

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1370 Session of
1999

INTRODUCED BY GLADECK, FICHTER, GODSHALL, E. Z. TAYLOR, FARGO,
ADOLPH, ARMSTRONG, BARD, CLARK, CLYMER, M. COHEN, DEMPSEY,
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SATHER, SAYLOR AND STERN, APRIL 21, 1999

REFERRED TO COMMITTEE ON INSURANCE, APRIL 21, 1999

AN ACT

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

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

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

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

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

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

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

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

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

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

1 in which moneys from the fund have been invested; proceeds from
2 investments, including directed commissions which have accrued
3 to the benefit of the fund as a result of investments; and any
4 other assets belonging to the fund, subject to the standard of
5 prudence established under this section.

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

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

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

18 (2) The remainder of this act shall take effect
19 immediately.