

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 366 Session of
1997

INTRODUCED BY MICOZZIE, FICHTER, MELIO, CARN, E. Z. TAYLOR,
CAPPABIANCA, SATHER, DEMPSEY, KENNEY, COLAIZZO, GODSHALL,
OLASZ, BARD, TRELLO, GANNON, ROONEY, ROBERTS AND COLAFELLA,
FEBRUARY 7, 1997

SENATOR LOEPER, RULES AND EXECUTIVE NOMINATIONS, IN SENATE, RE-
REPORTED AS AMENDED, SEPTEMBER 29, 1998

AN ACT

1 ~~Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An~~ <—
2 ~~act relating to insurance; amending, revising, and~~
3 ~~consolidating the law providing for the incorporation of~~
4 ~~insurance companies, and the regulation, supervision, and~~
5 ~~protection of home and foreign insurance companies, Lloyds~~
6 ~~associations, reciprocal and inter insurance exchanges, and~~
7 ~~fire insurance rating bureaus, and the regulation and~~
8 ~~supervision of insurance carried by such companies,~~
9 ~~associations, and exchanges, including insurance carried by~~
10 ~~the State Workmen's Insurance Fund; providing penalties; and~~
11 ~~repealing existing laws," further providing for government-~~
12 ~~owned companies, FOR CONTENTS OR PARTS OF POLICIES AND FOR~~ <—
13 ~~APPLICATIONS FOR POLICIES.~~

14 AMENDING TITLE 15 (CORPORATIONS AND UNINCORPORATED ASSOCIATIONS) <—
15 OF THE PENNSYLVANIA CONSOLIDATED STATUTES, PROVIDING FOR
16 CERTAIN ACQUISITIONS AND PROPOSED ACQUISITIONS INVOLVING
17 BANKS, BANK AND TRUST COMPANIES, NATIONAL BANKS AND BANK
18 HOLDING COMPANIES; FURTHER PROVIDING FOR CONSENT OF
19 SHAREHOLDERS IN LIEU OF MEETING; PROVIDING FOR AUTHORIZATION
20 FOR THE OPERATION OF CERTAIN GOVERNMENT-OWNED INSURANCE
21 COMPANIES; AND MAKING A REPEAL.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 ~~Section 1. Section 300 of the act of May 17, 1921 (P.L.682,~~ <—
25 ~~No.284), known as The Insurance Company Law of 1921, added July~~

17, 1959 (P.L. 545, No. 163), is amended to read:

Section 300. ~~Government Owned Companies. [(a) No domestic, foreign or alien insurance company, association or exchange, in which the major financial interest is held, directly or indirectly, by another state of the United States or by a foreign government or by any political subdivision, instrumentality or agency of either, shall be admitted and authorized to do business.~~

~~(b) No certificate of authority to transact any kind of insurance business in this Commonwealth shall be issued, renewed or continued in effect for any such insurance company, association or exchange.~~

~~(c) The provisions of this section shall not apply to any insurance company, association or exchange which was so owned, controlled or constituted prior to January 1, 1958, and was authorized to do business in this Commonwealth and was issued a certificate of authority to do so prior to January 1, 1958.] (a) For purposes of this section, except when the context clearly indicates otherwise:~~

~~(1) "Insurance company" means an insurance company, association or exchange, or any other entity subject to the jurisdiction of the Insurance Department.~~

~~(2) "Control" has the meaning prescribed in section 1401.~~

~~(3) "Government owned" means owned or controlled, directly or indirectly, by another state, territory or jurisdiction of the United States or by a foreign government or by any political subdivision, instrumentality or agency of either.~~

~~(b) A government owned insurance company shall not be admitted or authorized to do business in this Commonwealth until it has demonstrated and continues to demonstrate to the~~

~~Insurance Commissioner's satisfaction that it:~~

~~(1) does not receive a subsidy or other competitive advantage, as a result of such control or status, that would enable it to compete unfairly with similarly situated authorized insurers which are not so controlled or constituted;~~

~~(2) is not entitled to claim sovereign or similar governmental immunity or has filed a waiver of sovereign or similar governmental immunity with the Insurance Commissioner;~~

~~(3) cedes no more than fifty per centum (50%) of its annual gross written premiums to assuming insurers that neither hold a certificate of authority nor are qualified reinsurers in this Commonwealth;~~

~~(4) maintains a policyholders' surplus of at least thirty five million dollars (\$35,000,000) or such other amount determined by the Insurance Commissioner calculated and reported in the manner prescribed by the department pursuant to section 320;~~

~~(5) is domiciled in a jurisdiction which has insolvency laws applicable to the insurance company that in law and application are fair, reasonable and not prejudicial to policyholders, creditors or the public, generally;~~

~~(6) has filed with the Insurance Commissioner an irrevocable consent not to seek the protection of 11 U.S.C. § 304 (relating to cases and ancillary to foreign proceedings);~~

~~(7) its operation as an insurer would not be detrimental to the public interests of this Commonwealth;~~

~~(8) otherwise satisfies all applicable requirements for the issuance of a certificate of authority, including, but not limited to, reasonable standards of solvency, the deposit of security, the establishment of a special trust fund for the~~

~~benefit of policyholders or other requirements as may be
established from time to time by the Insurance Commissioner; and
(9) is in compliance with the requirements set forth in
section 301.~~

~~Any entity granted a certificate of authority under the
provisions of this section shall notify the Insurance
Commissioner within five (5) business days of any material
change with respect to clause (1), (2), (3), (4) or (5) of this
subdivision, or of any material order or other action affecting
its certificate of authority.~~

~~(c) Upon satisfactory evidence of the violation of this
section by an insurance company, the Insurance Commissioner may,
in the Insurance Commissioner's discretion, pursue any one or
more of the following courses of action:~~

