

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 294 Session of  
1993

INTRODUCED BY LESCOVITZ, LaGROTTA AND OLASZ, FEBRUARY 8, 1993

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 8, 1993

AN ACT

1 Amending the act of May 17, 1921 (P.L.789, No.285), entitled, as  
2 amended, "An act relating to insurance; establishing an  
3 insurance department; and amending, revising, and  
4 consolidating the law relating to the licensing,  
5 qualification, regulation, examination, suspension, and  
6 dissolution of insurance companies, Lloyds associations,  
7 reciprocal and inter-insurance exchanges, and certain  
8 societies and orders, the examination and regulation of fire  
9 insurance rating bureaus, and the licensing and regulation of  
10 insurance agents and brokers; the service of legal process  
11 upon foreign insurance companies, associations or exchanges;  
12 providing penalties, and repealing existing laws," further  
13 providing for group policies.

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

16 Section 1. Section 208(e) of the act of May 17, 1921  
17 (P.L.789, No.285), known as The Insurance Department Act of one  
18 thousand nine hundred and twenty-one, amended or added July 31,  
19 1968 (P.L.763, No.239), July 9, 1976 (P.L.912, No.166) and July  
20 9, 1992 (P.L.434, No.91), is amended to read:

21 Section 208. Certificates of Authority To Do Business.--\* \*

22 \*

23 (e) The provisions of this section shall not apply to the

1 following:

2 (1) Transactions regulated by the act of January 24, 1966  
3 (1965 P.L.1509, No.531), entitled "An act relating to,  
4 regulating, taxing, supervising and controlling the placing of  
5 insurance on risks located in the Commonwealth of Pennsylvania  
6 with insurers not licensed to transact insurance business in  
7 Pennsylvania, permitting licensed insurers to afford coverage  
8 which may be placed with unlicensed insurers, providing fees and  
9 penalties, and repealing certain existing laws."

10 (2) Any life insurance or annuity company organized and  
11 operated, without profit to any shareholder or individual,  
12 exclusively for the purpose of aiding nonprofit educational or  
13 scientific institutions by issuing insurance and annuity  
14 contracts only to or for the benefit of such institutions and  
15 individuals engaged in the service of such institutions. Any  
16 insurance company as described in this clause is required to  
17 join the Life and Health Insurance Guaranty Association pursuant  
18 to the act of November 26, 1978 (P.L.1188, No.280), known as the  
19 "Life and Health Insurance Guaranty Association Act," and to  
20 join any successor association pursuant to any similar statute  
21 which replaces the "Life and Health Insurance Guaranty  
22 Association Act." The assessments for any company so required to  
23 join shall be the same as for member insurers, but these  
24 assessments shall not apply to annuity considerations. The "Life  
25 and Health Insurance Guaranty Association Act" shall not apply  
26 to annuity contracts issued by any insurance company as  
27 described in this clause.

28 (3) Contracts of reinsurance.

29 (4) Transactions in this Commonwealth which (i) involve a  
30 policy lawfully solicited, written and delivered outside of this

1 Commonwealth covering only subjects of insurance not resident,  
2 located, or expressly to be performed in this Commonwealth at  
3 the time of issuance of such policy, and (ii) are subsequent to  
4 the issuance of such policy.

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

15 (A) An out-of-State trustee of a fund where Commonwealth  
16 residents shall not at any time comprise twenty-five per centum  
17 or more of the total certificate holders, or where Commonwealth  
18 residents shall not at any time comprise the largest share of  
19 the total certificate holders, whichever is less. This clause  
20 shall apply only if the insurer supplies to the Insurance  
21 Commissioner certification as to its insured trusts and, for  
22 each trust, the percentage of Commonwealth certificate holders  
23 or the number of Commonwealth certificate holders compared to  
24 the total number of certificate holders. The initial  
25 certification shall be supplied no later than the effective date  
26 of this act, and thereafter no later than the first day of March  
27 of each year. The certification shall be filed along with the  
28 annual statement but shall not be made a part of the annual  
29 statement.

30 (B) An out-of-State single employer.

1     (C) A trustee of a fund established by any person acting  
2     directly as an employer having its principal office located in a  
3     state other than this Commonwealth.

4     (D) An association, organized or domiciled in a state other  
5     than this Commonwealth, which has a constitution and bylaws, has  
6     been organized by other than an insurer, is maintained in good  
7     faith for purposes other than that of obtaining insurance, has  
8     been in active existence for at least two years, operates from  
9     offices other than the insurer's and is controlled by principals  
10    other than the insurer's.

11    (E) A union-negotiated out-of-State trust.

12    (F) Other groups as may be determined discretionally by the  
13    Insurance Commissioner.

14    (ii) As used in this clause (5):

15    An "out-of-State single employer" means any person acting  
16    directly as an employer and has its principal office located in  
17    a state other than this Commonwealth.

18    An "out-of-State trustee" of a fund means a trustee of a fund  
19    established by an insurer for an employer or established by two  
20    or more persons acting directly as employers in the same  
21    industry and which has its principal office located in a state  
22    other than this Commonwealth.

23    A "union-negotiated out-of-State trust" means a trust  
24    established under a collective bargaining agreement and which is  
25    located in a state other than this Commonwealth.

26    [(5.1) Transactions in this Commonwealth, except group  
27    credit life or group credit accident and health insurance  
28    transactions, involving a group or blanket insurance policy or  
29    group annuity contract not exempt under the provisions of clause  
30    (5) of this subsection, shall nonetheless be exempt from the

1 provisions of this section if:

2 (i) they involve a group which conforms to one of the  
3 definitions of eligibility for group coverage contained in the  
4 laws of this Commonwealth; and,

5 (ii) the group policy or contract is lawfully issued without  
6 this Commonwealth in a jurisdiction in which the insurer is  
7 authorized to do an insurance business.]

8 It shall be the responsibility of the insurer claiming exemption  
9 under this subsection to demonstrate compliance with each of the  
10 above conditions.

11 (6) (i) Any insurance company or underwriter issuing  
12 contracts of insurance to industrial insureds, (ii) industrial  
13 insureds, or (iii) contracts of insurance issued to an  
14 industrial insured: Provided, That nothing herein shall relieve  
15 such industrial insured from the requirement of compliance with  
16 the applicable provisions of the act of January 24, 1966 (1965  
17 P.L.1509, No.531), referred to above. For purposes of this  
18 section, an "industrial insured" is an insured (i) who procures  
19 the insurance of any risk or risks by use of the services of a  
20 full-time employe acting as an insurance manager or buyer or the  
21 services of a regularly and continuously retained qualified  
22 insurance consultant, (ii) whose aggregate annual premiums for  
23 insurance on all risks total at least twenty-five thousand  
24 dollars (\$25,000), and (iii) who has at least twenty-five full-  
25 time employes.

26 (7) Transactions in this Commonwealth involving a policy of  
27 insurance issued prior to the effective date of this act.

28 (8) Insurance on the property and operation of railroads or  
29 aircraft engaged in interstate or foreign commerce, insurance of  
30 vessels, crafts or hulls, cargoes, marine builder's risks,

1 marine protection and indemnity, lessees and charterers'  
2 liability, or other risks including strikes and war risks  
3 commonly insured under ocean or wet marine forms of policies.

4 Section 2. This act shall take effect in 90 days.