

GAA AMENDMENTS ACT OF 1990
Act of Dec. 19, 1990, P.L. 834, No. 198
AN ACT

Cl. 15

Amending Titles 13 (Commercial Code), 15 (Corporations and Unincorporated Associations), 17 (Reserved), 20 (Decedents, Estates and Fiduciaries), 22 (Detectives and Private Police), 24 (Education), 42 (Judiciary and Judicial Procedure), 54 (Names) and 69 (Savings and Validating Provisions) of the Pennsylvania Consolidated Statutes, relating to associations; codifying and correcting the law relating to credit unions; providing for the incorporation and regulation of insurance companies; making revisions, corrections and additions relating to other associations; further providing for the fees of the Department of State and certain filing officers; and making repeals.

Compiler's Note: The remaining provisions of Act 198 amended Titles 13, 15, 17, 20, 22, 24, 42, 54 and 69 of the Pennsylvania Consolidated Statutes and are therefore omitted.

Compiler's Note: Section 10(3) of Act 62 of 2008 provided that Act 198 is repealed insofar as it is inconsistent with Act 62.

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

DIVISION I
AMENDMENT OF TITLE 15

Section 101. Short title.

This act shall be known and may be cited as the GAA Amendments Act of 1990.

DIVISION II
INSURANCE CORPORATIONS

§ 201. Definition of term "insurance corporation."

As used in this division, the term "insurance corporation" means any domestic insurance company of any of the classes described in section 201 or 701(3) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, or incorporated under the acts of April 28, 1903 (P.L.329, No.259), April 20, 1927 (P.L.317, No.190), June 24, 1939 (P.L.686, No.320), June 20, 1947 (P.L.687, No.298), June 28, 1951 (P.L.941, No.184), July 15, 1957 (P.L.929, No.401), or any similar act relating to the incorporation or reincorporation of limited life insurance companies. The term does not include any of the following:

(1) A hospital plan corporation subject to 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations).

(2) A professional health service corporation subject to 40 Pa.C.S. Ch. 63 (relating to professional health services

plan corporations).

(3) A fraternal benefit society subject to the act of July 29, 1977 (P.L.105, No.38), known as the Fraternal Benefit Society Code.

(4) A health maintenance organization subject to the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.

§ 202. Corporate powers.

(a) General rule.--No insurance corporation shall transact any other business other than that specified in its original or amended articles of incorporation or charter or authorized by statute regulating the business of the corporation.

(b) Ancillary activities.--With the prior approval of the Insurance Department, an insurance corporation may, independently of its insurance business and in addition to authority conferred by any other statute regulating the business of the corporation, provide services of the kinds it performs in the normal conduct of the business for which it is incorporated, including, but not limited to, consultative, administrative, investment, actuarial, loss prevention, data processing, accounting, claims and collection services. The Insurance Department shall take into account the effect of the provision of such services on the insurance business of the corporation and the risks inherent in the provision of such services by the corporation.

(c) Subsidiaries.--Subsections (a) and (b) shall not affect the power of an insurance corporation to hold, own and control subsidiaries engaged in other businesses as authorized by law.

§ 203. Authorization to do business.

No insurance corporation incorporated after June 19, 1991, shall have power to engage in the business of insurance until it shall have received a certificate from the Insurance Department authorizing the corporation to commence business.

§ 204. Amendment of articles.

(a) General rule.--Any amendment of the articles of incorporation or charter of any insurance corporation that may be effected only by action or with the approval of the shareholders or members (other than an amendment authorizing or creating a new class or series of shares or increasing the authorized number of any previously authorized class or series of shares) shall become effective only if approved by the Insurance Department. See 15 Pa.C.S. § 103 (relating to subordination of title to regulatory laws).

(b) Amendments not requiring approval of Insurance Department.--The Department of State shall forward to the Insurance Department a copy of any amendment of the articles of incorporation or charter of any insurance corporation that becomes effective without the approval of the Insurance Department.

(c) Reduction in capital stock.--The capital stock of an insurance corporation shall not be reduced below the minimum amount of capital stock required by law for the formation of the corporation.

§ 205. Other fundamental transactions.