~~(1) suspend or revoke the certificate of authority of such
offending company;~~

~~(2) refuse, for a period not to exceed one year thereafter,
to issue a new certificate of authority to such offending
company;~~

~~(3) impose a penalty of not less than five thousand dollars
(\$5,000) nor more than twenty five thousand dollars (\$25,000)
for each action in violation of this section.~~

~~SECTION 2. SECTION 318 OF THE ACT, AMENDED NOVEMBER 4, 1997
(P.L.492), NO.51), IS AMENDED TO READ:~~

~~SECTION 318. [WHEN APPLICATION, CONSTITUTION, BY LAWS, AND
RULES ARE CONSIDERED PART OF POLICY. ALL INSURANCE POLICIES,
ISSUED BY STOCK OR MUTUAL INSURANCE COMPANIES OR ASSOCIATIONS
DOING BUSINESS IN THIS STATE, IN WHICH THE APPLICATION OF THE
INSURED, THE CONSTITUTION, BY LAWS, OR OTHER RULES OF THE
COMPANY FORM PART OF THE POLICY OR CONTRACT BETWEEN THE PARTIES~~

1 ~~THERE TO, OR HAVE ANY BEARING ON SAID CONTRACT, SHALL CONTAIN, OR~~
2 ~~HAVE ATTACHED TO SAID POLICIES, CORRECT COPIES OF THE~~
3 ~~APPLICATION AS SIGNED BY THE APPLICANT, OR THE CONSTITUTION, BY~~
4 ~~LAWS, OR OTHER RULES REFERRED TO; AND, UNLESS SO ATTACHED AND~~
5 ~~ACCOMPANYING THE POLICY, NO SUCH APPLICATION, CONSTITUTION, OR~~
6 ~~BY LAWS, OR OTHER RULES SHALL BE RECEIVED IN EVIDENCE IN ANY~~
7 ~~CONTROVERSY BETWEEN THE PARTIES TO, OR INTERESTED IN, THE~~
8 ~~POLICY, NOR SHALL SUCH APPLICATION, CONSTITUTION, BY LAWS, OR~~
9 ~~OTHER RULES BE CONSIDERED A PART OF THE POLICY OR CONTRACT~~
10 ~~BETWEEN SUCH PARTIES.] NO STATEMENT MADE BY AN INSURED SHALL BE~~
11 ~~RECEIVED IN EVIDENCE IN ANY CONTROVERSY BETWEEN THE PARTIES TO,~~
12 ~~OR A CLAIMANT OR CLAIMANTS INTERESTED IN, A LIFE INSURANCE OR~~
13 ~~HEALTH AND ACCIDENT INSURANCE POLICY UNLESS A COPY OF THE~~
14 ~~DOCUMENT CONTAINING THE STATEMENT IS OR HAS BEEN FURNISHED TO~~
15 ~~SUCH PERSON OR THOSE LEGALLY ACTING ON HIS OR HER BEHALF IN THE~~
16 ~~CONTROVERSY.~~

17 ~~SECTION 3. SECTION 623 OF THE ACT, AMENDED OR ADDED MAY 25,~~
18 ~~1951 (P.L.417, NO.99) AND NOVEMBER 4, 1997 (P.L.492, NO.51), IS~~
19 ~~AMENDED TO READ:~~

20 ~~SECTION 623. APPLICATION. [(A) THE INSURED SHALL NOT BE~~
21 ~~BOUND BY ANY STATEMENT MADE IN AN APPLICATION FOR A POLICY~~
22 ~~UNLESS A COPY OF SUCH APPLICATION IS ATTACHED TO OR ENDORSED ON~~
23 ~~THE POLICY WHEN ISSUED AS A PART THEREOF. IF ANY SUCH POLICY~~
24 ~~DELIVERED OR ISSUED FOR DELIVERY TO ANY PERSON IN THIS~~
25 ~~COMMONWEALTH SHALL BE REINSTATED OR RENEWED, AND THE INSURED OR~~
26 ~~THE BENEFICIARY OR ASSIGNEE OF SUCH POLICY SHALL MAKE WRITTEN~~
27 ~~REQUEST TO THE INSURER FOR A COPY OF THE APPLICATION, IF ANY,~~
28 ~~FOR SUCH REINSTATEMENT OR RENEWAL, THE INSURER SHALL, WITHIN~~
29 ~~FIFTEEN DAYS AFTER THE RECEIPT OF SUCH REQUEST AT ITS HOME~~
30 ~~OFFICE OR ANY BRANCH OFFICE OF THE INSURER, DELIVER OR MAIL TO~~

~~THE PERSON MAKING SUCH REQUEST, A COPY OF SUCH APPLICATION. IF
SUCH COPY SHALL NOT BE SO DELIVERED OR MAILED, THE INSURER SHALL
BE PRECLUDED FROM INTRODUCING SUCH APPLICATION AS EVIDENCE IN
ANY ACTION OR PROCEEDING BASED UPON OR INVOLVING SUCH POLICY OR
ITS REINSTATEMENT OR RENEWAL.~~

~~(B)] NO ALTERATION OF ANY WRITTEN APPLICATION FOR [ANY] SUCH
A POLICY SHALL BE MADE BY ANY PERSON OTHER THAN THE APPLICANT
WITHOUT HIS WRITTEN CONSENT, EXCEPT THAT INSERTIONS MAY BE MADE
BY THE INSURER, FOR ADMINISTRATIVE PURPOSES ONLY, IN SUCH MANNER
AS TO INDICATE CLEARLY THAT SUCH INSERTIONS ARE NOT TO BE
ASCRIBED TO THE APPLICANT.~~

~~Section 2 4. This act shall take effect immediately.~~ <—

SECTION 1. TITLE 15 OF THE PENNSYLVANIA CONSOLIDATED
STATUTES IS AMENDED BY ADDING A SECTION TO READ:

§ 524. CERTAIN ACQUISITIONS AND PROPOSED ACQUISITIONS INVOLVING
BANKS, BANK AND TRUST COMPANIES, TRUST COMPANIES,
NATIONAL BANKS AND BANK HOLDING COMPANIES.

