *

14 "PHYSICAL THERAPIST." AN INDIVIDUAL LICENSED UNDER THE LAWS
15 OF THIS COMMONWEALTH TO PRACTICE PHYSICAL THERAPY.

16 "PHYSICIAN."

17 [(1) WHEN USED IN ANY STATUTE FINALLY ENACTED ON OR
18 BEFORE APRIL 6, 1951, AN INDIVIDUAL LICENSED UNDER THE LAWS
19 OF THIS COMMONWEALTH TO ENGAGE IN THE PRACTICE OF MEDICINE
20 AND SURGERY IN ANY OR ALL OF ITS BRANCHES;

21 (2) WHEN USED IN ANY STATUTE FINALLY ENACTED ON OR AFTER
22 APRIL 7, 1951 AND ON OR BEFORE JUNE 14, 1957, AN INDIVIDUAL
23 LICENSED UNDER THE LAWS OF THIS COMMONWEALTH TO ENGAGE IN THE
24 PRACTICE OF MEDICINE AND SURGERY IN ANY OR IN ALL OF ITS
25 BRANCHES WITHIN THE SCOPE OF THE ACT OF JUNE 3, 1911
26 (P.L.639, NO.246) RELATING TO MEDICINE AND SURGERY AND ITS
27 AMENDMENTS, OR IN THE PRACTICE OF OSTEOPATHY OR OSTEOPATHIC
28 SURGERY WITHIN THE SCOPE OF THE ACT OF MARCH 19, 1909
29 (P.L.46, NO.29) AND ITS AMENDMENTS;

30 (3) WHEN USED IN ANY STATUTE FINALLY ENACTED ON OR AFTER

1 JUNE 15, 1957 AND ON OR BEFORE JULY 19, 1974, AN INDIVIDUAL
2 LICENSED UNDER THE LAWS OF THIS COMMONWEALTH TO ENGAGE IN THE
3 PRACTICE OF MEDICINE AND SURGERY IN ALL OF ITS BRANCHES
4 WITHIN THE SCOPE OF THE ACT OF JUNE 3, 1911 (P.L.639, NO.246)
5 RELATING TO MEDICINE AND SURGERY AND ITS AMENDMENTS, OR IN
6 THE PRACTICE OF OSTEOPATHY OR OSTEOPATHIC SURGERY WITHIN THE
7 SCOPE OF THE ACT OF MARCH 19, 1909 (P.L.46, NO.29) AND ITS
8 AMENDMENTS;

9 (4) WHEN USED IN ANY STATUTE FINALLY ENACTED ON OR AFTER
10 JULY 20, 1974 AND ON OR BEFORE OCTOBER 7, 1978, AN INDIVIDUAL
11 LICENSED UNDER THE LAWS OF THIS COMMONWEALTH TO ENGAGE IN THE
12 PRACTICE OF MEDICINE AND SURGERY IN ALL ITS BRANCHES WITHIN
13 THE SCOPE OF THE ACT OF JULY 20, 1974 (P.L.551, NO.190),
14 KNOWN AS THE MEDICAL PRACTICE ACT OF 1974, AND ITS
15 AMENDMENTS, OR IN THE PRACTICE OF OSTEOPATHY OR OSTEOPATHIC
16 SURGERY WITHIN THE SCOPE OF THE PRIOR PROVISIONS OF THE ACT
17 OF MARCH 19, 1909 (P.L.46, NO.29), REFERRED TO AS THE
18 OSTEOPATHIC PRACTICE LAW, AND ITS AMENDMENTS; AND

19 (5) WHEN USED IN ANY STATUTE FINALLY ENACTED ON OR AFTER
20 OCTOBER 5, 1978, AN INDIVIDUAL LICENSED UNDER THE LAWS OF
21 THIS COMMONWEALTH TO ENGAGE IN THE PRACTICE OF MEDICINE AND
22 SURGERY IN ALL ITS BRANCHES WITHIN THE SCOPE OF THE ACT OF
23 JULY 20, 1974 (P.L.551, NO.190), KNOWN AS THE MEDICAL
24 PRACTICE ACT OF 1974, AND ITS AMENDMENTS, OR IN THE PRACTICE
25 OF OSTEOPATHIC MEDICINE AND SURGERY WITHIN THE SCOPE OF THE
26 ACT OF OCTOBER 5, 1978 (P.L.1109, NO.261), KNOWN AS THE
27 OSTEOPATHIC MEDICAL PRACTICE ACT, AND ITS AMENDMENTS. TO THE
28 EXTENT THAT ANY STATUTE IMPOSES DUTIES UPON OR GRANTS POWERS
29 TO THE STATE BOARD OF MEDICAL EDUCATION AND LICENSURE
30 RELATING TO AN INDIVIDUAL LICENSED UNDER THE LAWS OF THIS

COMMONWEALTH TO ENGAGE IN THE PRACTICE OF OSTEOPATHIC
MEDICINE AND SURGERY, SUCH STATUTE SHALL BE CONSTRUED TO
IMPOSE SUCH DUTIES UPON AND GRANT SUCH POWER TO THE STATE
BOARD OF OSTEOPATHIC MEDICAL EXAMINERS, WHICH BOARD SHALL
EXERCISE SUCH DUTIES OR POWERS IN ACCORDANCE WITH THE
OSTEOPATHIC MEDICAL PRACTICE ACT.]

