

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**  
**No. 1267** Session of  
1991

INTRODUCED BY LESCOVITZ, JOSEPHS, COLAIZZO, PISTELLA, KRUSZEWSKI  
AND DALEY, APRIL 23, 1991

REFERRED TO COMMITTEE ON INSURANCE, APRIL 23, 1991

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 group  
12 accident and sickness insurance.

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

15 Section 1. Section 621.2(a) of the act of May 17, 1921  
16 (P.L.682, No.284), known as The Insurance Company Law of 1921,  
17 amended or added December 9, 1955 (P.L.807, No.233) and January  
18 18, 1968 (1967 P.L.969, No.433), is amended and the section is  
19 amended by adding subsections to read:

20 Section 621.2. Group Accident and Sickness Insurance.--(a)  
21 Group accident and sickness insurance is hereby declared to be  
22 that form of accident and sickness insurance covering groups of

1 persons defined in this section with or without one or more  
2 members of their families or one or more of their dependents, or  
3 covering one or more members of the families or one or more  
4 dependents of such groups or persons and issued upon the  
5 following basis:

6 (1) Under a policy issued to an employer or trustees of a  
7 fund established by an employer, who shall be deemed the  
8 policyholder insuring at least ten employees of such employer for  
9 the benefit of persons other than the employer. The term  
10 "employees," as used herein, shall be deemed to include the  
11 officers, managers and employees of the employer, the individual  
12 proprietor or partner, if the employer is an individual  
13 proprietor or partnership, the officers, managers and employees  
14 of subsidiary or affiliated corporations, the individual  
15 proprietors, partners and employees of individuals and firms, if  
16 the business of the employer and such individual or firm is  
17 under common control through stock ownership, contract or  
18 otherwise. The term "employees," as used herein, may include  
19 retired employees. A policy issued to insure employees of a public  
20 body may provide that the term "employees" shall include elected  
21 or appointed officials.

22 (2) Under a policy issued to an association, including a  
23 labor union, which shall have a constitution and by-laws and  
24 which has been organized by other than an insurer and is  
25 maintained in good faith for purposes other than that of  
26 obtaining insurance insuring at least twenty-five members,  
27 employees or employees of members of the association for the  
28 benefit of persons other than the association or its officers or  
29 trustees[.], which has been in active existence for at least two  
30 years, operates from offices other than the insurer's, and is

1 controlled by principals other than the insurer's. The term  
2 "employees," as used herein, may include retired employees.

3 (3) Under a policy issued to the trustees of a fund  
4 established by an insurer for two or more employers in the same  
5 industry or by two or more employers in the same industry or by  
6 an insurer for one or more labor unions or by one or more labor  
7 unions or by an insurer for one or more employers and one or  
8 more labor unions or by [an association as defined in clause (2)  
9 of this section,] one or more employers and one or more labor  
10 unions or by an insurer for one or more associations meeting the  
11 qualifications as defined in clause (2) of this subsection or by  
12 one or more associations meeting the qualifications as defined  
13 in clause (2) of this subsection, which trustees shall be deemed  
14 the policyholder to insure employees of the employers or members  
15 of the unions or [such associations] members, employees thereof  
16 and employees of the associations for the benefit of persons  
17 other than the employers or the unions or [such associations.]  
18 the associations. The term "employees," as used herein, may  
19 include the officers, managers and employees of the employer and  
20 the individual proprietor or partners, if the employer is an  
21 individual proprietor or partnership. The term "employees," as  
22 used herein, may include retired employees. The policy may  
23 provide that the term "employees" shall include the trustees or  
24 their employees, or both, if their duties are principally  
25 connected with such trusteeship.

26 (4) Under a policy issued to any person or organization to  
27 which a policy of group life insurance may be issued or  
28 delivered in this Commonwealth to insure any class or classes of  
29 individuals that could be insured under such group life policy.

30 (5) Under a policy issued to cover any other substantially

1 similar group, which in the discretion of the Insurance  
2 Commissioner may be subject to the issuance of a group accident  
3 and sickness policy or contract.

4 (5.1) Under a policy issued to a group, other than one  
5 described in clauses (1) through (5) and under which the  
6 Insurance Commissioner finds that the issuance is not contrary  
7 to the best interest of the public; the issuance would result in  
8 economies of acquisition or administration; and the benefits are  
9 reasonable in relation to the premiums charged.