(A) SCOPE.--THIS SECTION APPLIES TO ALL INSTITUTIONS AND
HOLDING COMPANIES AS DEFINED IN SUBSECTION (M).

(B) REQUIREMENT OF PRIOR APPROVAL.--EXCEPT AS PROVIDED IN
SUBSECTION (I), IT SHALL BE UNLAWFUL, WITHOUT THE PRIOR WRITTEN
APPROVAL OF THE DEPARTMENT UNDER THIS SECTION, FOR ANY PERSON:

(1) TO ACQUIRE, OR TO MAKE A PROPOSAL TO ACQUIRE, VOTING
SHARES OF AN INSTITUTION OR VOTING SHARES OF A HOLDING
COMPANY IF THE AGGREGATE NUMBER OF VOTING SHARES HELD AFTER
SUCH ACQUISITION WOULD TOTAL MORE THAN 5% OF THE OUTSTANDING
VOTING SHARES OF ANY CLASS OF SUCH INSTITUTION OR HOLDING
COMPANY; OR

(2) TO ENTER INTO AN ACQUISITION TRANSACTION WITH AN
INSTITUTION OR WITH A HOLDING COMPANY;

1 WHETHER OR NOT ANY PRIOR ACQUISITION HAD BEEN APPROVED BY THE
2 DEPARTMENT UNDER THIS SECTION.

3 (C) APPLICATION FOR APPROVAL.--IF THE APPROVAL OF THE
4 DEPARTMENT IS REQUIRED UNDER SUBSECTION (B), A PERSON WHO
5 INTENDS TO ACQUIRE, OR TO MAKE A PROPOSAL TO ACQUIRE, VOTING
6 SHARES OF, OR TO ENTER INTO AN ACQUISITION TRANSACTION WITH, AN
7 INSTITUTION OR A HOLDING COMPANY SHALL:

8 (1) FILE AN APPLICATION FOR APPROVAL IN SUCH FORM AS THE
9 DEPARTMENT MAY PRESCRIBE;

10 (2) DELIVER TO THE DEPARTMENT FROM TIME TO TIME SUCH
11 OTHER INFORMATION AS THE DEPARTMENT MAY REQUIRE WITH SUCH
12 CERTIFICATION OF FINANCIAL INFORMATION AND SUCH VERIFICATION
13 BY OATH OR AFFIRMATION OF OTHER DATA AS THE DEPARTMENT MAY
14 SPECIFY;

15 (3) PAY SUCH INVESTIGATION FEE AS THE DEPARTMENT MAY
16 SPECIFY; AND

17 (4) EXCEPT IN THE CASE OF AN APPLICANT WHICH IS A
18 DOMESTIC CORPORATION OR A FOREIGN CORPORATION QUALIFIED TO DO
19 BUSINESS IN PENNSYLVANIA, DELIVER TO THE DEPARTMENT A WRITTEN
20 CONSENT TO SERVICE OF PROCESS IN ANY ACTION OR SUIT ARISING
21 OUT OF OR IN CONNECTION WITH THE PROPOSED ACQUISITION THROUGH
22 SERVICE OF PROCESS ON THE SECRETARY OF BANKING.

23 (D) INVESTIGATION BY DEPARTMENT.--UPON RECEIPT OF AN
24 APPLICATION FOR APPROVAL AND OTHER ITEMS REQUIRED UNDER
25 SUBSECTION (C) THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION TO
26 DETERMINE WHETHER THE APPLICANT HAS DEMONSTRATED BY A
27 PREPONDERANCE OF THE EVIDENCE THAT:

28 (1) THE ACQUISITION OF VOTING SHARES OR ACQUISITION
29 TRANSACTION, ITS PURPOSES AND PROBABLE EFFECTS WOULD BE
30 CONSISTENT WITH THE PURPOSES SET FORTH IN SECTION 103(A) OF

1 THE BANKING CODE;

2 (2) THE APPLICANT, OR ITS DIRECTORS AND OFFICERS IN THE
3 CASE OF A CORPORATION, AND ANY PROPOSED NEW OFFICERS OR
4 DIRECTORS OF THE INSTITUTION INVOLVED WOULD SATISFY THE TEST
5 FOR INCORPORATORS, DIRECTORS AND OFFICERS OF A NEW
6 INSTITUTION UNDER SECTION 1007(A) OF THE BANKING CODE;

7 (3) THE PROPOSED ACQUISITION OF VOTING SHARES OR
8 ACQUISITION TRANSACTION WOULD NOT BE PREJUDICIAL TO THE
9 INTERESTS OF THE DEPOSITORS, CREDITORS, BENEFICIARIES OF
10 FIDUCIARY ACCOUNTS OR SHAREHOLDERS OF THE INSTITUTION OR
11 HOLDING COMPANY INVOLVED;

12 (4) THE PROPOSED ACQUISITION OF VOTING SHARES OR
13 ACQUISITION TRANSACTION IS IN THE BEST INTERESTS OF THE
14 INSTITUTION AND, IF APPLICABLE, THE HOLDING COMPANY OF SUCH
15 INSTITUTION;

16 (5) COMPETITION AMONG INSTITUTIONS WILL NOT BE ADVERSELY
17 AFFECTED AND PUBLIC CONVENIENCE AND ADVANTAGE WILL BE
18 PROMOTED; AND

19 (6) THE APPLICANT HAS NOT BEEN PROTECTED BY THE
20 DEPARTMENT FROM AN ACQUISITION TRANSACTION. THE DEPARTMENT
21 SHALL NOT APPROVE AN ACQUISITION TRANSACTION APPLICATION
22 WHICH IS SUBMITTED BY AN APPLICANT WHICH HAS ITSELF BEEN THE
23 TARGET OF A POTENTIAL ACQUISITION TRANSACTION AND BEEN
24 PROTECTED FROM THE ACQUISITION BY THE DEPARTMENT.