A DOCTOR OF MEDICINE, OSTEOPATH OR OSTEOPATHIC SURGEON.

"PODIATRIST." AN INDIVIDUAL LICENSED UNDER THE LAWS OF THIS
COMMONWEALTH TO PRACTICE PODIATRIC MEDICINE.

* * *

SECTION 4. (A) THE DEFINITIONS OF "FOREIGN INSURANCE
CORPORATION" AND "INSURANCE CORPORATION" IN SECTION 102 OF TITLE
15 ARE AMENDED TO READ:

§ 102. DEFINITIONS.

SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC PARTS,
ARTICLES, CHAPTERS OR OTHER PROVISIONS OF THIS TITLE, THE
FOLLOWING WORDS AND PHRASES WHEN USED IN THIS TITLE SHALL HAVE,
UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE MEANINGS
GIVEN TO THEM IN THIS SECTION:

* * *

"FOREIGN INSURANCE CORPORATION." A CORPORATION FOR PROFIT
INCORPORATED UNDER ANY LAWS OTHER THAN THOSE OF THIS
COMMONWEALTH WHICH IS QUALIFIED TO DO BUSINESS IN THIS
COMMONWEALTH UNDER [THE INSURANCE COMPANY LAW OF 1921] TITLE 40
(RELATING TO INSURANCE).

"INSURANCE CORPORATION" OR "DOMESTIC INSURANCE CORPORATION."
A DOMESTIC CORPORATION FOR PROFIT WHICH IS INCORPORATED UNDER OR
SUBJECT TO [THE INSURANCE COMPANY LAW OF 1921 OR ANY STATUTE
RELATING TO THE INCORPORATION OR REINCORPORATION OF LIMITED LIFE

1 INSURANCE COMPANIES] 40 PA.C.S. PART III (RELATING TO
2 ORGANIZATION OF INSURANCE ENTITIES) OR 40 PA.C.S. CH. 53 SUBCH.
3 G (RELATING TO LIMITED LIFE INSURANCE COMPANIES).

4 * * *

5 (B) SECTION 7313(A) OF TITLE 15 IS AMENDED TO READ:

6 § 7313. CORPORATE NAME.

7 (A) GENERAL RULE.--THE CORPORATE NAME MAY BE IN ANY
8 LANGUAGE, BUT MUST BE EXPRESSED IN ENGLISH LETTERS OR CHARACTERS
9 AND SHALL NOT CONTAIN THE WORD "COOPERATIVE" OR AN ABBREVIATION
10 THEREOF. THE CORPORATE NAME SHALL NOT IMPLY THAT THE CORPORATION
11 IS A GOVERNMENTAL AGENCY OF THE COMMONWEALTH OR OF THE UNITED
12 STATES, A BANK, BANK AND TRUST COMPANY, SAVINGS BANK, PRIVATE
13 BANK OR TRUST COMPANY, AS DEFINED IN THE BANKING CODE OF 1965,
14 AN INSURANCE COMPANY WHICH MIGHT BE INCORPORATED UNDER [THE
15 INSURANCE COMPANY LAW OF 1921] TITLE 40 (RELATING TO INSURANCE),
16 OR A PUBLIC UTILITY AS DEFINED IN [THE PUBLIC UTILITY LAW] TITLE
17 66 (RELATING TO PUBLIC UTILITIES).

18 * * *

19 SECTION 5. SECTION 3205(D) OF TITLE 18 IS AMENDED TO READ:

20 § 3205. INFORMED CONSENT.

21 * * *

22 (D) LIMITATION ON CIVIL LIABILITY.--ANY PHYSICIAN WHO
23 COMPLIES WITH THE PROVISIONS OF THIS SECTION MAY NOT BE HELD
24 CIVILLY LIABLE TO HIS PATIENT FOR FAILURE TO OBTAIN INFORMED
25 CONSENT TO THE ABORTION WITHIN THE MEANING OF THAT TERM AS
26 DEFINED BY [THE ACT OF OCTOBER 15, 1975 (P.L.390, NO.111), KNOWN
27 AS THE "HEALTH CARE SERVICES MALPRACTICE ACT."] 40 PA.C.S. §
28 7106 (RELATING TO INFORMED CONSENT).

29 SECTION 6. SECTIONS 761(A)(3), 933(A)(1)(VIII),
30 5322(A)(6)(III), 5323(E), 5535(D), 7361(B), 8121(C) AND 8124(C)

1 OF TITLE 42 ARE AMENDED OR ADDED TO READ:

2 § 761. ORIGINAL JURISDICTION.

3 (A) GENERAL RULE.--THE COMMONWEALTH COURT SHALL HAVE
4 ORIGINAL JURISDICTION OF ALL CIVIL ACTIONS OR PROCEEDINGS:

5 * * *

6 (3) ARISING UNDER [ARTICLE V OF THE ACT OF MAY 17, 1921
7 (P.L.789, NO.285), KNOWN AS "THE INSURANCE DEPARTMENT ACT OF
8 1921."] 40 PA.C.S. CH. 39 (RELATING TO SUSPENSION OF BUSINESS
9 AND DISSOLUTION).

10 * * *

11 § 933. APPEALS FROM GOVERNMENT AGENCIES.