10 (6) A policy delivered or issued for delivery on or after  
11 January 1, 1968 under which coverage of a dependent of an  
12 employe or other member of the insured group terminates at a  
13 specified age shall, with respect to an unmarried child covered  
14 by the policy prior to the attainment of the age of nineteen who  
15 is incapable of self-sustaining employment by reason of mental  
16 retardation or physical handicap and who became so incapable  
17 prior to attainment of age nineteen and who is chiefly dependent  
18 upon such employe or member for support and maintenance, not so  
19 terminate while the insurance of the employe or member remains  
20 in force and the dependent remains in such condition, if the  
21 insured employe or member has within thirty-one days of such  
22 dependent's attainment of the termination age submitted proof of  
23 such dependent's incapacity as described herein. The foregoing  
24 provisions of this paragraph shall not require an insurer to  
25 insure a dependent who is a mentally retarded or physically  
26 handicapped child of an employe or other member of the insured  
27 group where such dependent does not satisfy the conditions of  
28 the group policy as to any requirements for evidence of  
29 insurability or other provisions as may be stated in the group  
30 policy required for coverage thereunder to take effect. In any

1 such case the terms of the policy shall apply with regard to the  
2 coverage or exclusion from coverage of such dependent.

3 \* \* \*

4 (e) No insurer shall issue in this Commonwealth group  
5 accident and health insurance coverage provided under a group  
6 policy issued in another state or deliver or issue for delivery  
7 in this Commonwealth a certificate of group accident and health  
8 insurance evidencing coverage under a group policy issued in  
9 another state unless such coverage is in compliance with the  
10 requirements of this act or any other applicable act. The  
11 provisions of this act shall not apply if a group policy is  
12 issued to:

13 (1) An out-of-State trustee of a fund where Commonwealth  
14 residents shall not at any time comprise twenty-five per cent or  
15 more of the total certificate holders, or where Commonwealth  
16 residents shall not at any time comprise the largest share of  
17 the total certificate holders, whichever is less.

18 (2) An out-of-State single employer.

19 (3) Trustee of a fund established by any person acting  
20 directly as an employer having its principal office located in a  
21 state other than this Commonwealth.

22 (4) An association, organized or domiciled in a state other  
23 than this Commonwealth, which has a constitution and bylaws, has  
24 been organized by other than an insurer, is maintained in good  
25 faith for purposes other than that of obtaining insurance, has  
26 been in active existence for at least two years, operates from  
27 offices other than the insurer's, and is controlled by  
28 principals other than the insurer's.

29 (5) A union-negotiated out-of-State trust.

30 (6) Other groups as may be determined by the Insurance

1 Commissioner at his discretion.

2 (f) (1) Subsection (e)(1) shall apply only if the insurer  
3 supplies to the Commissioner certification as to its insured  
4 trusts and, for each trust, the percentage of Commonwealth  
5 certificate holders or the number of certificate holders  
6 compared to the total number of certificate holders.

7 (2) The initial certification shall be supplied no later  
8 than the effective date of this amendatory subsection, and  
9 thereafter, no later than March 1 of each year. The  
10 certification shall be filed along with the annual statement but  
11 shall not be made a part thereof.

12 (g) (1) For group accident and health insurance coverage  
13 provided in this Commonwealth under a policy issued in another  
14 State, all group policies, certificates, amendments,  
15 endorsements and enrollment forms shall be filed with the  
16 Commissioner for approval. The insurer shall also file with the  
17 Commissioner evidence of approval in the State where the group  
18 policy is issued.

19 (2) Forms so filed for approval shall be deemed approved at  
20 the expiration of sixty days after filing, unless earlier  
21 approved or disapproved by the Commissioner. The Commissioner,  
22 by written notice to the insurer, may within such sixty-day  
23 period extend the period of approval or disapproval for an  
24 additional sixty days.

25 (3) Such approval shall become void upon any subsequent  
26 notice of disapproval from the Commissioner, or upon any  
27 subsequent withdrawal of license or refusal of the Commissioner  
28 to relicense any such company, association, or exchange, or upon  
29 the subsequent passage of an act which would no longer make such  
30 contracts a fit subject for approval, except that this provision

1 shall not affect contracts issued prior thereto.

