

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 701 Session of
1993

INTRODUCED BY SCANLON, MUSTO, WILLIAMS, AFFLERBACH, SCHWARTZ,
O'PAKE, REIBMAN AND DAWIDA, MARCH 23, 1993

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JANUARY 25, 1994

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 FOR COMPUTATION OF RESERVE LIABILITY AND CERTAIN OTHER
15 RESERVES, FOR CERTAIN MANAGERS AND AGENTS AND FOR THE
16 SUSPENSION OF BUSINESS.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 ~~Section 1. Section 208(e) of the act of May 17, 1921~~ ←
20 ~~(P.L.789, No.285), known as The Insurance Department Act of one~~
21 ~~thousand nine hundred and twenty one, amended or added July 31,~~

22 SECTION 1. SECTION 103 OF THE ACT OF MAY 17, 1921 (P.L.789, ←
23 NO.285), KNOWN AS THE INSURANCE DEPARTMENT ACT OF 1921, AMENDED

1 JUNE 5, 1947 (P.L.439, NO.200), IS AMENDED TO READ:

2 SECTION 103. APPLICATION OF ACT.--(A) THE PROVISIONS OF
3 THIS ACT SHALL APPLY TO ALL COMPANIES, ASSOCIATIONS, AND
4 EXCHANGES TRANSACTING ANY CLASS OF INSURANCE BUSINESS, TO RATING
5 ORGANIZATIONS AND TO ALL INSURANCE AGENTS AND INSURANCE BROKERS.
6 THE PROVISIONS OF THIS ACT, EXCEPTING SECTIONS TWO HUNDRED AND
7 NINETEEN (219), THREE HUNDRED AND FIVE (305), FIVE HUNDRED AND
8 ONE (501), FIVE HUNDRED AND TWO (502), FIVE HUNDRED AND FOUR
9 (504), FIVE HUNDRED AND FIVE (505), FIVE HUNDRED AND SIX (506),
10 FIVE HUNDRED AND SEVEN (507), FIVE HUNDRED AND EIGHT (508), FIVE
11 HUNDRED AND NINE (509), FIVE HUNDRED AND TEN (510) AND SIX
12 HUNDRED AND SEVEN (607) HEREOF, SHALL NOT APPLY TO FRATERNAL
13 BENEFIT SOCIETIES, ORDERS, OR ASSOCIATIONS CONDUCTED NOT FOR
14 PROFIT, AND HAVING A LODGE SYSTEM WITH RITUALISTIC FORM OF WORK
15 AND REPRESENTATIVE FORM OF GOVERNMENT, OR TO BENEFICIAL OR
16 RELIEF ASSOCIATIONS CONDUCTED NOT FOR PROFIT FORMED BY CHURCHES,
17 SOCIETIES, CLASSES, FIRMS, OR CORPORATIONS, WITH OR WITHOUT
18 RITUALISTIC FORM OF WORK, THE PRIVILEGE OF MEMBERSHIP IN WHICH
19 ARE CONFINED TO THE MEMBERS OF SUCH CHURCHES, SOCIETIES, OR
20 CLASSES, AND TO MEMBERS AND EMPLOYES OF SUCH FIRMS OR
21 CORPORATIONS. THE PROVISIONS OF THIS ACT, EXCEPTING SECTIONS TWO
22 HUNDRED AND THIRTEEN (213), TWO HUNDRED AND FOURTEEN (214), TWO
23 HUNDRED AND SIXTEEN (216), TWO HUNDRED AND NINETEEN (219), FIVE
24 HUNDRED AND ONE (501), FIVE HUNDRED AND TWO (502), FIVE HUNDRED
25 AND THREE (503), FIVE HUNDRED AND FOUR (504), FIVE HUNDRED AND
26 FIVE (505), FIVE HUNDRED AND SIX (506), FIVE HUNDRED AND SEVEN
27 (507), FIVE HUNDRED AND EIGHT (508), FIVE HUNDRED AND NINE
28 (509), AND FIVE HUNDRED AND TEN (510) HEREOF, SHALL NOT APPLY TO
29 DOMESTIC MUTUAL FIRE INSURANCE COMPANIES OF THIS COMMONWEALTH,
30 INCORPORATED UNDER SPECIAL ACTS OF ASSEMBLY OR UNDER THE ACT OF

1 MAY FIRST, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-SIX, WITH
2 UNLIMITED OR LIMITED LIABILITY TO ASSESSMENT FOR PAYMENT OF
3 EXPENSES AND OF LOSSES AND LOSS ADJUSTMENTS, SET FORTH IN THE
4 POLICY CONTRACT OR IN THE PROMISSORY NOTES ATTACHED TO SAID
5 POLICY.

6 (B) NOTHING IN THIS ACT SHALL APPLY TO A RELIGIOUS
7 PUBLICATION, OR ITS SUBSCRIBERS, THAT MEET ALL OF THE FOLLOWING
8 CRITERIA:

9 (1) IS A NONPROFIT RELIGIOUS ORGANIZATION.

10 (2) IS LIMITED TO INDIVIDUALS WHO SEPARATELY SUBSCRIBE AND
11 WHO ARE MEMBERS OF THE SAME DENOMINATION OR RELIGION, WHO HAVE
12 THE APPROVAL OF THEIR PASTOR.

13 (3) ACTS AS AN ORGANIZATIONAL CLEARINGHOUSE FOR INFORMATION
14 BETWEEN SUBSCRIBERS WHO HAVE FINANCIAL, PHYSICAL OR MEDICAL
15 NEEDS AND SUBSCRIBERS WHO CHOOSE TO ASSIST WITH THOSE NEEDS,
16 MATCHING SUBSCRIBERS WITH A WILLINGNESS TO PAY WITH SUBSCRIBERS
17 WITH A PRESENT FINANCIAL OR MEDICAL NEED.

18 (4) ARRANGES FOR THE PAYMENT OF SUBSCRIBERS' FINANCIAL OR
19 MEDICAL NEEDS BY PAYMENTS DIRECTLY FROM SUBSCRIBER TO
20 SUBSCRIBER.

21 (5) SUGGESTS AMOUNTS TO GIVE THAT ARE VOLUNTARY AMONG THE
22 SUBSCRIBERS, WITH NO ASSUMPTION OF RISK OR PROMISE TO PAY EITHER
23 AMONG THE SUBSCRIBERS OR BETWEEN THE SUBSCRIBERS AND THE
24 PUBLICATION.