12 (A) GENERAL RULE.--EXCEPT AS OTHERWISE PRESCRIBED BY ANY
13 GENERAL RULE ADOPTED PURSUANT TO SECTION 503 (RELATING TO
14 REASSIGNMENT OF MATTERS), EACH COURT OF COMMON PLEAS SHALL HAVE
15 JURISDICTION OF APPEALS FROM FINAL ORDERS OF GOVERNMENT AGENCIES
16 IN THE FOLLOWING CASES:

17 (1) APPEALS FROM COMMONWEALTH AGENCIES IN THE FOLLOWING
18 CASES:

19 * * *

20 (VIII) DETERMINATIONS OF AN ARBITRATION PANEL
21 ESTABLISHED UNDER [THE ACT OF OCTOBER 15, 1975 (P.L.390,
22 NO.111), KNOWN AS THE "HEALTH CARE SERVICES MALPRACTICE
23 ACT."] 40 PA.C.S. CH. 71 (RELATING TO HEALTH CARE
24 SERVICES MALPRACTICE). EXCEPT AS OTHERWISE PRESCRIBED BY
25 GENERAL RULES, VENUE SHALL BE IN THE COUNTY WHERE THE
26 CAUSE OF ACTION AROSE.

27 * * *

28 § 5322. BASES OF PERSONAL JURISDICTION OVER PERSONS OUTSIDE
29 THIS COMMONWEALTH.

30 (A) GENERAL RULE.--A TRIBUNAL OF THIS COMMONWEALTH MAY

EXERCISE PERSONAL JURISDICTION OVER A PERSON (OR THE PERSONAL REPRESENTATIVE OF A DECEASED INDIVIDUAL WHO WOULD BE SUBJECT TO JURISDICTION UNDER THIS SUBSECTION IF NOT DECEASED) WHO ACTS DIRECTLY OR BY AN AGENT, AS TO A CAUSE OF ACTION OR OTHER MATTER ARISING FROM SUCH PERSON:

* * *

(6) * * *

(III) ENGAGING IN CONDUCT DESCRIBED IN [SECTION 504 OF THE ACT OF MAY 17, 1921 (P.L.789, NO.285), KNOWN AS "THE INSURANCE DEPARTMENT ACT OF 1921."] 40 PA.C.S. § 3911(B) (RELATING TO JURISDICTION AND VENUE).

* * *

§ 5323. SERVICE OF PROCESS ON PERSONS OUTSIDE THIS COMMONWEALTH.

* * *

(E) CROSS REFERENCE.--SEE 40 PA.C.S. § 506(G) (RELATING TO CERTIFICATES OF AUTHORITY TO DO BUSINESS).

§ 5535. EFFECT OF OTHER ACTIONS AND PROCEEDINGS.

* * *

(D) CROSS REFERENCES.--SEE 40 PA.C.S. §§ 3934 (RELATING TO ACTIONS BY AND AGAINST REHABILITATOR) AND 3948 (RELATING TO ACTIONS BY AND AGAINST LIQUIDATOR).

§ 7361. COMPULSORY ARBITRATION.

* * *

(B) LIMITATIONS.--NO MATTER SHALL BE REFERRED UNDER SUBSECTION (A):

(1) WHICH INVOLVES TITLE TO REAL PROPERTY; OR

(2) WHERE THE AMOUNT IN CONTROVERSY, EXCLUSIVE OF INTEREST AND COSTS, EXCEEDS:

(I) \$20,000 (\$25,000 IN THE CASE OF ACTIONS ARISING

1 FROM THE OWNERSHIP, MAINTENANCE OR USE OF A MOTOR
2 VEHICLE) IN JUDICIAL DISTRICTS EMBRACING FIRST OR SECOND
3 CLASS COUNTIES OR HOME RULE COUNTIES THAT BUT FOR THE
4 ADOPTION OF A HOME RULE CHARTER WOULD BE A COUNTY OF ONE
5 OF THESE CLASSES;

6 [(I)] (II) \$20,000 IN JUDICIAL DISTRICTS EMBRACING
7 [FIRST, SECOND,] SECOND CLASS A OR THIRD CLASS COUNTIES
8 OR HOME RULE COUNTIES WHICH BUT FOR THE ADOPTION OF A
9 HOME RULE CHARTER WOULD BE A COUNTY OF ONE OF THESE
10 CLASSES; OR

11 [(II)] (III) \$10,000 IN ANY OTHER JUDICIAL DISTRICT.

12 * * *

13 § 8121. SCOPE OF SUBCHAPTER.

14 * * *

15 (C) CROSS REFERENCE.--SEE 40 PA.C.S. § 3988 (RELATING TO
16 EXECUTION PROCEEDINGS).

17 § 8124. EXEMPTION OF PARTICULAR PROPERTY.

18 * * *

19 (C) INSURANCE PROCEEDS.--THE FOLLOWING PROPERTY OR OTHER
20 RIGHTS OF THE JUDGMENT DEBTOR SHALL BE EXEMPT FROM ATTACHMENT OR
21 EXECUTION ON A JUDGMENT:

22 (1) CERTAIN AMOUNTS PAID, PROVIDED OR RENDERED BY A
23 FRATERNAL BENEFIT SOCIETY AS PROVIDED BY 40 PA.C.S. § [6531
24 (RELATING TO BENEFITS NOT ATTACHABLE)] 4535 (RELATING TO
25 ATTACHMENT OF BENEFITS).

