

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 153 Session of
1991

INTRODUCED BY D. R. WRIGHT, COHEN, ITKIN, FEE, KOSINSKI,
TANGRETTI, F. TAYLOR, TRELLO, FREEMAN, BILLOW, GIGLIOTTI,
PISTELLA, WILLIAMS, MAIALE, LLOYD, McGEEHAN, McCALL, COWELL,
PETRARCA, WAMBACH, BUNT, KUKOVICH, WOGAN, STISH, MERRY,
PRESTON, HAYDEN, TRICH, HALUSKA, FOX, HARPER, LAUGHLIN,
BELFANTI, BLAUM, KASUNIC, CIVERA, MIHALICH, COY, STEELMAN,
OLASZ, LEVDANSKY, JOSEPHS, TIGUE, BUTKOVITZ, M. N. WRIGHT,
RAYMOND, RITTER, DeLUCA, VEON, LINTON, E. Z. TAYLOR AND
TELEK, JANUARY 29, 1991

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 29, 1991

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employes of certain departments, boards and
20 commissions shall be determined," creating the Office of
21 Consumer Advocate for Insurance as an independent office
22 within the Office of the Governor and prescribing its powers
23 and duties.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

1 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
2 as The Administrative Code of 1929, is amended by adding an
3 article to read:

4 ARTICLE IX-C

5 OFFICE OF CONSUMER ADVOCATE FOR INSURANCE

6 Section 901-C. Definitions.--As used in this article:

7 "Consumer" means any person who is a named insured, insured
8 or beneficiary of a policy of insurance or any other person who
9 may be affected in any way by the department's exercise of or
10 the failure to exercise its authority.

11 "Department" means the Insurance Department and includes the
12 Insurance Commissioner.

13 "Insurer" means any "company," "association" or "exchange" as
14 such terms are defined in section 101 of the act of May 17, 1921
15 (P.L.789, No.285), known as "The Insurance Department Act of one
16 thousand nine hundred and twenty-one."

17 Section 902-C. Office of Consumer Advocate for Insurance.--

18 (a) There is hereby established as an independent office within
19 the Office of the Governor an Office of Consumer Advocate for
20 Insurance to represent the interest of consumers before the
21 Insurance Department.

22 (b) The Office of Consumer Advocate for Insurance shall be
23 headed by a Consumer Advocate for Insurance who shall be
24 appointed by the Governor, by and with the advice and consent of
25 a majority of the members elected to the Senate. The Consumer
26 Advocate for Insurance shall be a person who by reason of
27 training, experience and attainment is qualified to represent
28 the interest of consumers. Compensation shall be set by the
29 Executive Board.

30 (c) No individual who serves as a Consumer Advocate for

Insurance shall, while serving in such position, engage in any business, vocation or other employment, or have other interests, inconsistent with the official responsibilities, nor shall such individual seek or accept employment nor render beneficial services for compensation with any insurer subject to the authority of the office during the tenure of the appointment and for a period of two years immediately after the appointment is served or terminated.

(d) Any individual who is appointed to the position of Consumer Advocate for Insurance shall not seek election nor accept appointment to any political office during the tenure as Consumer Advocate for Insurance and for a period of two years after the appointment is served or terminated.

Section 903-C. Assistant Consumer Advocates for Insurance; Employees.--The Consumer Advocate for Insurance shall appoint attorneys as assistant consumer advocates for insurance and such additional clerical, technical and professional staff as may be appropriate, and may contract for such additional services as shall be necessary for the performance of the duties imposed by this article. The compensation of assistant consumer advocates for insurance and such clerical, technical and professional staff shall be set by the Executive Board. No assistant consumer advocate for insurance or other staff employe shall, while serving in such position, engage in any business, vocation or other employment, or have other interests, inconsistent with official responsibilities.