2 (4) Upon any disapproval, the Commissioner shall notify the  
3 insurer in writing, specifying the reason for such disapproval;  
4 and within thirty days from the date of mailing such notice to  
5 the insurer, the insurer may make written application to the  
6 Commissioner for a hearing thereon. The hearing shall be  
7 scheduled within a reasonable period of time following receipt  
8 of the application. The procedure before the Commissioner shall  
9 be in accordance with the adjudication procedure set forth in  
10 Title 2 of the Pennsylvania Consolidated Statutes (relating to  
11 administrative law and procedure), and the insurer shall be  
12 entitled to the judicial review as provided for therein.

13 (5) Upon satisfactory evidence of the violation of this  
14 section by any such person, corporation, insurance company,  
15 exchange, order or society, the Commissioner may, at his  
16 discretion, pursue any one or more of the following courses of  
17 action:

18 (i) Suspend or revoke the license of such offending person,  
19 corporation, insurance company, exchange, order or society.

20 (ii) Refuse, for a period not to exceed the year thereafter,  
21 to issue a new license to such person, corporation, insurance  
22 company, exchange, order or society.

23 (iii) Impose a fine of not more than one thousand dollars  
24 (\$1,000) for each and every violation of this subsection.

25 (h) (1) In the case of a policy issued on a group basis, if  
26 compensation of any kind will or may be paid to a policyholder  
27 or sponsoring or endorsing entity, the insurer shall cause to be  
28 distributed to prospective insureds in a written notice that  
29 compensation will or may be paid.

30 (2) Such notice shall be distributed:

1     (i) whether compensation is direct or indirect; and  
2     (ii) whether such compensation is paid to or retained by the  
3     policyholder or sponsoring or endorsing entity, or paid to or  
4     retained by a third party at the direction of the policyholder  
5     or sponsoring or endorsing entity, or any entity affiliated  
6     therewith by way of ownership, contract, or employment.

7     (3) The notice required by this section shall be placed on  
8     or accompany any application or enrollment form provided to  
9     prospective insureds.

10    (4) As used in this subsection, a "sponsoring or endorsing  
11    entity" means an organization which has arranged for the  
12    offering of a program of insurance in a manner which  
13    communicates that eligibility for participation in the program  
14    is dependent upon affiliation with such organization or that it  
15    encourages participation in the program.

16    (i) The provisions of this amendatory act shall not  
17    invalidate or otherwise affect either group policies legally  
18    issued prior to the effective date of this section or  
19    certificates in effect prior to the effective date of this  
20    section. All such group policies or certificates may remain in  
21    full force and effect until three years after the effective date  
22    of this section, notwithstanding the fact they do not comply  
23    with the provisions of this act.

24    (j) Any group policy issued on or after the effective date  
25    of this subsection shall comply with the provisions of this act.

26    (k) Certificates issued on or after the effective date of  
27    this subsection under a group policy legally issued prior to the  
28    effective date of this subsection shall comply with the  
29    provisions of this act no later than three years after the  
30    effective date of this subsection if issued to: an employer or



trustees of a fund established by an employer or trustees of a  
fund established by two or more employers none of whom has  
joined after the effective date of this subsection, labor union,  
police fraternity, firemen's fraternity, teacher's association  
or federation and a unit of the National Guard or Naval Militia.  
Any other certificates issued on or after the effective date of  
this subsection under a group policy issued prior to the  
effective date of this subsection shall comply with the  
provisions of this act.

(l) Any certificate issued under a group policy issued on or  
after the effective date of this subsection shall comply with  
the provisions of this act.

(m) As used in this section, the term "out-of-State single  
employer" means any person acting directly as an employer and  
has its principal office located in a State other than this  
Commonwealth. An "out-of-State trustee" of a fund means a  
trustee of a fund established by an insurer for or established  
by two or more persons acting directly as employers in the same  
industry and the trustee has its principal office located in a  
state other than this Commonwealth. "Out-of-State coverage"  
means insurance coverage issued in this Commonwealth and  
provided under a group policy issued in a state other than this  
Commonwealth. A "union-negotiated out-of-State trust" means a  
trust established under a collective bargaining agreement and  
which is located in a state other than this Commonwealth.

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