26 (2) CLAIMS AND COMPENSATION PAYMENTS UNDER THE ACT OF
27 JUNE 2, 1915 (P.L.736, NO.338), KNOWN AS ["]THE PENNSYLVANIA
28 WORKMEN'S COMPENSATION LAW,["] EXCEPT AS OTHERWISE PROVIDED
29 IN THE ACT.

30 (3) ANY POLICY OR CONTRACT OF INSURANCE OR ANNUITY

1 ISSUED TO A SOLVENT INSURED WHO IS THE BENEFICIARY THEREOF,
2 EXCEPT ANY PART THEREOF EXCEEDING AN INCOME OR RETURN OF \$100
3 PER MONTH.

4 (4) ANY AMOUNT OF PROCEEDS RETAINED BY THE INSURER AT
5 MATURITY OR OTHERWISE UNDER THE TERMS OF AN ANNUITY OR POLICY
6 OF LIFE INSURANCE IF THE POLICY OR A SUPPLEMENTAL AGREEMENT
7 PROVIDES THAT SUCH PROCEEDS AND THE INCOME THEREFROM SHALL
8 NOT BE ASSIGNABLE.

9 (5) ANY POLICY OF GROUP INSURANCE OR THE PROCEEDS
10 THEREOF.

11 (6) THE NET AMOUNT PAYABLE UNDER ANY ANNUITY CONTRACT OR
12 POLICY OF LIFE INSURANCE MADE FOR THE BENEFIT OF OR ASSIGNED
13 TO THE SPOUSE, CHILDREN OR DEPENDENT RELATIVE OF THE INSURED,
14 WHETHER OR NOT THE RIGHT TO CHANGE THE NAMED BENEFICIARY IS
15 RESERVED BY OR PERMITTED TO THE INSURED. THE PRECEDING
16 SENTENCE SHALL NOT BE APPLICABLE TO THE EXTENT THE JUDGMENT
17 DEBTOR IS SUCH SPOUSE, CHILD OR OTHER RELATIVE.

18 (7) THE NET AMOUNT PAYABLE UNDER ANY ACCIDENT OR
19 DISABILITY INSURANCE.

20 [(8) CERTAIN AMOUNTS PAID, PROVIDED OR RENDERED BY A
21 FRATERNAL BENEFIT SOCIETY AS PROVIDED BY SECTION 305 OF THE
22 ACT OF JULY 29, 1977 (P.L.105, NO.38), KNOWN AS THE
23 "FRATERNAL BENEFIT SOCIETY CODE."

24 (9) CERTAIN AMOUNTS PAID, PROVIDED OR RENDERED UNDER THE
25 PROVISIONS OF SECTION 106(F) OF THE ACT OF JULY 19, 1974
26 (P.L.489, NO.176), KNOWN AS THE "PENNSYLVANIA NO-FAULT MOTOR
27 VEHICLE INSURANCE ACT."

28 (10)] (8) CERTAIN AMOUNTS PAID, PROVIDED OR RENDERED
29 UNDER THE PROVISIONS OF SECTION 703 OF THE ACT OF DECEMBER 5,
30 1936 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE

1 ["]UNEMPLOYMENT COMPENSATION LAW.["]

2 SECTION 7. TO THE EXTENT THAT ANY STATUTE IMPOSES DUTIES
3 UPON OR GRANTS POWERS TO THE STATE BOARD OF MEDICINE RELATING TO
4 AN INDIVIDUAL LICENSED UNDER THE LAWS OF THIS COMMONWEALTH TO
5 ENGAGE IN THE PRACTICE OF OSTEOPATHIC MEDICINE AND SURGERY, SUCH
6 STATUTE SHALL BE CONSTRUED TO IMPOSE SUCH DUTIES UPON AND GRANT
7 SUCH POWER TO THE STATE BOARD OF OSTEOPATHIC MEDICINE, WHICH
8 BOARD SHALL EXERCISE SUCH DUTIES OR POWERS IN ACCORDANCE WITH
9 THE ACT OF OCTOBER 5, 1978 (P.L.1109, NO.261), KNOWN AS THE
10 OSTEOPATHIC MEDICAL PRACTICE ACT.

11 SECTION 8. (A) CERTIFICATES OF AUTHORITY, LICENSES,
12 PERMITS, CHARTERS, REGISTRATIONS, APPROVALS AND OTHER ACTIONS BY
13 THE INSURANCE DEPARTMENT UNDER ACTS HEREBY SUPPLIED OR REPEALED
14 THAT ARE VALID OR OTHERWISE IN FORCE ON THE EFFECTIVE DATE OF
15 THIS ACT SHALL BE DEEMED TO HAVE BEEN ISSUED, GRANTED OR MADE
16 UNDER THE CORRESPONDING PROVISIONS OF 40 PA.C.S. (RELATING TO
17 INSURANCE), AS ENACTED BY THIS ACT, FOR THE PURPOSES OF ANY
18 PROVISION OF LAW THAT MAKES REFERENCE TO 40 PA.C.S., AS ENACTED
19 BY THIS ACT.