Section 904-C. Powers and Duties of the Consumer Advocate for Insurance.--(a) In addition to any other authority conferred by this article, the Consumer Advocate for Insurance is authorized to and shall, in carrying out the responsibilities

under this article, represent the interest of consumers as a party, or otherwise participate for the purpose of representing an interest of consumers, before the department in any matter properly before the department, and before any court or agency, initiating proceedings if, in the judgment of the Consumer Advocate for Insurance, such representation may be necessary, in connection with any matter involving regulation by the department, whether on appeal or otherwise initiated.

(b) The Consumer Advocate for Insurance may exercise discretion in determining the interests of consumers which will be advocated in any particular proceeding and in determining whether or not to participate in or initiate any particular proceeding and, in so determining, shall consider the public interest, the resources available and the substantiality of the effect of the proceeding on the interest of consumers. The Consumer Advocate for Insurance may refrain from intervening when, in the judgment of the Consumer Advocate for Insurance, such is not necessary to represent adequately the interest of consumers.

(c) In addition to any other authority conferred by this article, the Consumer Advocate for Insurance is authorized to represent an interest of consumers which is presented for consideration, upon petition in writing, by a substantial number of persons who are consumers of an insurer subject to regulation by the department. The Consumer Advocate for Insurance shall notify the principal sponsors of the petition, within a reasonable time after receipt of the petition, of the action taken or intended to be taken with respect to the interest of consumers presented in that petition. If the Consumer Advocate for Insurance declines or is unable to represent such interest,

written notification and the reasons for the action shall be given to the sponsors.

(d) Any action brought by the Consumer Advocate for Insurance before a court or an agency of this Commonwealth shall be brought in the name of the Consumer Advocate for Insurance: Provided, That the Consumer Advocate for Insurance may name a consumer or group of consumers in whose name the action may be brought or may join with a consumer or group of consumers in bringing the action.

(e) At such time as the Consumer Advocate for Insurance determines, in accordance with applicable time limitations, to initiate, intervene in, or otherwise participate in any department, agency, or court proceeding, the Consumer Advocate for Insurance shall issue publicly a written statement, a copy of which shall be filed in the proceeding in addition to any required entry of appearance, stating concisely the specific interest of consumers to be protected.

(f) The Consumer Advocate for Insurance shall be served with copies of all filings, correspondence or other documents filed by insurers with the department unless the Consumer Advocate for Insurance informs the insurer that specific types of classes of documents need not be so served. The department shall not accept a document as timely filed if the document is also required to be served on the Consumer Advocate for Insurance and the insurer has not indicated that service has or is being made on the Consumer Advocate for Insurance. Insurers shall provide any other nonprivileged information or data requested by the Consumer Advocate for Insurance to the extent that such request is reasonably related to the performance of his duties under this article.

Section 905-C. Duties of the Department.--In dealing with any proposed action which may substantially affect the interest of consumers, including, but not limited to, a proposed change of rates and the adoption of rules, regulations, guidelines, orders, standards or final policy decisions, the department shall:

(1) Notify the Consumer Advocate for Insurance and provide, free of charge, copies of all related documents when notice of the proposed action is given to the public or at a time fixed by agreement between the Consumer Advocate for Insurance and the department in a manner to assure the Consumer Advocate for Insurance reasonable notice and adequate time to determine whether to intervene in such matter.

(2) Consistent with its other statutory responsibilities, take such action with due consideration to the interest of consumers.

Section 906-C. Savings Provision; Construction.--(a) Nothing contained in this article shall in any way limit the right of any consumer to bring a proceeding before either the department or a court.

(b) Nothing contained in this article shall be construed to impair the statutory authority or responsibility of the department to regulate insurers in the public interest.

Section 907-C. Reports.--The Consumer Advocate for Insurance shall annually transmit to the Governor and to the General Assembly and shall make available to the public an annual report on the conduct of the Office of Consumer Advocate for Insurance. The Consumer Advocate for Insurance shall make recommendations as may, from time to time, be necessary or desirable to protect the interest of consumers.

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