25 (6) DOES NOT USE ANY COMPENSATED AGENTS, REPRESENTATIVES OR
26 OTHER PERSONS TO SOLICIT OR ENROLL SUBSCRIBERS.

27 (7) DOES NOT MAKE ANY DIRECT OR INDIRECT REPRESENTATION THAT
28 IT IS OPERATING IN A FINANCIALLY SOUND MANNER OR THAT IT HAS HAD
29 A SUCCESSFUL HISTORY OF MEETING SUBSCRIBERS' FINANCIAL OR
30 MEDICAL NEEDS.

1 (1965 P.L.1509, No.531), entitled "An act relating to,
2 regulating, taxing, supervising and controlling the placing of
3 insurance on risks located in the Commonwealth of Pennsylvania
4 with insurers not licensed to transact insurance business in
5 Pennsylvania, permitting licensed insurers to afford coverage
6 which may be placed with unlicensed insurers, providing fees and
7 penalties, and repealing certain existing laws."

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

26 (3) Contracts of reinsurance.

27 (4) Transactions in this Commonwealth which (i) involve a
28 policy lawfully solicited, written and delivered outside of this
29 Commonwealth covering only subjects of insurance not resident,
30 located, or expressly to be performed in this Commonwealth at

1 the time of issuance of such policy, and (ii) are subsequent to
2 the issuance of such policy.

3 (5) (i) Transactions in this Commonwealth, except group
4 credit life or group credit accident and health insurance
5 transactions, involving group [or blanket] accident and health
6 or life insurance policies or group annuity contracts where the
7 group policy [or contract is issued and delivered pursuant to
8 the group or blanket insurance or group annuity laws of a
9 jurisdiction in which the insurer is authorized to do an
10 insurance business and in which the policyholder is domiciled or
11 has its principal place of business or otherwise has a bona fide
12 situs.] is issued to:

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

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

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

1 (D) An association or a trust or trustee of a trust
2 established or participated in by one or more associations to
3 insure association members, spouses or dependents of members:
4 Provided, however, That the association must be organized or
5 domiciled in a state other than this Commonwealth, have a
6 constitution and bylaws, be organized by other than an insurer,
7 be maintained in good faith for purposes other than that of
8 obtaining insurance, have been in active existence for at least
9 two years, operate from offices other than the insurer's and be
10 controlled by principals other than the insurer's.

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

12 (F) Other groups as may be determined by the Insurance
13 Commissioner at his discretion.

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

15 An "organization" means any of the following:

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

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

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

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

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

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

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

29 An "out-of-State trustee" of a fund means a trustee of a fund
30 established by an insurer for two or more employers or

1 established by two or more persons acting directly as employers
2 and the trustee has its principal office located in a state
3 other than this Commonwealth.

4 A "union-negotiated out-of-State trust" means a trust
5 established under a collective bargaining agreement and which is
6 located in a state other than this Commonwealth.

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

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

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

19 It shall be the responsibility of the insurer claiming exemption
20 under this subsection to demonstrate compliance with each of the
21 above conditions.

22 (6) (i) Any insurance company or underwriter issuing
23 contracts of insurance to industrial insureds, (ii) industrial
24 insureds, or (iii) contracts of insurance issued to an
25 industrial insured: Provided, That nothing herein shall relieve
26 such industrial insured from the requirement of compliance with
27 the applicable provisions of the act of January 24, 1966 (1965
28 P.L.1509, No.531), referred to above. For purposes of this
29 section, an "industrial insured" is an insured (i) who procures
30 the insurance of any risk or risks by use of the services of a

1 full-time employe acting as an insurance manager or buyer or the
2 services of a regularly and continuously retained qualified
3 insurance consultant, (ii) whose aggregate annual premiums for
4 insurance on all risks total at least twenty-five thousand
5 dollars (\$25,000), and (iii) who has at least twenty-five full-
6 time employes.

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

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

15 ~~Section 2. This act shall take effect in 90 days.~~ <—

16 SECTION 2 3. SECTIONS 213, 214 AND 216 OF THE ACT ARE <—
17 REPEALED.

18 SECTION 3 4. SECTION 301(C)(5) AND (7) AND (F) OF THE ACT, <—
19 AMENDED FEBRUARY 28, 1982 (P.L.108, NO.38), ARE AMENDED AND THE
20 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

21 SECTION 301. COMPUTATION OF RESERVE LIABILITY.--* * *

22 (C) THIS SUBSECTION SHALL APPLY ONLY TO POLICIES AND
23 CONTRACTS ISSUED ON OR AFTER THE OPERATIVE DATE OF SECTION FOUR
24 HUNDRED AND TEN A (THE STANDARD NONFORFEITURE LAW FOR LIFE
25 INSURANCE) OF AN ACT, APPROVED THE SEVENTEENTH DAY OF MAY, ONE
26 THOUSAND NINE HUNDRED AND TWENTY-ONE (PAMPHLET LAWS, SIX HUNDRED
27 EIGHTY-TWO), AS AMENDED, EXCEPT AS OTHERWISE PROVIDED IN
28 SUBPARAGRAPH (B) OF PARAGRAPH (1) AND IN PARAGRAPH (2) OF THIS
29 SUBSECTION FOR GROUP ANNUITY AND PURE ENDOWMENT CONTRACTS ISSUED
30 PRIOR TO SUCH OPERATIVE DATE.

1 * * *

2 (5) (A) IN NO EVENT SHALL A COMPANY'S AGGREGATE RESERVES
3 FOR ALL LIFE INSURANCE POLICIES, EXCLUDING DISABILITY AND
4 ACCIDENTAL DEATH BENEFITS, BE LESS THAN THE AGGREGATE RESERVES
5 CALCULATED IN ACCORDANCE WITH THE METHODS SET FORTH IN
6 PARAGRAPHS (3) AND (4) OF THIS SUBSECTION (C), AND IN SECTION
7 303, AND THE MORTALITY TABLE OR TABLES AND RATE OR RATES OF
8 INTEREST USED IN CALCULATING NONFORFEITURE BENEFITS FOR SUCH
9 POLICIES.