25 IN MAKING THE DETERMINATION UNDER PARAGRAPHS (4) AND (5), THE
26 DEPARTMENT SHALL NOT APPROVE AN ACQUISITION OF VOTING SHARES OR
27 ACQUISITION TRANSACTION UNLESS THE ACQUISITION OF VOTING SHARES
28 OR ACQUISITION TRANSACTION IS CONSISTENT WITH THE CONVENIENCE
29 AND NEEDS OF THE CUSTOMERS AND COMMUNITIES SERVED BY THE
30 INSTITUTION AFTER TAKING INTO ACCOUNT, AMONG OTHER THINGS, THE

1 RELATIVE RATINGS UNDER THE COMMUNITY REINVESTMENT ACT OF 1977
2 (91 STAT. 1111, 12 U.S.C. § 2901 ET SEQ.), OF THE INSTITUTION
3 AND THE APPLICANT, PROSPECTIVE BRANCH CLOSINGS AND PROSPECTIVE
4 JOB LOSSES. IN MAKING THE DETERMINATION UNDER PARAGRAPHS (4) AND
5 (5), THE DEPARTMENT SHALL CONSIDER, TO THE EXTENT IT DEEMS
6 APPROPRIATE, ALL RELEVANT FACTORS, INCLUDING WITHOUT LIMITATION
7 THE MATTERS SET FORTH IN SECTION 1715(A)(1), (2) AND (3)
8 (RELATING TO EXERCISE OF POWERS GENERALLY), AND WHETHER THE
9 APPLICANT HAS DEMONSTRATED THAT THE ACQUISITION OF VOTING SHARES
10 OR ACQUISITION TRANSACTION WILL RESULT IN NET NEW BENEFITS. NO
11 DETERMINATION MADE BY THE DEPARTMENT UNDER SUBSECTION (D)(5)
12 SHALL BE DEEMED TO PRECLUDE THE UNITED STATES DEPARTMENT OF
13 JUSTICE, THE FEDERAL RESERVE BOARD OR THE PENNSYLVANIA OFFICE OF
14 ATTORNEY GENERAL FROM REVIEWING OR SEEKING TO ENJOIN A
15 TRANSACTION UNDER THE FEDERAL ANTITRUST LAWS.

16 (E) INFORMATION FURNISHED TO SUBJECT INSTITUTION OR HOLDING
17 COMPANY.--AS PART OF ITS INVESTIGATION, THE DEPARTMENT SHALL
18 TRANSMIT TO THE INSTITUTION OR THE HOLDING COMPANY WHOSE VOTING
19 SHARES ARE PROPOSED TO BE ACQUIRED OR WHICH IS THE SUBJECT OF
20 SUCH ACQUISITION TRANSACTION A COPY OF THE APPLICATION AND ALL
21 OTHER INFORMATION RECEIVED FROM THE APPLICANT, EXCEPT SUCH
22 INFORMATION WHICH THE DEPARTMENT DETERMINES SHOULD BE KEPT
23 CONFIDENTIAL, FOR THE PURPOSE OF RECEIVING SUCH COMMENTS THEREON
24 AS SUCH INSTITUTION OR HOLDING COMPANY SHALL TRANSMIT TO THE
25 DEPARTMENT UPON ITS REQUEST.

26 (F) ACTION BY DEPARTMENT.--WITHIN 60 DAYS AFTER RECEIPT OF
27 AN APPLICATION UNDER SUBSECTION (C) OR WITHIN A LONGER PERIOD
28 NOT IN EXCESS OF 30 DAYS AFTER RECEIPT FROM THE APPLICANT OF
29 ADDITIONAL INFORMATION REQUIRED BY THE DEPARTMENT, THE
30 DEPARTMENT SHALL APPROVE OR DISAPPROVE THE PROPOSED ACQUISITION

1 OF VOTING SHARES OR ACQUISITION TRANSACTION AND GIVE WRITTEN
2 NOTICE OF ITS DECISION TO THE APPLICANT AND THE INSTITUTION OR
3 HOLDING COMPANY WHOSE VOTING SHARES ARE PROPOSED TO BE ACQUIRED
4 OR THAT IS THE SUBJECT OF THE ACQUISITION TRANSACTION. IF THE
5 DEPARTMENT APPROVES A PROPOSED ACQUISITION OF VOTING SHARES
6 WHICH MAY RESULT IN A CHANGE OF CONTROL OR OWNERSHIP CHANGE OF
7 SUCH INSTITUTION OR HOLDING COMPANY OR AN ACQUISITION
8 TRANSACTION, IT MAY IMPOSE CONDITIONS TO BE OBSERVED AFTER SUCH
9 ACQUISITION OF VOTING SHARES OR ACQUISITION TRANSACTION, WITH
10 RESPECT TO TRANSACTIONS BETWEEN THE INSTITUTION INVOLVED AND THE
11 APPLICANT OR AFFILIATE OF THE APPLICANT, WITH RESPECT TO
12 DIVIDENDS OR DISTRIBUTIONS BY SUCH INSTITUTIONS, WITH RESPECT TO
13 EMPLOYEE RELATIONS, WITH RESPECT TO REIMBURSEMENT FOR ANY LOSS
14 OCCASIONED BY SUCH OWNERSHIP CHANGE OR WITH RESPECT TO SUCH
15 OTHER MATTERS AS THE DEPARTMENT MAY DEEM ADVISABLE ON THE BASIS
16 OF THE PURPOSES SET FORTH IN SECTION 103(A) OF THE BANKING CODE.
17 IN MAKING THE DETERMINATION UNDER SUBSECTION (D)(5), THE
18 DEPARTMENT SHALL CONSULT WITH THE ATTORNEY GENERAL. THE DECISION
19 OF THE DEPARTMENT SHALL BE SUBJECT TO REVIEW BY THE COMMONWEALTH
20 COURT IN THE MANNER PROVIDED BY LAW.

