

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 294 Session of 1993

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

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 23, 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 APPLICATION OF THE ACT AND FOR group policies. <---

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

16 SECTION 1. SECTION 103 OF THE ACT OF MAY 17, 1921 (P.L.789, <---
17 NO.285), KNOWN AS THE INSURANCE DEPARTMENT ACT OF 1921, AMENDED
18 JUNE 5, 1947 (P.L.439, NO.200), IS AMENDED TO READ:

19 SECTION 103. APPLICATION OF ACT.--(A) THE PROVISIONS OF
20 THIS ACT SHALL APPLY TO ALL COMPANIES, ASSOCIATIONS, AND
21 EXCHANGES TRANSACTING ANY CLASS OF INSURANCE BUSINESS, TO RATING
22 ORGANIZATIONS AND TO ALL INSURANCE AGENTS AND INSURANCE BROKERS.
23 THE PROVISIONS OF THIS ACT, EXCEPTING SECTIONS TWO HUNDRED AND

1 NINETEEN (219), THREE HUNDRED AND FIVE (305), FIVE HUNDRED AND
2 ONE (501), FIVE HUNDRED AND TWO (502), FIVE HUNDRED AND FOUR
3 (504), FIVE HUNDRED AND FIVE (505), FIVE HUNDRED AND SIX (506),
4 FIVE HUNDRED AND SEVEN (507), FIVE HUNDRED AND EIGHT (508), FIVE
5 HUNDRED AND NINE (509), FIVE HUNDRED AND TEN (510) AND SIX
6 HUNDRED AND SEVEN (607) HEREOF, SHALL NOT APPLY TO FRATERNAL
7 BENEFIT SOCIETIES, ORDERS, OR ASSOCIATIONS CONDUCTED NOT FOR
8 PROFIT, AND HAVING A LODGE SYSTEM WITH RITUALISTIC FORM OF WORK
9 AND REPRESENTATIVE FORM OF GOVERNMENT, OR TO BENEFICIAL OR
10 RELIEF ASSOCIATIONS CONDUCTED NOT FOR PROFIT FORMED BY CHURCHES,
11 SOCIETIES, CLASSES, FIRMS, OR CORPORATIONS, WITH OR WITHOUT
12 RITUALISTIC FORM OF WORK, THE PRIVILEGE OF MEMBERSHIP IN WHICH
13 ARE CONFINED TO THE MEMBERS OF SUCH CHURCHES, SOCIETIES, OR
14 CLASSES, AND TO MEMBERS AND EMPLOYES OF SUCH FIRMS OR
15 CORPORATIONS. THE PROVISIONS OF THIS ACT, EXCEPTING SECTIONS TWO
16 HUNDRED AND THIRTEEN (213), TWO HUNDRED AND FOURTEEN (214), TWO
17 HUNDRED AND SIXTEEN (216), TWO HUNDRED AND NINETEEN (219), FIVE
18 HUNDRED AND ONE (501), FIVE HUNDRED AND TWO (502), FIVE HUNDRED
19 AND THREE (503), FIVE HUNDRED AND FOUR (504), FIVE HUNDRED AND
20 FIVE (505), FIVE HUNDRED AND SIX (506), FIVE HUNDRED AND SEVEN
21 (507), FIVE HUNDRED AND EIGHT (508), FIVE HUNDRED AND NINE
22 (509), AND FIVE HUNDRED AND TEN (510) HEREOF, SHALL NOT APPLY TO
23 DOMESTIC MUTUAL FIRE INSURANCE COMPANIES OF THIS COMMONWEALTH,
24 INCORPORATED UNDER SPECIAL ACTS OF ASSEMBLY OR UNDER THE ACT OF
25 MAY FIRST, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-SIX, WITH
26 UNLIMITED OR LIMITED LIABILITY TO ASSESSMENT FOR PAYMENT OF
27 EXPENSES AND OF LOSSES AND LOSS ADJUSTMENTS, SET FORTH IN THE
28 POLICY CONTRACT OR IN THE PROMISSORY NOTES ATTACHED TO SAID
29 POLICY.

30 (B) NOTHING IN THIS ACT SHALL APPLY TO A RELIGIOUS

1 PUBLICATION, OR ITS SUBSCRIBERS, THAT:

2 (1) IS A NONPROFIT RELIGIOUS ORGANIZATION;

3 (2) IS LIMITED TO SUBSCRIBERS WHO ARE MEMBERS OF THE SAME
4 DENOMINATION OR RELIGION, WHO HAVE THE APPROVAL OF THEIR PASTOR;

5 (3) ACTS AS AN ORGANIZATIONAL CLEARINGHOUSE FOR INFORMATION
6 BETWEEN SUBSCRIBERS WHO HAVE FINANCIAL, PHYSICAL OR MEDICAL
7 NEEDS AND SUBSCRIBERS WHO CHOOSE TO ASSIST WITH THOSE NEEDS,
8 MATCHING SUBSCRIBERS WITH THE PRESENT ABILITY TO PAY WITH
9 SUBSCRIBERS WITH A PRESENT FINANCIAL OR MEDICAL NEED;

10 (4) PAYS FOR THE SUBSCRIBERS' FINANCIAL OR MEDICAL NEEDS BY
11 PAYMENTS DIRECTLY FROM SUBSCRIBER TO SUBSCRIBER; AND

12 (5) SUGGESTS AMOUNTS TO GIVE THAT ARE VOLUNTARY AMONG THE
13 SUBSCRIBERS, WITH NO ASSUMPTION OF RISK OR PROMISE TO PAY EITHER
14 AMONG THE SUBSCRIBERS OR BETWEEN THE SUBSCRIBERS AND THE
15 PUBLICATION.