10 (B) IN NO EVENT SHALL THE AGGREGATE RESERVES FOR ALL
11 POLICIES, CONTRACTS AND CERTIFICATES BE LESS THAN THE AGGREGATE
12 RESERVES DETERMINED BY THE QUALIFIED ACTUARY TO BE NECESSARY TO
13 RENDER THE OPINION REQUIRED BY SUBSECTION (G).

14 * * *

15 (7) ANY SUCH COMPANY WHICH AT ANY TIME SHALL HAVE ADOPTED
16 ANY STANDARD OF VALUATION PRODUCING GREATER AGGREGATE RESERVES
17 THAN THOSE CALCULATED ACCORDING TO THE MINIMUM STANDARD HEREIN
18 PROVIDED MAY, WITH THE APPROVAL OF THE INSURANCE COMMISSIONER,
19 ADOPT ANY LOWER STANDARD OF VALUATION, BUT NOT LOWER THAN THE
20 MINIMUM HEREIN PROVIDED. HOWEVER, FOR THE PURPOSE OF THIS
21 PARAGRAPH, THE HOLDING OF ADDITIONAL RESERVES PREVIOUSLY
22 DETERMINED BY A QUALIFIED ACTUARY TO BE NECESSARY TO RENDER THE
23 OPINION REQUIRED BY SUBSECTION (G) SHALL NOT BE DEEMED TO BE THE
24 ADOPTION OF A HIGHER STANDARD OF VALUATION.

25 * * *

26 [(F) THE PROVISIONS OF THIS SECTION FOR THE VALUATION OF
27 POLICIES AND FOR PREMIUM RATES SHALL NOT APPLY TO COMPANIES OR
28 ASSOCIATIONS TRANSACTING BUSINESS ON THE MUTUAL ASSESSMENT
29 PLAN.]

30 (G) (1) THIS SUBSECTION REQUIRING A SUBMISSION OF AN

1 ACTUARIAL OPINION OF RESERVES SHALL TAKE EFFECT FOR ANNUAL
2 STATEMENTS FOR THE YEAR 1993.

3 (2) EVERY LIFE INSURANCE COMPANY AND FRATERNAL BENEFIT
4 SOCIETY DOING BUSINESS IN THIS COMMONWEALTH SHALL ANNUALLY
5 SUBMIT THE OPINION OF A QUALIFIED ACTUARY AS TO WHETHER THE
6 RESERVES AND RELATED ACTUARIAL ITEMS HELD IN SUPPORT OF THE
7 POLICIES, CONTRACTS AND CERTIFICATES SPECIFIED BY THE INSURANCE
8 COMMISSIONER BY REGULATION ARE COMPUTED APPROPRIATELY, ARE BASED
9 ON ASSUMPTIONS WHICH SATISFY CONTRACTUAL PROVISIONS, ARE
10 CONSISTENT WITH PRIOR REPORTED AMOUNTS AND COMPLY WITH
11 APPLICABLE LAWS OF THIS COMMONWEALTH. THE INSURANCE COMMISSIONER
12 BY REGULATION SHALL DEFINE THE SPECIFICS OF THIS OPINION AND ADD
13 ANY OTHER ITEMS DEEMED TO BE NECESSARY TO ITS SCOPE.

14 (3) EVERY LIFE INSURANCE COMPANY AND FRATERNAL BENEFIT
15 SOCIETY, EXCEPT AS EXEMPTED BY OR PURSUANT TO REGULATION, SHALL
16 ALSO ANNUALLY INCLUDE IN THE OPINION REQUIRED BY PARAGRAPH (2)
17 OF THIS SUBSECTION, AN OPINION OF THE SAME QUALIFIED ACTUARY AS
18 TO WHETHER THE RESERVES AND RELATED ACTUARIAL ITEMS HELD IN
19 SUPPORT OF THE POLICIES, CONTRACTS AND CERTIFICATES SPECIFIED BY
20 THE INSURANCE COMMISSIONER BY REGULATION, WHEN CONSIDERED IN
21 LIGHT OF THE ASSETS HELD BY THE COMPANY OR SOCIETY WITH RESPECT
22 TO THE RESERVES AND RELATED ACTUARIAL ITEMS, INCLUDING, BUT NOT
23 LIMITED TO, THE INVESTMENT EARNINGS ON THE ASSETS AND THE
24 CONSIDERATIONS ANTICIPATED TO BE RECEIVED AND RETAINED UNDER THE
25 POLICIES, CONTRACTS AND CERTIFICATES, MAKE ADEQUATE PROVISION
26 FOR THE COMPANY OR SOCIETY'S OBLIGATIONS UNDER THE POLICIES,
27 CONTRACTS AND CERTIFICATES, INCLUDING, BUT NOT LIMITED TO, THE
28 BENEFITS UNDER AND EXPENSES ASSOCIATED WITH THE POLICIES,
29 CONTRACTS AND CERTIFICATES. THE INSURANCE COMMISSIONER MAY
30 PROVIDE BY REGULATION FOR A TRANSITION PERIOD FOR ESTABLISHING

1 ANY HIGHER RESERVES WHICH THE QUALIFIED ACTUARY MAY DEEM
2 NECESSARY IN ORDER TO RENDER THE OPINION REQUIRED BY THIS
3 PARAGRAPH.

4 (4) EACH OPINION REQUIRED BY PARAGRAPH (3) OF THIS
5 SUBSECTION SHALL BE GOVERNED BY THE FOLLOWING PROVISIONS:

6 (A) A MEMORANDUM, IN FORM AND SUBSTANCE ACCEPTABLE TO THE
7 INSURANCE COMMISSIONER AS SPECIFIED BY REGULATION, SHALL BE
8 PREPARED TO SUPPORT EACH ACTUARIAL OPINION.