21 (G) PROHIBITION OF MISLEADING STATEMENTS.--IT SHALL BE
22 UNLAWFUL FOR ANY PERSON DIRECTLY OR INDIRECTLY TO MAKE ANY
23 UNTRUE STATEMENT OF A MATERIAL FACT OR TO OMIT TO STATE A
24 MATERIAL FACT NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN
25 LIGHT OF THE CIRCUMSTANCES IN WHICH THEY WERE MADE, NOT
26 MISLEADING IN CONNECTION WITH:

27 (1) ANY ACQUISITION OF, OR PROPOSAL TO ACQUIRE, VOTING
28 SHARES THAT REQUIRES APPROVAL UNDER THIS SECTION;

29 (2) AN ACQUISITION TRANSACTION THAT REQUIRES APPROVAL
30 UNDER THIS SECTION; OR

1 (3) ANY APPLICATION OR SUBMISSION OF INFORMATION TO THE
2 DEPARTMENT UNDER SUBSECTION (C).

3 (H) REGULATION BY DEPARTMENT.--THE ENFORCEMENT AND
4 IMPLEMENTATION OF THIS SECTION SHALL BE SUBJECT TO REGULATION BY
5 THE DEPARTMENT.

6 (I) EXEMPTIONS.--NO APPROVAL UNDER THIS SECTION SHALL BE
7 REQUIRED FOR AN ACQUISITION OF OR PROPOSAL TO ACQUIRE VOTING
8 SHARES OR FOR AN ACQUISITION TRANSACTION IN THE CASE OF EITHER:

9 (1) AN ACQUISITION OR PROPOSAL TO ACQUIRE VOTING SHARES
10 BY THE ISSUER THEREOF OR AN ACQUISITION OR PROPOSAL TO
11 ACQUIRE VOTING SHARES OF AN INSTITUTION BY ITS HOLDING
12 COMPANY, OR AN ACQUISITION TRANSACTION BETWEEN AN INSTITUTION
13 AND ITS HOLDING COMPANY OR ANY OTHER ENTITY WHICH IS
14 CONTROLLED BY SUCH HOLDING COMPANY;

15 (2) A TRANSACTION BY A BROKER-DEALER WHO DOES NO MORE
16 THAN PERFORM THE CUSTOMARY BROKER'S FUNCTION IN TRANSACTIONS
17 ON A STOCK EXCHANGE OR IN THE OVER-THE-COUNTER MARKET, WHO
18 RECEIVES NO MORE THAN THE CUSTOMARY BROKER'S COMMISSION AND
19 WHO DOES NOT SOLICIT OR ARRANGE FOR THE SOLICITATION OF
20 ORDERS;

21 (3) AN ACQUISITION OR PROPOSAL TO ACQUIRE VOTING SHARES
22 OF, OR AN ACQUISITION TRANSACTION WITH, AN INSTITUTION OR
23 HOLDING COMPANY BY ANY PERSON WHICH HAS BEEN APPROVED BY A
24 MAJORITY OF THE BOARD OF DIRECTORS OF THE INSTITUTION OR
25 HOLDING COMPANY, UNLESS AT THE TIME THE INSTITUTION OR
26 HOLDING COMPANY APPROVES THE ACQUISITION OF VOTING SHARES OR
27 ACQUISITION TRANSACTION, 25% OR MORE OF THE INSTITUTION'S OR
28 HOLDING COMPANY'S BOARD IS COMPOSED OF NOMINEES, AGENTS,
29 AFFILIATES OF OR ANY OTHER PERSONS ACTING IN CONCERT WITH THE
30 PERSON OR ENTITY SEEKING TO ACQUIRE VOTING SHARES OF, OR

1 ENTER INTO AN ACQUISITION TRANSACTION WITH, THE INSTITUTION
2 OR HOLDING COMPANY;

3 (4) AN ACQUISITION OR PROPOSAL TO ACQUIRE VOTING SHARES
4 OF AN INSTITUTION OR HOLDING COMPANY BY ANY PERSON IF THE
5 AGGREGATE NUMBER OF SHARES HELD BY SUCH PERSON AFTER SUCH
6 ACQUISITION WOULD TOTAL LESS THAN 10% IN VOTING POWER OF THE
7 OUTSTANDING SHARES OF SUCH INSTITUTION OR HOLDING COMPANY
8 ENTITLED TO VOTE GENERALLY IN THE ELECTION OF DIRECTORS AND
9 SUCH PERSON IS NOT REQUIRED TO OBTAIN THE APPROVAL OF THE
10 FEDERAL RESERVE BOARD UNDER THE BANK HOLDING COMPANY ACT OF
11 1956 (70 STAT. 133, 12 U.S.C. § 1841 ET SEQ.) IN CONNECTION
12 WITH SUCH ACQUISITION; OR

13 (5) A TRANSACTION OF A TYPE EXEMPTED BY REGULATION OF
14 THE DEPARTMENT IN LIGHT OF THE PURPOSES SET FORTH IN SECTION
15 103(A) OF THE BANKING CODE.