20 (B) NOTWITHSTANDING 1 PA.C.S. § 1957 (RELATING TO
21 INEFFECTIVE PROVISIONS NOT REVIVED BY REENACTMENT IN AMENDATORY
22 STATUTES), IT IS HEREBY DECLARED TO BE THE INTENT OF THIS ACT TO
23 RESTORE 42 PA.C.S. §§ 7361(B) (RELATING TO COMPULSORY
24 ARBITRATION) AND 8124(C) (RELATING TO EXEMPTION OF PARTICULAR
25 PROPERTY) TO THEIR STATUS PRIOR TO THE PARTIAL REPEAL EFFECTED
26 BY SECTION 8(B) OF THE ACT OF FEBRUARY 12, 1984 (P.L.26, NO.11),
27 ENTITLED "AN ACT AMENDING TITLE 75 (VEHICLES) OF THE
28 PENNSYLVANIA CONSOLIDATED STATUTES, FURTHER PROVIDING FOR
29 FINANCIAL RESPONSIBILITY; PROVIDING FOR MOTOR VEHICLE INSURANCE
30 FIRST PARTY BENEFITS; PROVIDING FOR UNINSURED AND UNDERINSURED

1 MOTORIST COVERAGE; PROVIDING FOR AN ASSIGNED RISK PLAN AND
2 ASSIGNED CLAIMS PLAN; PROVIDING FOR A CATASTROPHIC LOSS TRUST
3 FUND; PROVIDING FOR INSURANCE PREMIUMS; PROVIDING FOR FRAUD
4 REPORTING IMMUNITY; PROVIDING FOR JUDICIAL ARBITRATION LIMITS;
5 AND MAKING REPEALS," EXCEPT AS OTHERWISE PROVIDED BY SUCH
6 PROVISIONS AS REENACTED AND AMENDED HEREBY.

7 Section 3 9. (a) The following acts and parts of acts are <—
8 repealed:

9 Act of March 4, 1850 (P.L.126, No.110), entitled "An act to
10 supply lost policies of insurance."

11 Act of July 7, 1869 (P.L.1279, No.1260), entitled "An act to
12 authorize the Hartford Steam Boiler Inspection and Insurance
13 Company to give certificates of inspection in and for the city
14 of Philadelphia."

15 Section 28 of the act of April 29, 1874 (P.L.73, No.32),
16 known as the ~~General Corporation Law~~ CORPORATION ACT OF 1874. <—

17 Section 7 of the act of June 10, 1881 (P.L.99, No.107),
18 entitled "A supplement to an act, entitled 'An act to provide
19 revenue by taxation,' approved the seventh of June, one thousand
20 eight hundred and seventy-nine."

21 Act of June 25, 1885 (P.L.181, No.149), entitled "An act to
22 authorize certain corporations to become sole surety for the
23 faithful performance of any trust or duty, and to authorize
24 certain officers to approve the same."

25 Act of March 11, 1891 (P.L.5, No.3), entitled "An act to
26 regulate the issue of policies of insurance and certificates of
27 inspection, made by steam boiler insurance companies, in all
28 cities of the first class."

29 Act of May 3, 1915 (P.L.217, No.122), entitled "An act
30 prohibiting any city, county, or municipality from imposing or

1 collecting any license fee upon insurance companies or their
2 agents, or insurance brokers, licensed to transact business by
3 the Insurance Commissioner."

4 Act of May 17, 1919 (P.L.208, No.129), entitled "An act
5 prohibiting, under certain conditions, the commutation,
6 encumbrance, or assignment of the proceeds of life insurance and
7 annuity policies and the income arising therefrom by persons
8 entitled thereto; prohibiting the attachment of such proceeds
9 and income; and authorizing life insurance companies to hold
10 such proceeds as part of the general corporate funds."

11 Act of April 20, 1921 (P.L.175, No.103), entitled "An act to
12 permit any corporation with capital stock and transacting the
13 business of life insurance on the mutual plan or any life
14 insurance corporation having capital stock incorporated under
15 the provisions of any general or special law of this
16 Commonwealth, to acquire its capital stock for the benefit of
17 its policy-holders, and to convert such corporation into a
18 mutual life insurance corporation, and to provide a method
19 therefor."

20 Act of May 5, 1921 (P.L.350, No.170), entitled "An act making
21 it unlawful to give or offer money to secure proxies for use at
22 meetings of insurance companies."

23 ~~Except for Article VI A, the act~~ ACT of May 17, 1921 <—
24 (P.L.682, No.284), known as The Insurance Company Law of 1921.

25 Act of May 17, 1921 (P.L.789, No.285), known as The Insurance
26 Department Act of one thousand nine hundred and twenty-one.

27 Act of May 25, 1921 (P.L.1124, No.419), entitled "An act
28 permitting certain domestic mutual fire insurance companies to
29 issue cash premium policies without assessment liability; and
30 providing for the distribution and escheat of the surplus of

1 certain domestic mutual fire insurance companies in event of
2 dissolution."

3 Act of May 12, 1925 (P.L.618, No.331), entitled "An act
4 increasing the powers of certain stock health and accident
5 insurance companies."

6 SECTION 610-A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), <—
7 KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

8 Act of April 26, 1929 (P.L.794, No.341), entitled "An act
9 relating to mutual fire insurance companies incorporated under
10 any general or special law of the Commonwealth of Pennsylvania;
11 empowering any such company to regulate the number of, and the
12 manner of nominating directors, managers, or trustees thereof;
13 and providing a method for fixing the time of annual meetings of
14 members of any such company."

15 Act of April 26, 1929 (P.L.834, No.362), entitled "An act
16 requiring all title insurance companies to create and maintain a
17 reserve; fixing the amount thereof, and regulating the same."