9 (B) IF THE INSURANCE COMPANY OR FRATERNAL BENEFIT SOCIETY
10 FAILS TO PROVIDE A SUPPORTING MEMORANDUM AT THE REQUEST OF THE
11 INSURANCE COMMISSIONER WITHIN A PERIOD SPECIFIED BY REGULATION
12 OR THE INSURANCE COMMISSIONER DETERMINES THAT THE SUPPORTING
13 MEMORANDUM PROVIDED BY THE INSURANCE COMPANY OR FRATERNAL
14 BENEFIT SOCIETY FAILS TO MEET THE STANDARDS PRESCRIBED BY THE
15 REGULATION OR IS OTHERWISE UNACCEPTABLE TO THE INSURANCE
16 COMMISSIONER, THE INSURANCE COMMISSIONER MAY ENGAGE A QUALIFIED
17 ACTUARY AT THE EXPENSE OF THE COMPANY OR SOCIETY TO REVIEW THE
18 OPINION AND THE BASIS FOR THE OPINION AND PREPARE A MEMORANDUM
19 AS IS REQUIRED BY THE INSURANCE COMMISSIONER.

20 (5) EVERY OPINION SHALL BE GOVERNED BY THE FOLLOWING
21 PROVISIONS:

22 (A) THE OPINION SHALL BE SUBMITTED WITH THE ANNUAL STATEMENT
23 REFLECTING THE VALUATION OF SUCH RESERVE LIABILITIES FOR EACH
24 YEAR ENDING ON OR AFTER DECEMBER 31, 1993.

25 (B) THE OPINION SHALL APPLY TO ALL BUSINESS IN FORCE,
26 INCLUDING INDIVIDUAL AND GROUP HEALTH AND ACCIDENT INSURANCE, IN
27 FORM AND SUBSTANCE ACCEPTABLE TO THE INSURANCE COMMISSIONER AS
28 SPECIFIED BY REGULATION.

29 (C) THE OPINION SHALL BE BASED ON STANDARDS ADOPTED FROM
30 TIME TO TIME BY THE ACTUARIAL STANDARDS BOARD AND ON SUCH

1 ADDITIONAL STANDARDS AS THE INSURANCE COMMISSIONER MAY BY
2 REGULATION PRESCRIBE.

3 (D) IN THE CASE OF AN OPINION REQUIRED TO BE SUBMITTED BY A
4 FOREIGN OR ALIEN COMPANY OR SOCIETY, THE INSURANCE COMMISSIONER
5 MAY ACCEPT THE OPINION FILED BY THAT COMPANY OR SOCIETY WITH THE
6 INSURANCE SUPERVISORY OFFICIAL OF ANOTHER STATE IF THE INSURANCE
7 COMMISSIONER DETERMINES THAT THE OPINION REASONABLY MEETS THE
8 REQUIREMENTS APPLICABLE TO A COMPANY OR SOCIETY DOMICILED IN
9 THIS COMMONWEALTH.

10 (E) EXCEPT IN CASES OF FRAUD OR WILFUL MISCONDUCT, THE
11 QUALIFIED ACTUARY SHALL NOT BE LIABLE FOR DAMAGES TO ANY PERSON,
12 OTHER THAN THE INSURANCE COMPANY OR FRATERNAL BENEFIT SOCIETY
13 AND THE INSURANCE COMMISSIONER, FOR ANY ACT, ERROR, OMISSION,
14 DECISION OR CONDUCT WITH RESPECT TO THE ACTUARY'S OPINION.

15 (F) DISCIPLINARY ACTION BY THE INSURANCE COMMISSIONER
16 AGAINST THE COMPANY, SOCIETY OR THE QUALIFIED ACTUARY SHALL BE
17 DEFINED IN REGULATION BY THE INSURANCE COMMISSIONER.

18 (G) ANY MEMORANDUM IN SUPPORT OF THE OPINION, AND ANY OTHER
19 MATERIAL PROVIDED BY THE COMPANY OR SOCIETY TO THE INSURANCE
20 COMMISSIONER IN CONNECTION THEREWITH, SHALL BE KEPT CONFIDENTIAL
21 BY THE INSURANCE COMMISSIONER AND SHALL NOT BE MADE PUBLIC AND
22 SHALL NOT BE SUBJECT TO SUBPOENA, OTHER THAN FOR THE PURPOSE OF
23 DEFENDING AN ACTION SEEKING DAMAGES FROM ANY PERSON BY REASON OF
24 ANY ACTION REQUIRED BY THIS SECTION OR BY REGULATION PROMULGATED
25 HEREUNDER: PROVIDED, HOWEVER, THAT THE MEMORANDUM OR OTHER
26 MATERIAL MAY OTHERWISE BE RELEASED BY THE INSURANCE COMMISSIONER
27 EITHER WITH THE WRITTEN CONSENT OF THE COMPANY OR SOCIETY OR TO
28 THE AMERICAN ACADEMY OF ACTUARIES UPON REQUEST STATING THAT THE
29 MEMORANDUM OR OTHER MATERIAL IS REQUIRED FOR THE PURPOSE OF
30 PROFESSIONAL DISCIPLINARY PROCEEDINGS AND SETTING FORTH

1 PROCEDURES SATISFACTORY TO THE INSURANCE COMMISSIONER FOR
2 PRESERVING THE CONFIDENTIALITY OF THE MEMORANDUM OR OTHER
3 MATERIAL. ONCE ANY PORTION OF THE CONFIDENTIAL MEMORANDUM IS
4 CITED BY THE COMPANY OR SOCIETY IN ITS MARKETING OR IS CITED
5 BEFORE ANY GOVERNMENTAL AGENCY OTHER THAN A STATE INSURANCE
6 DEPARTMENT OR IS RELEASED BY THE COMPANY OR SOCIETY TO THE NEWS
7 MEDIA, ALL PORTIONS OF THE CONFIDENTIAL MEMORANDUM SHALL NO
8 LONGER BE CONFIDENTIAL.

9 (H) FOR THE PURPOSES OF THIS SUBSECTION, "QUALIFIED ACTUARY"
10 MEANS A MEMBER IN GOOD STANDING OF THE AMERICAN ACADEMY OF
11 ACTUARIES WHO MEETS THE REQUIREMENTS SET FORTH IN SUCH
12 REGULATION.