16 (J) CRIMINAL PENALTY FOR VIOLATION.--ANY PERSON WHO VIOLATES
17 SUBSECTION (G) SHALL BE GUILTY OF A MISDEMEANOR AND SHALL UPON
18 CONVICTION THEREOF BE SUBJECT, IN THE CASE OF AN INDIVIDUAL, TO
19 IMPRISONMENT FOR A PERIOD NOT EXCEEDING FIVE YEARS OR A FINE NOT
20 EXCEEDING \$5,000, OR BOTH, AND, IN THE CASE OF ANY OTHER PERSON,
21 TO A FINE NOT EXCEEDING \$50,000.

22 (K) CIVIL LIABILITY PENALTY FOR VIOLATION.--ANY PERSON WHO
23 VIOLATES ANY PROVISION OF THIS SECTION SHALL BE LIABLE TO ANY
24 INSTITUTION OR HOLDING COMPANY OR SHAREHOLDER THEREOF DAMAGED
25 THEREBY AND, IN THE DISCRETION OF THE COURT, FOR PUNITIVE
26 DAMAGES. THE PROVISIONS OF THIS SECTION SHALL BE ENFORCEABLE IN
27 ANY ACTION OR SUIT INSTITUTED BY THE DEPARTMENT OR BY ANY SUCH
28 INSTITUTION, HOLDING COMPANY OR SHAREHOLDER TO ENJOIN OR
29 RESTRAIN ANY VIOLATION OR THREATENED VIOLATION OF THIS SECTION.

30 (L) EXPIRATION.--THIS SECTION SHALL EXPIRE 36 MONTHS FROM

1 THE EFFECTIVE DATE OF THIS SECTION.

2 (M) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
3 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
4 SUBSECTION:

5 "ACQUIRE." OBTAINING LEGAL OR BENEFICIAL OWNERSHIP OF VOTING
6 SHARES, WHETHER OBTAINED DIRECTLY OR INDIRECTLY, THROUGH AN
7 INTERMEDIARY OR OTHERWISE; BENEFICIAL OWNERSHIP BY A PERSON
8 SHALL BE DEEMED TO INCLUDE OWNERSHIP BY ANOTHER PERSON WHICH
9 CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH SUCH
10 PERSON AND TO INCLUDE OWNERSHIP BY A SPOUSE OR MEMBER OF THE
11 FAMILY OF SUCH PERSON; THE ACQUISITION OF OPTIONS, WARRANTS AND
12 RIGHTS TO SUBSCRIBE FOR, OR TO PURCHASE, VOTING SHARES AND THE
13 ACQUISITION OF RIGHTS TO OBTAIN VOTING SHARES THROUGH CONVERSION
14 OR EXCHANGE SHALL BE DEEMED AN ACQUISITION OF SUCH VOTING
15 SHARES.

16 "ACQUISITION TRANSACTION." A MERGER, SALE OF ASSETS OR OTHER
17 SIMILAR TRANSACTION INVOLVING AN INSTITUTION OR A HOLDING
18 COMPANY FOLLOWING WHICH:

19 (1) PERSONS WHO ARE DIRECTORS OF SUCH INSTITUTION OR
20 HOLDING COMPANY IMMEDIATELY PRIOR TO THE CONSUMMATION OF SUCH
21 TRANSACTION SHALL NOT CONSTITUTE AT LEAST ONE-HALF OF THE
22 DIRECTORS OF THE SURVIVING, SUCCESSOR OR TRANSFEREE
23 INSTITUTION OR HOLDING COMPANY IMMEDIATELY FOLLOWING THE
24 CONSUMMATION OF SUCH TRANSACTION; OR

25 (2) HOLDERS OF VOTING SHARES OF SUCH INSTITUTION OR
26 HOLDING COMPANY IMMEDIATELY PRIOR TO THE CONSUMMATION OF SUCH
27 TRANSACTION SHALL NOT BE HOLDERS OF AT LEAST ONE-HALF OF THE
28 VOTING SHARES OF THE SURVIVING, SUCCESSOR OR TRANSFEREE
29 INSTITUTION OR HOLDING COMPANY IMMEDIATELY FOLLOWING THE
30 CONSUMMATION OF SUCH TRANSACTION.

1 "BANKING CODE." THE ACT OF NOVEMBER 30, 1965 (P.L.847,
2 NO.356), KNOWN AS THE BANKING CODE OF 1965.

3 "DEPARTMENT." THE DEPARTMENT OF BANKING OF THE COMMONWEALTH.

4 "HOLDING COMPANY." A CORPORATION THAT HAS THE POWER TO
5 ELECT, DIRECTLY OR INDIRECTLY, A MAJORITY OF THE BOARD OF
6 DIRECTORS OF AN INSTITUTION.

7 "INSTITUTION." A BANK, BANK AND TRUST COMPANY, NATIONAL BANK
8 OR STOCK SAVINGS BANK HAVING ITS MAIN OFFICE IN PENNSYLVANIA AND
9 HAVING DEPOSITS IN EXCESS OF \$10,000,000,000 AS OF DECEMBER 31,
10 1997.

11 "NET NEW BENEFITS." INITIAL CAPITAL INVESTMENTS, JOB
12 CREATION PLANS, CONSUMER AND BUSINESS SERVICES, COMMITMENTS TO
13 MAINTAIN AND OPEN BRANCH OFFICES WITHIN A BANKING INSTITUTION'S
14 DELINEATED LOCAL COMMUNITY AND SUCH OTHER MATTERS AS THE
15 DEPARTMENT MAY DEEM NECESSARY OR ADVISABLE.