18 Act of June 12, 1931 (P.L.566, No.197), entitled "An act
19 providing for the purchase of reinsurance for the benefit of
20 holders of outstanding policies, issued by any company
21 authorized to insure titles, of which possession may be taken by
22 the Secretary of Banking; and providing further for the use for
23 that purpose of reserve funds accumulated by such companies to
24 protect such policyholders; providing also for the form of such
25 reinsurance and defining the extent of the liability thereunder,
26 and also for suits at law to recover thereon."

27 Act of June 12, 1931 (P.L.574, No.199), entitled "An act
28 prohibiting certain persons, corporations, associations and
29 companies from engaging in the business of soliciting and
30 accepting premiums or dues and selling policies or contracts

1 guaranteeing to owners of motor vehicles the services of
2 attorneys or providing for the towing of motor vehicles, or to
3 hold themselves out to the public as authorized to engage in
4 insurance business, or in the kind of business usually
5 transacted by insurance companies, associations or exchanges,
6 although transacted under some other name or description, unless
7 such corporations, associations and companies are incorporated
8 or organized as insurance companies, associations or exchanges,
9 and registered and licensed by the Insurance Department; and
10 providing penalties."

11 Act of June 22, 1931 (P.L.622, No.211), entitled "An act to
12 prevent fraudulent procedure in obtaining licenses or
13 certificates from the Insurance Department, or altering licenses
14 or certificates issued by the Insurance Department; and
15 providing penalties."

16 Act of June 22, 1931 (P.L.844, No.274), entitled, as amended,
17 "An act authorizing the Commonwealth of Pennsylvania, or any
18 department or division thereof, and counties, cities, boroughs,
19 incorporated towns, townships, school districts, vocational
20 school districts and institution districts to make contracts of
21 life, health, hospitalization, medical services, and accident
22 policies for the benefit of employes thereof, and contracts for
23 pensions for such employes; and providing for the payment of the
24 cost thereof."

25 Act of May 24, 1933 (P.L.987, No.213), entitled "An act
26 relating to policies of indemnity insurance; requiring such
27 policies to contain provisions covering cases of insolvency and
28 bankruptcy of the insured, and to permit injured persons, or
29 their personal representatives, to maintain suits against the
30 insurer in such cases."

1 Act of May 31, 1933 (P.L.1094, No.269), entitled "An act to
2 further amend section three hundred twenty-one of the act,
3 approved the seventeenth day of May, one thousand nine hundred
4 and twenty-one (Pamphlet Laws, six hundred eighty-two), entitled
5 "An act relating to insurance; amending, revising, and
6 consolidating the law providing for the incorporation of
7 insurance companies, and the regulation, supervision, and
8 protection of home and foreign insurance companies, Lloyds
9 associations, reciprocal and inter-insurance exchanges, and fire
10 insurance rating bureaus, and the regulation and supervision of
11 insurance carried by such companies, associations, and
12 exchanges, including insurance carried by the State Workmen's
13 Insurance Fund; providing penalties; and repealing existing
14 laws," by further defining deductions in case of reinsurance."

15 Act of July 12, 1935 (P.L.969, No.312), entitled, as amended,
16 "An act providing for the valuation of bonds and other evidences
17 of debt held by domestic and foreign stock and mutual insurance
18 companies, associations and exchanges authorized to do business
19 in this State."

20 Act of May 21, 1937 (P.L.774, No.210), entitled "An act
21 relating to statements made in negotiations for annuity or pure
22 endowment contracts and policies or certificates of life,
23 endowment, accident or health insurance."

24 Act of June 4, 1937 (P.L.1643, No.342), entitled "An act
25 relating to certain existing beneficial societies; conferring
26 certain rights, powers and duties upon them, their officers and
27 members; authorizing the payment of benefits by them in the
28 event of sickness, accident, disability or death; regulating
29 such societies and corporations; and limiting the amount for
30 which they may issue membership certificates or policies;

1 providing for reserves; imposing penalties; and repealing
2 certain existing laws and parts of law."

3 Act of June 24, 1939 (P.L.685, No.319), entitled "An act
4 designating certain life insurance companies as limited life
5 insurance companies, and further describing the powers thereof."

6 Act of May 16, 1945 (P.L.587, No.242), entitled "An act to
7 authorize domestic stock and mutual insurance companies, other
8 than life, to transact outside of the United States, its
9 territories and possessions, any and all forms of insurance or
10 reinsurance, other than life insurance or annuities; authorizing
11 such companies to accept any and all kinds of reinsurance, other
12 than life insurance or annuities; providing for the maintenance
13 in either case of a minimum policyholders' surplus, and for
14 reserves as required by the act, approved the seventeenth day of
15 May, one thousand nine hundred and twenty-one (Pamphlet Laws,
16 seven hundred eighty-nine)."

17 Act of May 22, 1945 (P.L.828, No.332), entitled "An act to
18 enable domestic stock and mutual insurance companies to comply
19 with the taxing statutes, and to relieve officers, directors and
20 trustees of domestic stock and mutual insurance companies of
21 personal liability by reason of the payment or determination not
22 to contest payment of any license, excise, privilege, premium,
23 occupation, or other fee, or tax, imposed by any State or
24 political subdivision thereof."