13 SECTION 4 5. SECTION 311 OF THE ACT, AMENDED DECEMBER 18, <—
14 1992 (P.L.1496, NO.177), IS AMENDED TO READ:

15 SECTION 311. COMPUTATION OF RESERVE AGAINST UNPAID LOSSES IN
16 CASUALTY INSURANCE OTHER THAN [NON-CANCELLABLE] HEALTH AND
17 ACCIDENT INSURANCE.--THE INSURANCE COMMISSIONER SHALL, IN
18 CALCULATING THE RESERVE AGAINST UNPAID LOSSES OF ANY INSURANCE
19 COMPANY, OTHER THAN LIFE INSURANCE COMPANIES, FOR LOSSES OTHER
20 THAN UNDER [NONCANCELLABLE] HEALTH AND ACCIDENT INSURANCE ISSUED
21 ON AND AFTER JANUARY FIRST, ONE THOUSAND NINE HUNDRED FIFTY, SET
22 DOWN, BY CAREFUL ESTIMATE IN EACH CASE, THE LOSS LIKELY TO BE
23 INCURRED AGAINST EVERY CLAIM PRESENTED OR THAT MAY BE PRESENTED
24 IN PURSUANCE OF NOTICE FROM THE INSURED OF THE OCCURRENCE OF AN
25 EVENT THAT MAY RESULT IN A LOSS. THE SUM OF THE ITEMS SO
26 ESTIMATED SHALL BE THE TOTAL AMOUNT OF THE RESERVE_[, EXCEPT
27 THAT, IN CREDIT INSURANCE, FIFTY PER CENTUM OF THE PREMIUMS ON
28 ALL CREDIT POLICIES EXPIRING IN THE MONTHS OF OCTOBER, NOVEMBER,
29 AND DECEMBER OF THE CURRENT YEAR, LESS THE AMOUNT OF LOSSES PAID
30 ON SUCH POLICIES, SHALL, IN ADDITION THERETO, BE CHARGED IN THE

1 LOSS RESERVE.]

2 SECTION 5 6. THE DEFINITION OF "INSOLVENCY" IN SECTION 503 <—
3 OF THE ACT, AMENDED JUNE 17, 1986 (P.L.254, NO.67), IS AMENDED
4 TO READ:

5 SECTION 503. DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES
6 WHEN USED IN THIS ACT SHALL HAVE, UNLESS THE CONTEXT CLEARLY
7 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

8 * * *

9 "INSOLVENCY" MEANS:

10 (1) FOR AN INSURER ISSUING ONLY ASSESSABLE FIRE INSURANCE
11 POLICIES; (I) THE INABILITY TO PAY ANY OBLIGATION WITHIN THIRTY
12 DAYS AFTER IT BECOMES PAYABLE, OR (II) IF AN ASSESSMENT BE MADE
13 WITHIN THIRTY DAYS AFTER SUCH DATE, THE INABILITY TO PAY SUCH
14 OBLIGATION THIRTY DAYS FOLLOWING THE DATE SPECIFIED IN THE FIRST
15 ASSESSMENT NOTICE ISSUED AFTER THE DATE OF LOSS PURSUANT TO
16 SECTION 808 OF THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN
17 AS "THE INSURANCE COMPANY LAW OF 1921."

18 (2) FOR ANY OTHER INSURER THE INABILITY TO PAY ITS
19 OBLIGATIONS WHEN THEY ARE DUE, OR WHOSE ADMITTED ASSETS DO NOT
20 EXCEED ITS LIABILITIES PLUS THE GREATER OF (I) ANY CAPITAL AND
21 SURPLUS REQUIRED BY LAW FOR ITS ORGANIZATION, OR (II) ITS
22 AUTHORIZED AND ISSUED CAPITAL STOCK. FOR ANY INSURER LICENSED TO
23 DO BUSINESS IN THE COMMONWEALTH AS OF THE EFFECTIVE DATE OF THIS
24 ACT WHICH DOES NOT MEET THIS STANDARD, THE TERM "INSOLVENCY"
25 SHALL MEAN FOR A PERIOD NOT TO EXCEED THREE YEARS FROM THE
26 EFFECTIVE DATE OF THIS ACT THAT IT IS UNABLE TO PAY ITS
27 OBLIGATIONS WHEN THEY ARE DUE OR THAT ITS ADMITTED ASSETS DO NOT
28 EXCEED ITS LIABILITIES PLUS ANY REQUIRED CAPITAL CONTRIBUTION
29 ORDERED BY THE COMMISSIONER UNDER PROVISIONS OF THE INSURANCE
30 LAW.

1 [(3) FOR THE PURPOSES OF THIS PARAGRAPH IN DETERMINING THE
2 FINANCIAL CONDITION OF AN INSURER SUCH ASSETS SHALL BE
3 CONSIDERED TO BE ADMITTED AS ARE OWNED BY THE INSURER AND WHICH
4 CONSIST OF: (I) CASH IN THE POSSESSION OF THE INSURER, OR IN
5 TRANSIT UNDER ITS CONTROL, AND INCLUDING THE TRUE BALANCE OF ANY
6 DEPOSIT IN A SOLVENT BANK OR TRUST COMPANY; (II) INVESTMENTS,
7 SECURITIES, PROPERTIES AND LOANS ACQUIRED OR HELD IN ACCORDANCE
8 WITH THIS ACT, AND IN CONNECTION THEREWITH THE FOLLOWING ITEMS:
9 (A) INTEREST DUE OR ACCRUED ON ANY BOND OR EVIDENCE OF
10 INDEBTEDNESS WHICH IS NOT IN DEFAULT AND WHICH IS NOT VALUED ON
11 A BASIS INCLUDING ACCRUED INTEREST, (B) DECLARED AND UNPAID
12 DIVIDENDS ON STOCK AND SHARES, UNLESS SUCH AMOUNT HAS OTHERWISE
13 BEEN ALLOWED AS AN ASSET, (C) INTEREST DUE OR ACCRUED UPON A
14 COLLATERAL LOAN IN AN AMOUNT NOT TO EXCEED ONE YEAR'S INTEREST
15 THEREON, (D) INTEREST DUE OR ACCRUED ON DEPOSITS IN SOLVENT
16 BANKS AND TRUST COMPANIES, AND INTEREST DUE OR ACCRUED ON OTHER
17 ASSETS, IF SUCH INTEREST IS IN THE JUDGMENT OF THE COMMISSIONER
18 A COLLECTIBLE ASSET, (E) INTEREST DUE OR ACCRUED ON A MORTGAGE
19 LOAN, IN AN AMOUNT NOT EXCEEDING IN ANY EVENT THE AMOUNT, IF
20 ANY, OF THE EXCESS OF THE VALUE OF THE PROPERTY LESS DELINQUENT
21 TAXES THEREON OVER THE UNPAID PRINCIPAL, BUT IN NO EVENT SHALL
22 INTEREST ACCRUED FOR A PERIOD IN EXCESS OF TWELVE MONTHS BE
23 ALLOWED AS AN ASSET, (F) RENT DUE OR ACCRUED ON REAL PROPERTY IF
24 SUCH RENT IS NOT IN ARREARS FOR MORE THAN THREE MONTHS, AND RENT
25 MORE THAN THREE MONTHS IN ARREARS IF THE PAYMENT OF SUCH RENT BE
26 ADEQUATELY SECURED BY PROPERTY HELD IN THE NAME OF THE TENANT
27 AND CONVEYED TO THE INSURER AS COLLATERAL, (G) THE UNACCRUED
28 PORTION OF TAXES PAID PRIOR TO THE DUE DATE ON REAL PROPERTY;
29 (III) PREMIUM NOTES, POLICY LOANS, AND OTHER POLICY ASSETS AND
30 LIENS ON POLICIES AND CERTIFICATES OF LIFE INSURANCE AND ANNUITY