16 Section ~~±~~ 2. 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
24 following:

25 (1) Transactions regulated by the act of January 24, 1966
26 (1965 P.L.1509, No.531), entitled "An act relating to,
27 regulating, taxing, supervising and controlling the placing of
28 insurance on risks located in the Commonwealth of Pennsylvania
29 with insurers not licensed to transact insurance business in
30 Pennsylvania, permitting licensed insurers to afford coverage

1 which may be placed with unlicensed insurers, providing fees and
2 penalties, and repealing certain existing laws."

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

21 (3) Contracts of reinsurance.

22 (4) Transactions in this Commonwealth which (i) involve a
23 policy lawfully solicited, written and delivered outside of this
24 Commonwealth covering only subjects of insurance not resident,
25 located, or expressly to be performed in this Commonwealth at
26 the time of issuance of such policy, and (ii) are subsequent to
27 the issuance of such policy.

28 (5) (i) Transactions in this Commonwealth, except group
29 credit life or group credit accident and health insurance
30 transactions, involving group [or blanket] accident and health

1 or life insurance policies or group annuity contracts where the
2 group policy [or contract is issued and delivered pursuant to
3 the group or blanket insurance or group annuity laws of a
4 jurisdiction in which the insurer is authorized to do an
5 insurance business and in which the policyholder is domiciled or
6 has its principal place of business or otherwise has a bona fide
7 situs.] is issued to:

8 (A) An out-of-State trustee of a fund in another state, an
9 organization in another state or a trust or trustee of a trust
10 established or participated in by one or more organizations in
11 another state, in which (state) the insurance supervisory
12 official or agency of that state has determined that: the
13 issuance of the group policy or certificate is not contrary to
14 the best interests of the general public; the issuance of the
15 group policy or certificate would result in economies of
16 acquisition or administration; the benefits are reasonable in
17 relation to the premium charged; and, for group accident and
18 health insurance, the coverage is in compliance with any
19 mandated benefit act specifically providing for coverage on
20 residents of this Commonwealth regardless of whether the group
21 policy is used within or outside this Commonwealth.

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

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

26 (D) An association or a trust or trustee of a trust
27 established or participated in by one or more associations to
28 insure association members, spouses or dependents of members:
29 Provided, however, That the association must be organized or
30 domiciled in a state other than this Commonwealth, have a

1 constitution and bylaws, be organized by other than an insurer,
2 be maintained in good faith for purposes other than that of
3 obtaining insurance, have been in active existence for at least
4 two years, operate from offices other than the insurer's and be
5 controlled by principals other than the insurer's.

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

7 (F) Other groups as may be determined discretionally by the
8 Insurance Commissioner.

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

10 An "organization" means any of the following:

11 (A) Any bank, retailer or other issuer which:

12 (I) issues a credit card, charge card or payment card for
13 the purchase of goods or services; and

14 (II) is issued a policy insuring holders of the card.

15 (B) Any bank, savings and loan association, credit union,
16 mutual fund, money market fund, stock broker or other similar
17 financial institution which:

18 (I) is regulated by Federal or state law; and

19 (II) is issued a policy insuring its depositors, account
20 holders or members.

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

24 An "out-of-State trustee" of a fund means a trustee of a fund
25 established by an insurer for two or more employers or
26 established by two or more persons acting directly as employers
27 and which has its principal office located in a state other than
28 this Commonwealth.

29 A "union-negotiated out-of-State trust" means a trust
30 established under a collective bargaining agreement and which is

1 located in a state other than this Commonwealth.

2 [(5.1) Transactions in this Commonwealth, except group
3 credit life or group credit accident and health insurance
4 transactions, involving a group or blanket insurance policy or
5 group annuity contract not exempt under the provisions of clause
6 (5) of this subsection, shall nonetheless be exempt from the
7 provisions of this section if:

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

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

14 It shall be the responsibility of the insurer claiming exemption
15 under this subsection to demonstrate compliance with each of the
16 above conditions.

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

1 time employes.

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

4 (8) Insurance on the property and operation of railroads or
5 aircraft engaged in interstate or foreign commerce, insurance of
6 vessels, crafts or hulls, cargoes, marine builder's risks,
7 marine protection and indemnity, lessees and charterers'
8 liability, or other risks including strikes and war risks
9 commonly insured under ocean or wet marine forms of policies.

10 Section ~~2~~ 3. This act shall take effect in 90 days.

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