25 Act of June 11, 1947 (P.L.538, No.246), known as The Casualty
26 and Surety Rate Regulatory Act.

27 Act of June 11, 1947 (P.L.551, No.247), known as The Fire,
28 Marine and Inland Marine Rate Regulatory Act.

29 Act of May 9, 1949 (P.L.1025, No.298), entitled "An act
30 requiring companies and organizations subject to the provisions

1 of the act of June 11, 1947 (Pamphlet Laws 538), or the act of
2 June 11, 1947 (Pamphlet Laws 551), or section 654 of the act of
3 May 17, 1921 (Pamphlet Laws 682), to maintain uniform
4 classifications of accounts and records; make uniform reports;
5 providing for appeals to the Court of Common Pleas of Dauphin
6 County; and prescribing penalties."

7 Act of May 11, 1949 (P.L.1210, No.367), entitled "An act
8 relating to group life insurance; describing permitted policies
9 and restrictions thereon, the premium basis thereof and rights
10 thereunder; limiting the amount of such insurance; prescribing
11 standard policy provisions; and requiring notice of conversion
12 privileges."

13 Act of June 28, 1951 (P.L.941, No.184), entitled "An act
14 authorizing certain existing beneficial or protective societies,
15 heretofore incorporated, to reincorporate, or to merge and
16 reincorporate, as limited life insurance companies, for the
17 purpose of making insurance upon the health of individuals and
18 against personal injury and disablement and death, including
19 endowment insurance; regulating such corporations, and limiting
20 the amounts for which such corporations may issue policies."

21 Act of July 19, 1951 (P.L.1074, No.231), entitled "An act
22 requiring certain officers of the Commonwealth of Pennsylvania
23 and its departments, boards, commissions and agencies, and of
24 the political subdivisions thereof, to deduct from the salaries,
25 wages or other compensation payable by them to any elected or
26 appointed officers or employes, the premiums or other charges
27 due from such persons under various contracts of group
28 insurance, when written authorization to make such deductions is
29 given by any such persons; and requiring the deductions so made
30 to be paid directly to the association or corporation furnishing

1 such group insurance."

2 Act of December 30, 1959 (P.L.2095, No.774), entitled "An act
3 authorizing the recapitalization of limited life insurance
4 companies and limiting the amounts for which such companies may
5 issue policies."

6 Act of September 2, 1961 (P.L.1232, No.540), known as the
7 Model Act for the Regulation of Credit Life Insurance and Credit
8 Accident Health Insurance.

9 Act of August 14, 1963 (P.L.909, No.433), entitled "An act
10 requiring, with limitations, that insurance policies insuring
11 against loss occurring in connection with motor vehicles provide
12 protection against certain uninsured motorists."

13 Act of August 14, 1963 (P.L.910, No.434), entitled "An act
14 authorizing certain domestic stock insurance companies to issue
15 stock having a par value of not less than one dollar per share,
16 and validating certain stock which any such corporation may
17 heretofore have been authorized to issue or issued."

18 Act of December 27, 1965 (P.L.1247, No.506), entitled "An act
19 relating to the reimbursement or payments for providing and
20 furnishing optometric services in contracts, certificates and
21 policies by various insurance and other companies, and limiting
22 the provisions in relation thereto."

23 Act of January 24, 1966 (1965 P.L.1509, No.531), entitled "An
24 act relating to, regulating, taxing, supervising and controlling
25 the placing of insurance on risks located in the Commonwealth of
26 Pennsylvania with insurers not licensed to transact insurance
27 business in Pennsylvania, permitting licensed insurers to afford
28 coverage which may be placed with unlicensed insurers, providing
29 fees and penalties, and repealing certain existing laws."

30 Act of April 17, 1968 (P.L.95, No.45), entitled "An act

1 making unlawful the borrowing or rental of securities by
2 insurance companies and affiliated companies or individuals, and
3 providing penalties."

4 Act of June 5, 1968 (P.L.140, No.78), entitled "An act
5 regulating the writing, cancellation of or refusal to renew
6 policies of automobile insurance; and imposing powers and duties
7 on the Insurance Commissioner therefor."

8 Act of July 31, 1968 (P.L.738, No.233), known as The
9 Pennsylvania Fair Plan Act.

10 Act of July 31, 1968 (P.L.941, No.288), entitled "An act
11 providing for reporting to the Insurance Commissioner by
12 domestic insurance companies, associations, or exchanges, of
13 certain conveyances of interests in the assets of such
14 companies, associations, or exchanges."

15 Act of November 25, 1970 (P.L.716, No.232), known as The
16 Pennsylvania Insurance Guaranty Association Act.

17 Act of December 10, 1970 (P.L.884, No.279), entitled "An act
18 providing a procedure for the conversion of a mutual insurance
19 company, other than a mutual life insurance company, or a
20 company which operates exclusively on the basis of perpetual
21 policies, into a stock insurance company, and requiring the
22 filing of information with the Insurance Commissioner and
23 approval by the Insurance Commissioner prior to any such
24 conversion."

25 Act of August 12, 1971 (P.L.313, No.78), entitled "An act
26 providing for elimination of discriminatory provisions relating
27 to compensation for services and treatment under sickness and
28 accident insurance contracts and providing for nondiscriminatory
29 reimbursement of sickness and bodily injury claims thereunder."