1 CONTRACTS AND ACCRUED INTEREST THEREON, IN AN AMOUNT NOT
2 EXCEEDING THE LEGAL RESERVE AND OTHER POLICY LIABILITIES CARRIED
3 ON EACH INDIVIDUAL POLICY; (IV) THE NET AMOUNT OF UNCOLLECTED
4 AND DEFERRED PREMIUMS AND ANNUITY CONSIDERATION IN THE CASE OF A
5 LIFE INSURER; (V) PREMIUMS IN THE COURSE OF COLLECTION, OTHER
6 THAN FOR LIFE INSURANCE, NOT MORE THAN THREE MONTHS PAST DUE,
7 LESS COMMISSIONS PAYABLE THEREON. THE FOREGOING LIMITATION SHALL
8 NOT APPLY TO PREMIUMS PAYABLE DIRECTLY OR INDIRECTLY BY THE
9 UNITED STATES GOVERNMENT OR BY ANY OF ITS INSTRUMENTALITIES;
10 (VI) INSTALLMENT PREMIUMS OTHER THAN LIFE INSURANCE PREMIUMS TO
11 THE EXTENT OF THE UNEARNED PREMIUM RESERVE CARRIED ON THE POLICY
12 TO WHICH SUCH PREMIUMS APPLY; (VII) NOTES AND LIKE WRITTEN
13 OBLIGATIONS NOT PAST DUE, TAKEN FOR PREMIUMS OTHER THAN LIFE
14 INSURANCE PREMIUMS, ON POLICIES PERMITTED TO BE ISSUED ON SUCH
15 BASIS, TO THE EXTENT OF THE UNEARNED PREMIUM RESERVES CARRIED
16 THEREON; (VIII) THE FULL AMOUNT OF REINSURANCE RECOVERABLE BY A
17 CEDING INSURER FROM A SOLVENT REINSURER AND WHICH REINSURANCE IS
18 AUTHORIZED UNDER SECTION 319 OF THE ACT OF MAY 17, 1921
19 (P.L.682, NO.284), KNOWN AS "THE INSURANCE COMPANY LAW OF 1921";
20 (IX) AMOUNTS RECEIVABLE BY AN ASSUMING INSURER REPRESENTING
21 FUNDS WITHHELD BY A SOLVENT CEDING INSURER UNDER A REINSURANCE
22 TREATY; (X) DEPOSITS OR EQUITIES RECOVERABLE FROM UNDERWRITING
23 ASSOCIATIONS, SYNDICATES AND REINSURANCE FUNDS, OR FROM A
24 SUSPENDED BANKING INSTITUTION, TO THE EXTENT DEEMED BY THE
25 COMMISSIONER AVAILABLE FOR THE PAYMENT OF LOSSES AND CLAIMS AND
26 AT VALUES TO BE DETERMINED BY HIM; (XI) ELECTRONIC AND
27 MECHANICAL MACHINES CONSTITUTING A DATA PROCESSING AND
28 ACCOUNTING SYSTEM IF THE COST OF SUCH SYSTEM IS AT LEAST TEN
29 THOUSAND DOLLARS (\$10,000), WHICH COST SHALL BE AMORTIZED IN
30 FULL OVER A PERIOD NOT TO EXCEED TEN CALENDAR YEARS; (XII) ALL

1 ASSETS, WHETHER OR NOT CONSISTENT WITH THE PROVISIONS OF THIS
2 SECTION, AS MAY BE ALLOWED PURSUANT TO THE ANNUAL STATEMENT FORM
3 APPROVED BY THE COMMISSIONER FOR USE IN THIS COMMONWEALTH FOR
4 THE KINDS OF INSURANCE TO BE REPORTED UPON THEREIN; (XIII) OTHER
5 ASSETS, NOT INCONSISTENT WITH THE PROVISIONS OF THIS SECTION,
6 DEEMED BY THE COMMISSIONER TO BE AVAILABLE FOR THE PAYMENT OF
7 LOSSES AND CLAIMS, AT VALUES TO BE DETERMINED BY HIM.