16 "OWNERSHIP CHANGE." THE SAME MEANING AS IN SECTION 382 OF
17 THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C.
18 § 1 ET SEQ.).

19 "PROPOSAL TO ACQUIRE." ANY OFFER OR ATTEMPT TO BUY OR
20 SOLICITATION OF AN OFFER TO SELL OR OTHER ATTEMPT OR OFFER TO
21 ACQUIRE BY ANY MEANS, DIRECTLY OR INDIRECTLY, THROUGH AN
22 INTERMEDIARY OR OTHERWISE.

23 "VOTING SHARES." SHARES OF AN INSTITUTION OR HOLDING COMPANY
24 ENTITLED TO VOTE GENERALLY IN THE ELECTION OF DIRECTORS.

25 SECTION 2. SECTIONS 2524(A) AND 3101(A) OF TITLE 15 ARE
26 AMENDED TO READ:

27 § 2524. CONSENT OF SHAREHOLDERS IN LIEU OF MEETING.

28 (A) GENERAL RULE.--AN ACTION MAY BE AUTHORIZED BY THE
29 SHAREHOLDERS OF A REGISTERED CORPORATION WITHOUT A MEETING BY
30 LESS THAN UNANIMOUS WRITTEN CONSENT ONLY IF ALL OF THE FOLLOWING

1 PARAGRAPHS APPLY:

2 (1) THE ACTION IS PERMITTED BY ITS ARTICLES.

3 (2) ANY OF THE FOLLOWING SUBPARAGRAPHS APPLY:

4 (I) THE ACTION HAS BEEN APPROVED BY THE BOARD OF
5 DIRECTORS.

6 (II) THERE IS NOT, AT THE TIME THE ACTION IS PENDING
7 FOR AUTHORIZATION BY THE SHAREHOLDERS, A "CONTROLLING
8 PERSON OR GROUP," AS DEFINED IN SECTION 2573 (RELATING TO
9 DEFINITIONS), THAT IS POTENTIALLY SUBJECT TO PROFIT
10 RECOVERY UNDER SECTION 2575 (RELATING TO OWNERSHIP BY
11 CORPORATION OF PROFITS RESULTING FROM CERTAIN
12 TRANSACTIONS), REGARDLESS OF WHETHER THAT CONTROLLING
13 PERSON OR GROUP, AT THAT TIME, OWNS ANY EQUITY SECURITY
14 OF THE CORPORATION.

15 (III) THE ACTION WAS EFFECTIVE PRIOR TO SEPTEMBER
16 29, 1998.

17 PARAGRAPH (2) SHALL EXPIRE EIGHT MONTHS FROM THE DATE THE
18 PARAGRAPH TAKES EFFECT.

19 * * *

20 § 3101. APPLICATION AND EFFECT OF CHAPTER.

21 (A) GENERAL RULE.--[THIS] EXCEPT AS PROVIDED IN SUBCHAPTER I
22 (RELATING TO GOVERNMENT-OWNED INSURANCE COMPANY), THIS CHAPTER
23 SHALL BE APPLICABLE TO A BUSINESS CORPORATION THAT IS A DOMESTIC
24 INSURANCE CORPORATION.

25 * * *

26 SECTION 3. CHAPTER 31 OF TITLE 15 IS AMENDED BY ADDING A
27 SUBCHAPTER TO READ:

28 SUBCHAPTER I

29 GOVERNMENT-OWNED INSURANCE COMPANY

30 SEC.

1 3191. DEFINITIONS.

2 3192. AUTHORIZATION TO DO BUSINESS.

3 3193. PENALTIES.

4 § 3191. 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 "CONTROL." THE POSSESSION, DIRECT OR INDIRECT, OF THE POWER
9 TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES
10 OF A PERSON, WHETHER THROUGH THE OWNERSHIP OF VOTING SECURITIES,
11 BY CONTRACT OTHER THAN A COMMERCIAL CONTRACT FOR GOODS OR
12 NONMANAGEMENT SERVICES OR OTHERWISE, UNLESS THE POWER IS THE
13 RESULT OF AN OFFICIAL POSITION WITH OR CORPORATE OFFICE HELD BY
14 THE PERSON. CONTROL SHALL BE PRESUMED TO EXIST IF ANY PERSON,
15 DIRECTLY OR INDIRECTLY, OWNS, CONTROLS, HOLDS WITH THE POWER TO
16 VOTE OR HOLDS PROXIES REPRESENTING 10% OR MORE OF THE VOTING
17 SECURITIES OF ANY OTHER PERSON. THIS PRESUMPTION MAY BE REBUTTED
18 BY A SHOWING THAT CONTROL DOES NOT EXIST IN FACT. THE INSURANCE
19 DEPARTMENT MAY DETERMINE, AFTER FURNISHING ALL PERSONS IN
20 INTEREST NOTICE AND OPPORTUNITY TO BE HEARD AND MAKING SPECIFIC
21 FINDINGS OF FACT TO SUPPORT SUCH DETERMINATION, THAT CONTROL
22 EXISTS IN FACT, NOTWITHSTANDING THE ABSENCE OF A PRESUMPTION TO
23 THAT EFFECT.

24 "GOVERNMENT OWNED." OWNED OR CONTROLLED, DIRECTLY OR
25 INDIRECTLY, BY ANOTHER STATE, TERRITORY OR JURISDICTION OF THE
26 UNITED STATES OR BY A FOREIGN GOVERNMENT OR BY ANY POLITICAL
27 SUBDIVISION, INSTRUMENTALITY OR AGENCY OF EITHER.

28 "INSURANCE COMPANY." AN INSURANCE COMPANY, ASSOCIATION OR
29 EXCHANGE, OR ANY OTHER ENTITY SUBJECT TO THE JURISDICTION OF THE
30 INSURANCE DEPARTMENT.