30 Act of December 29, 1972 (P.L.1701, No.364), known as the

1 Health Maintenance Organization Act.

2 Act of December 29, 1972 (P.L.1713, No.367), known as the
3 Motor Vehicle Physical Damage Appraiser Act.

4 Act of July 22, 1974 (P.L.589, No.205), known as the Unfair
5 Insurance Practices Act.

6 Act of December 10, 1974 (P.L.804, No.266), entitled "An act
7 relating to the domestication of alien insurers transacting
8 business in the Commonwealth of Pennsylvania through transfer of
9 all the business, assets and liabilities in the United States of
10 the alien insurer to a wholly owned stock insurance company
11 incorporated under the laws of the Commonwealth of Pennsylvania;
12 regulating the terms and conditions of such domestication and
13 the steps to be taken and the acts to be performed for the
14 adoption, approval and execution thereof; providing for the
15 transfer of deposits and trustee assets and providing for the
16 maintenance of deposits."

17 Act of August 1, 1975 (P.L.157, No.81), entitled "An act
18 providing for the health and welfare of newborn children and
19 their parents by regulating certain health insurance coverage
20 for newborn children."

21 ACT OF AUGUST 2, 1975 (P.L.293, NO.94), ENTITLED "AN ACT
22 AMENDING TITLE 40 (INSURANCE) OF THE PENNSYLVANIA CONSOLIDATED
23 STATUTES, ADDING PROVISIONS RELATING TO CONTRACTUAL
24 RELATIONSHIPS BETWEEN HOSPITAL PLAN CORPORATIONS AND HOSPITALS,
25 PROVIDING FOR THE MAINTENANCE OF SUCH CONTRACTUAL RELATIONSHIP
26 DURING DISPUTES, AUTHORIZING THE INSURANCE DEPARTMENT TO TAKE
27 CERTAIN ACTION WITH RESPECT THERETO, AND PROVIDING FOR THE
28 TEMPORARY RESTORATION OF CERTAIN LAPSED CONTRACTUAL
29 RELATIONSHIPS."

30 Act of October 15, 1975 (P.L.390, No.111), known as the

1 Health Care Services Malpractice Act.

2 Act of May 18, 1976 (P.L.123, No.54), known as the Individual
3 Accident and Sickness Insurance Minimum Standards Act.

4 Act of July 29, 1977 (P.L.105, No.38), known as the Fraternal
5 Benefit Society Code.

6 Act of April 18, 1978 (P.L.33, No.16), entitled "An act
7 providing reimbursement to insured by insurance company for
8 services performed by a psychologist."

9 Act of September 22, 1978 (P.L.763, No.143), entitled "An act
10 establishing certain procedures relating to the termination of
11 insurance agency contracts or accounts and providing penalties."

12 Act of November 26, 1978 (P.L.1188, No.280) known as the Life
13 and Health Insurance Guaranty Association Act.

14 Act of July 2, 1980 (P.L.340, No.85), known as the Arson
15 Reporting Immunity Act.

16 Act of December 12, 1980 (P.L.1177, No.218), known as the
17 Insurance Consultation Services Exemption Act.

18 Act of December 23, 1981 (P.L.583, No.168), entitled, as
19 amended, "An act providing for reimbursement by insurance
20 companies and others for facilities used by or for services
21 performed by licensed certified nurse midwives."

22 Act of December 7, 1982 (P.L.815, No.228), known as the Anti-
23 Arson Application Law.

24 Act of December 15, 1982 (P.L.1291, No.292), known as the
25 Medicare Supplement Insurance Act.

26 Act of December 20, 1983 (P.L.260, No.72), entitled "An act
27 providing for the licensing and regulating of public adjusters
28 and public adjuster solicitors."

29 Act of June 18, 1984 (P.L.391, No.82), known as the
30 Continuing-Care Provider Registration and Disclosure Act.

1 Act of December 19, 1984 (P.L.1182, No.224), known as the
2 Insurance Premium Finance Company Act.

3 Act of December 19, 1985 (P.L.343, No.97), entitled "An act
4 providing for the insurability of downhill ski area operators
5 for punitive damages for unintentional tortious conduct."

6 Act of July 3, 1986 (P.L.396, No.86), entitled "An act
7 requiring notice of rate increases, policy cancellations and
8 nonrenewals by property and casualty insurers."

9 Act of December 19, 1986 (P.L.1737, No.209), known as the
10 Insurance Payment to Registered Nurse Law.

11 ACT OF JULY 9, 1987 (P.L.242, NO.45), ENTITLED "AN ACT
12 PROHIBITING CERTAIN BENEFIT EXCLUSIONS FOR RENTED AND LEASED
13 MOTOR VEHICLES; IMPOSING REQUIREMENTS ON PERSONS ENGAGED IN THE
14 RENTAL OF MOTOR VEHICLES; AND IMPOSING LIABILITY FOR FAILURE TO
15 COMPLY."

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16 (b) The act of June 30, 1923 (P.L.984, No.404), entitled "An
17 act for the encouragement of unincorporated cooperative
18 associations of agricultural and industrial workers; providing
19 that membership therein, and interest in the funds and property
20 thereof, may be made nontransferable; and imposing penalties
21 upon persons making or accepting unlawful assignment, transfer,
22 or pledge of such membership or interest," is repealed insofar
23 as it relates to associations for mutual benefit insurance.

24 (c) All other acts and parts of acts are repealed insofar as
25 they are inconsistent with this act.

26 Section 4 10. This act shall take effect in 180 days.

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