8 THE FOLLOWING SHALL NOT BE CONSIDERED ADMITTED ASSETS IN ANY
9 DETERMINATION OF THE FINANCIAL CONDITION OF AN INSURER: (I) GOOD
10 WILL, TRADE NAMES AND OTHER LIKE INTANGIBLE ASSETS; (II)
11 ADVANCES (OTHER THAN POLICY LOANS) TO OFFICERS, DIRECTORS, AND
12 CONTROLLING STOCKHOLDERS, WHETHER SECURED OR NOT, AND ADVANCES
13 TO EMPLOYEES, AGENTS AND OTHER PERSONS ON PERSONAL SECURITY
14 ONLY; (III) STOCK OF SUCH INSURER, OWNED BY IT, OR ANY MATERIAL
15 EQUITY THEREIN OR LOANS SECURED THEREBY, OR ANY MATERIAL
16 PROPORTIONATE INTEREST IN SUCH STOCK ACQUIRED OR HELD THROUGH
17 THE OWNERSHIP BY SUCH INSURER OF AN INTEREST IN ANOTHER FIRM,
18 CORPORATION OR BUSINESS UNIT; (IV) FURNITURE FIXTURES,
19 FURNISHINGS, SAFES, VEHICLES, LIBRARIES, STATIONERY, LITERATURE
20 AND SUPPLIES (OTHER THAN DATA PROCESSING AND ACCOUNTING SYSTEMS
21 AUTHORIZED UNDER TITLE 31, § 11.4, PENNSYLVANIA CODE), EXCEPT IN
22 THE CASE OF TITLE INSURERS SUCH MATERIALS AND PLANTS AS THE
23 INSURER IS EXPRESSLY AUTHORIZED TO INVEST IN SECTION 732(21) OF
24 THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS "THE
25 INSURANCE COMPANY LAW OF 1921," AND EXCEPT, IN THE CASE OF ANY
26 INSURER, SUCH PROPERTY WHICH IS ACQUIRED THROUGH FORECLOSURE OF
27 CHATTEL MORTGAGES ACQUIRED PURSUANT TO SECTIONS 406, 519, 604,
28 AND 732 OF "THE INSURANCE COMPANY LAW OF 1921," OR WHICH IS
29 REASONABLY NECESSARY FOR THE MAINTENANCE AND OPERATION OF REAL
30 ESTATE LAWFULLY ACQUIRED AND HELD BY THE INSURER OTHER THAN REAL

1 ESTATE USED BY IT FOR HOME OFFICE, BRANCH OFFICE AND SIMILAR
2 PURPOSES; (V) THE AMOUNT, IF ANY, BY WHICH THE AGGREGATE BOOK
3 VALUE OF INVESTMENTS AS CARRIED IN THE LEDGER ASSETS OF THE
4 INSURER EXCEEDS THE AGGREGATE VALUE THEREOF AS DETERMINED UNDER
5 THIS ARTICLE.] IN DETERMINING THE FINANCIAL CONDITION OF AN
6 INSURER, THE INSURANCE COMMISSIONER SHALL CONSIDER ASSETS TO BE
7 ADMITTED OR NONADMITTED AS PROVIDED IN SECTION 320.1 OF THE ACT
8 OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS "THE INSURANCE
9 COMPANY LAW OF 1921."

10 FOR PURPOSES OF THIS ARTICLE "LIABILITIES" SHALL INCLUDE BUT
11 NOT BE LIMITED TO RESERVES REQUIRED BY STATUTE OR BY INSURANCE
12 DEPARTMENT GENERAL REGULATIONS OR SPECIFIC REQUIREMENTS IMPOSED
13 BY THE COMMISSIONER UPON A SUBJECT COMPANY AT THE TIME OF
14 ADMISSION OR SUBSEQUENT THERETO, AND ANY OTHER CAPITAL AND
15 SURPLUS REQUIREMENTS.

16 * * *

17 SECTION ~~6~~ 7. SECTION 650 OF THE ACT, ADDED DECEMBER 22, 1965 ←
18 (P.L.1172, NO.463), IS AMENDED TO READ:

19 SECTION 650. INSURANCE COMPANIES TO CERTIFY NAMES OF
20 MANAGERS OR EXCLUSIVE GENERAL AGENTS.--(A) EVERY DOMESTIC
21 INSURANCE COMPANY OPERATING UNDER A MANAGEMENT CONTRACT OR AN
22 EXCLUSIVE GENERAL AGENCY AGREEMENT ENTERED INTO AFTER THE
23 EFFECTIVE DATE OF THIS ACT, SHALL CERTIFY TO THE INSURANCE
24 COMMISSIONER THE NAME OF THE MANAGER OR EXCLUSIVE GENERAL AGENT,
25 WITHIN TEN DAYS FROM THE EFFECTIVE DATE OF SAID CONTRACT OR
26 AGREEMENT AND WITHIN TEN DAYS AFTER THE RENEWAL OF THE LICENSE
27 OF SUCH MANAGER OR EXCLUSIVE GENERAL AGENT. [NO CERTIFICATION IS
28 REQUIRED FOR AN AGENT OR GENERAL AGENT WHOSE AUTHORITY IS
29 LIMITED PRIMARILY TO PRODUCTION OF INSURANCE BUSINESS WITH
30 LIMITED UNDERWRITING AUTHORITY. MANAGER OR EXCLUSIVE GENERAL

1 AGENT SHALL INCLUDE AN INDIVIDUAL, COPARTNERSHIP OR
2 CORPORATION.]

3 (B) NOTWITHSTANDING SUBSECTION (C), A PERSON, FIRM,
4 PARTNERSHIP, ASSOCIATION OR CORPORATION SUBJECT TO REGULATION AS
5 A MANAGING GENERAL AGENT PURSUANT TO ARTICLE VIII OF THIS ACT
6 SHALL NOT ALSO BE SUBJECT TO LICENSING AS A MANAGER OR EXCLUSIVE
7 GENERAL AGENT.

8 (C) THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS
9 SECTION SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES
10 OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

11 "EXCLUSIVE GENERAL AGENT" MEANS A PERSON, FIRM, PARTNERSHIP,
12 ASSOCIATION OR CORPORATION WHICH HAS BEEN GRANTED SOLE AUTHORITY
13 TO ACT DIRECTLY OR INDIRECTLY AS AN AGENT FOR AN INSURER WITH
14 RESPECT TO A SPECIFIC PORTION OF THE INSURER'S BUSINESS OR
15 WITHIN A SPECIFIC TERRITORY AND WHICH HAS THE AUTHORITY TO BIND
16 COVERAGE ON BEHALF OF THE INSURER AND, EITHER SEPARATELY OR
17 TOGETHER WITH AFFILIATES, SUBAGENTS OR BROKERS, DIRECTLY OR
18 INDIRECTLY PRODUCES AND UNDERWRITES IN ANY ONE YEAR AN AMOUNT OF
19 GROSS DIRECT WRITTEN PREMIUM EQUAL TO OR MORE THAN TWENTY-FIVE
20 PER CENTUM OF THE SURPLUS AS REGARDS POLICYHOLDERS AS REPORTED
21 IN THE LAST ANNUAL STATEMENT OF THE INSURER.

22 "MANAGER" MEANS A PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR
23 CORPORATION WHICH NEGOTIATES AND BINDS CEDING REINSURANCE
24 CONTRACTS ON BEHALF OF AN INSURER OR MANAGES ALL OR PART OF THE
25 INSURANCE BUSINESS OF AN INSURER AND DOES NOT ACT AS AN AGENT
26 FOR SUCH INSURER.