1 § 3192. AUTHORIZATION TO DO BUSINESS.

2 (A) GENERAL RULE.--A GOVERNMENT-OWNED INSURANCE COMPANY
3 SHALL NOT BE ADMITTED OR AUTHORIZED TO DO BUSINESS IN THIS
4 COMMONWEALTH UNTIL IT HAS DEMONSTRATED AND CONTINUES TO
5 DEMONSTRATE TO THE INSURANCE COMMISSIONER'S SATISFACTION THAT IT
6 MEETS ALL OF THE FOLLOWING CRITERIA:

7 (1) DOES NOT RECEIVE A SUBSIDY OR OTHER COMPETITIVE
8 ADVANTAGE, AS A RESULT OF SUCH CONTROL OR STATUS, THAT WOULD
9 ENABLE IT TO COMPETE UNFAIRLY WITH SIMILARLY SITUATED
10 AUTHORIZED INSURERS WHICH ARE NOT SO CONTROLLED OR
11 CONSTITUTED.

12 (2) IS NOT ENTITLED TO CLAIM SOVEREIGN OR SIMILAR
13 GOVERNMENTAL IMMUNITY OR HAS FILED A WAIVER OF SOVEREIGN OR
14 SIMILAR GOVERNMENTAL IMMUNITY WITH THE INSURANCE
15 COMMISSIONER.

16 (3) CEDES NO MORE THAN 50% OF ITS ANNUAL GROSS WRITTEN
17 PREMIUMS TO ASSUMING INSURERS THAT NEITHER HOLD A CERTIFICATE
18 OF AUTHORITY NOR ARE QUALIFIED REINSURERS IN THIS
19 COMMONWEALTH.

20 (4) MAINTAINS A POLICYHOLDERS' SURPLUS OF AT LEAST
21 \$35,000,000 OR SUCH OTHER AMOUNT DETERMINED BY THE INSURANCE
22 COMMISSIONER CALCULATED AND REPORTED IN THE MANNER PRESCRIBED
23 BY THE DEPARTMENT UNDER SECTION 320 OF THE ACT OF MAY 17,
24 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF
25 1921.

26 (5) IS DOMICILED IN A JURISDICTION WHICH HAS INSOLVENCY
27 LAWS APPLICABLE TO THE INSURANCE COMPANY THAT IN LAW AND
28 APPLICATION ARE FAIR, REASONABLE AND NOT PREJUDICIAL TO
29 POLICYHOLDERS, CREDITORS OR THE PUBLIC, GENERALLY.

30 (6) HAS FILED WITH THE INSURANCE COMMISSIONER AN

1 IRREVOCABLE CONSENT NOT TO SEEK THE PROTECTION OF 11 U.S.C. §
2 304 (RELATING TO CASES ANCILLARY TO FOREIGN PROCEEDINGS).

3 (7) ITS OPERATION AS AN INSURER WOULD NOT BE DETRIMENTAL
4 TO THE PUBLIC INTERESTS OF THIS COMMONWEALTH.

5 (8) OTHERWISE SATISFIES ALL APPLICABLE REQUIREMENTS FOR
6 THE ISSUANCE OF A CERTIFICATE OF AUTHORITY, INCLUDING, BUT
7 NOT LIMITED TO, REASONABLE STANDARDS OF SOLVENCY, THE DEPOSIT
8 OF SECURITY, THE ESTABLISHMENT OF A SPECIAL TRUST FUND FOR
9 THE BENEFIT OF POLICYHOLDERS OR OTHER REQUIREMENTS AS MAY BE
10 ESTABLISHED FROM TIME TO TIME BY THE INSURANCE COMMISSIONER.

11 (9) IS IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN
12 SECTION 301 OF THE INSURANCE COMPANY LAW OF 1921.

13 (B) NOTIFICATION.--ANY ENTITY GRANTED A CERTIFICATE OF
14 AUTHORITY BY THE INSURANCE COMMISSIONER UNDER THE PROVISIONS OF
15 THIS SECTION SHALL NOTIFY THE INSURANCE COMMISSIONER WITHIN FIVE
16 BUSINESS DAYS OF ANY MATERIAL CHANGE WITH RESPECT TO SUBSECTION
17 (A)(1), (2), (3), (4) OR (5) OR OF ANY MATERIAL ORDER OR OTHER
18 ACTION AFFECTING ITS CERTIFICATE OF AUTHORITY.

19 § 3193. PENALTIES.

20 UPON SATISFACTORY EVIDENCE OF THE VIOLATION OF SECTION 3192
21 (RELATING TO AUTHORIZATION TO DO BUSINESS) BY AN INSURANCE
22 COMPANY, THE INSURANCE COMMISSIONER MAY, IN THE INSURANCE
23 COMMISSIONER'S DISCRETION, PURSUE ANY ONE OR MORE OF THE
24 FOLLOWING COURSES OF ACTION:

25 (1) SUSPEND OR REVOKE THE CERTIFICATE OF AUTHORITY OF
26 SUCH OFFENDING COMPANY.

27 (2) REFUSE, FOR A PERIOD NOT TO EXCEED ONE YEAR
28 THEREAFTER, TO ISSUE A NEW CERTIFICATE OF AUTHORITY TO SUCH
29 OFFENDING COMPANY.

30 (3) IMPOSE A PENALTY OF NOT LESS THAN \$5,000 NOR MORE

1 THAN \$25,000 FOR EACH ACTION IN VIOLATION OF SECTION 3192.

2 SECTION 4. SECTION 300 OF THE ACT OF MAY 17, 1921 (P.L.682,
3 NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921, IS
4 REPEALED.

5 SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.