27 SECTION 7 8. THE DEFINITION OF "MANAGING GENERAL AGENT" OR <—
28 "MGA" IN SECTION 801 OF THE ACT, ADDED DECEMBER 18, 1992
29 (P.L.1496, NO.177), IS AMENDED TO READ:

30 SECTION 801. DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES

1 WHEN USED IN THIS ARTICLE SHALL HAVE, UNLESS THE CONTEXT CLEARLY
2 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

3 * * *

4 "MANAGING GENERAL AGENT" OR "MGA" MEANS:

5 (1) ANY PERSON, FIRM, ASSOCIATION OR CORPORATION WHO
6 NEGOTIATES AND BINDS CEDING REINSURANCE CONTRACTS ON BEHALF OF
7 AN INSURER OR MANAGES ALL OR PART OF THE INSURANCE BUSINESS OF
8 AN INSURER, INCLUDING THE MANAGEMENT OF A SEPARATE DIVISION,
9 DEPARTMENT OR UNDERWRITING OFFICE, AND ACTS AS AN AGENT FOR SUCH
10 INSURER WHETHER KNOWN AS A MANAGING GENERAL AGENT[, MANAGER] OR
11 OTHER SIMILAR TERM WHO, WITH OR WITHOUT THE AUTHORITY EITHER
12 SEPARATELY OR TOGETHER WITH AFFILIATES, PRODUCES, DIRECTLY OR
13 INDIRECTLY, AND UNDERWRITES AN AMOUNT OF GROSS DIRECT WRITTEN
14 PREMIUM EQUAL TO OR MORE THAN FIVE PER CENTUM OF THE
15 POLICYHOLDER SURPLUS AS REPORTED IN THE LAST ANNUAL STATEMENT OF
16 THE INSURER IN ANY ONE QUARTER OR YEAR TOGETHER WITH ONE OR MORE
17 OF THE FOLLOWING:

18 (I) ADJUSTS OR PAYS CLAIMS IN EXCESS OF AN AMOUNT DETERMINED
19 BY THE INSURANCE DEPARTMENT; OR

20 (II) NEGOTIATES REINSURANCE ON BEHALF OF THE INSURER.

21 (2) NOTWITHSTANDING CLAUSE (1), THE FOLLOWING PERSONS SHALL
22 NOT BE CONSIDERED AS MANAGING GENERAL AGENTS FOR THE PURPOSES OF
23 THIS ARTICLE:

24 (I) AN EMPLOYEE OF THE INSURER;

25 (II) A UNITED STATES MANAGER OF THE UNITED STATES BRANCH OF
26 AN ALIEN INSURER;

27 (III) AN UNDERWRITING MANAGER WHICH, PURSUANT TO CONTRACT,
28 MANAGES ALL THE INSURANCE OPERATIONS OF THE INSURER, IS UNDER
29 COMMON CONTROL WITH THE INSURER, SUBJECT TO ARTICLE XII OF THE
30 ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS "THE INSURANCE

1 COMPANY LAW OF 1921," AND WHOSE COMPENSATION IS NOT BASED ON THE
2 VOLUME OF PREMIUMS WRITTEN;

3 (IV) THE ATTORNEY-IN-FACT AUTHORIZED BY AND ACTING FOR THE
4 SUBSCRIBERS OF A RECIPROCAL INSURER OR INTER-INSURANCE EXCHANGE
5 UNDER POWERS OF ATTORNEY;

6 (V) ANY MANAGER OR EXCLUSIVE GENERAL AGENT OPERATING UNDER
7 ANY MANAGEMENT CONTRACT OR EXCLUSIVE GENERAL AGENCY AGREEMENT
8 ENTERED INTO PRIOR TO DECEMBER 22, 1965, AND THEREFOR NOT
9 SUBJECT TO LICENSING PURSUANT TO SECTION 651: PROVIDED, HOWEVER,
10 THAT ANY SUCH MANAGEMENT CONTRACT OR EXCLUSIVE GENERAL AGENCY
11 AGREEMENT SHALL SUBJECT THE MANAGER OR EXCLUSIVE GENERAL AGENT
12 AND THE INSURER TO ARTICLE XII OF THE ACT OF MAY 17, 1921
13 (P.L.682, NO.284), KNOWN AS "THE INSURANCE COMPANY LAW OF 1921":
14 AND FURTHER PROVIDED, THAT ANY SALE, ASSIGNMENT OR TRANSFER OF
15 ANY MANAGEMENT CONTRACT OR EXCLUSIVE GENERAL AGENCY AGREEMENT,
16 WHETHER SAID CONTRACT OR AGREEMENT WAS ENTERED INTO BEFORE OR
17 AFTER DECEMBER 22, 1965, SHALL MAKE THE PURCHASER, ASSIGNEE OR
18 TRANSFEREE SUBJECT TO LICENSING UNDER THIS ARTICLE.

19 * * *

20 SECTION 8 9. SECTION 805(E) OF THE ACT, ADDED DECEMBER 18, <—
21 1992 (P.L.1496, NO.177), IS AMENDED TO READ:

22 SECTION 805. DUTIES OF INSURERS.--* * *

23 (E) WITHIN THIRTY DAYS OF ENTERING INTO OR TERMINATION OF A
24 CONTRACT WITH AN MGA, THE INSURER SHALL PROVIDE WRITTEN
25 NOTIFICATION OF SUCH APPOINTMENT OR TERMINATION TO THE
26 DEPARTMENT. NOTICES OF APPOINTMENT OF AN MGA SHALL INCLUDE A
27 STATEMENT OF DUTIES WHICH THE [APPLICANT] MGA IS EXPECTED TO
28 PERFORM ON BEHALF OF THE INSURER, THE LINES OF INSURANCE FOR
29 WHICH THE [APPLICANT] MGA IS TO BE AUTHORIZED TO ACT AND ANY
30 OTHER INFORMATION THE COMMISSIONER MAY REQUEST.

1 * * *

2 SECTION 9 10. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: ←

3 (1) THE AMENDMENT OF SECTION 208 OF THE ACT SHALL TAKE
4 EFFECT IN 90 DAYS.

5 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
6 IMMEDIATELY.