(a) General rule.--Any plan of merger, consolidation,

exchange, asset transfer, division or conversion of any insurance corporation, any recapitalization or voluntary dissolution of any insurance corporation or any issuance of shares by any insurance corporation in exchange for shares of another insurance company shall become effective only if approved by the Insurance Department. See 15 Pa.C.S. § 103 (relating to subordination of title to regulatory laws).

(b) Standards.--A share exchange or similar transaction shall be approved if it is in accordance with law and the terms and conditions are fair. A reduction in capital stock shall be approved if it is in accordance with law and consistent with the interests of the policyholders and creditors. A merger or consolidation of a title insurance company or the acquisition of substantially all the assets or stock of a title insurance company or abstract company by a title insurance company shall be approved if it is in accordance with law, not inequitable to the shareholders of any title insurance or abstract company involved and will not substantially reduce the security of and service to be rendered to policyholders of the domestic title insurance company in this Commonwealth or elsewhere. Any other transaction subject to subsection (a) shall be approved if it is in accordance with law and not injurious to the interests of the policyholders and creditors.

(c) Approval of compensation.--No director, officer, agent or employee of any title insurance company or abstract company party to any merger, consolidation or acquisition subject to subsection (a) shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in the terms of the transaction submitted to the Insurance Department for approval.

(d) Transactions with foreign corporations.--Any foreign insurance company participating in or resulting from any transaction subject to subsection (a) shall engage in the transaction only with the approval of the insurance supervising officials of the jurisdiction in which such foreign insurance company is incorporated or is to be incorporated. A change in domicile of an insurance corporation to another jurisdiction may be effected only with the consent of the Insurance Department. A foreign insurance company that is a surviving or resulting corporation in any transaction subject to subsection (a) shall not be deemed to hold a certificate of authority to do an insurance business within this Commonwealth solely by reason of the approval by the Insurance Department and consummation of the transaction.

(e) Mergers of stock and mutual insurance companies.--A mutual insurance company shall not merge or consolidate with an insurance corporation organized on a stock share basis.

(f) Dissolution of mutual companies.--Assets of mutual life insurance companies, derived from a health and accident business, other than those properly credited to the members or policyholders on policies covering such business, and the assets of mutual companies, other than mutual life companies, which may not be properly credited to policyholders and members, shall be escheated to the Commonwealth upon the dissolution of such

companies.

(g) Definition.--As used in this section, the term "recapitalization" includes any reduction in stated capital and excludes any new or additional share authorization for which approval by the Insurance Department is not required by section 204.

§ 206. Increases in capital stock.

Within 30 days after any increase in the capital stock of an insurance corporation, the corporation shall report the increase to the Insurance Department on a form for that purpose prescribed by regulation by the department.

§ 207. Administrative procedure.

(a) General rule.--Every application for a certificate of authority or other approval by the Insurance Department under this division shall be made to the department in writing and shall be in such form as the procedural regulations of the department may require.

(b) Standards for approval.--A certificate of authority or other approval under this division shall be issued by order of the department only if and when the department shall find and determine that the application complies with the provisions of this division and the procedural regulations of the department thereunder.

(c) Procedure before department.--For the purpose of enabling the department to make the finding or determination required by subsection (b), the department shall afford reasonable notice and opportunity for hearing, which shall be public, and, before or after any such hearing, it may make such inquiries, audits and investigations, and may require the submission of such supplemental studies and information, as it may deem necessary or proper to enable it to reach a finding or determination. The department, in granting a certificate of authority or other approval, may impose such conditions as it may deem to be just and reasonable. In every case the department shall make a finding or determination in writing, stating whether or not the application has been approved, and, if it has been approved in part only, specifying the part which has been approved and the part which has been denied. Any holder of a certificate of authority or other approval, exercising the authority conferred thereby, shall be deemed to have waived any and all objections to the terms and conditions of such certificate or other approval.

(d) Judicial review.--Orders of the department upon an application for a certificate of authority or other approval under this section shall be subject to judicial review in the manner and within the time provided or prescribed by law.

§ 208. Existing powers preserved.

Nothing in this act shall impair the power of any insurance corporation to transact business to the same extent as if this act had not been enacted.

DIVISION IV MISCELLANEOUS PROVISIONS

Section 404. Effective dates and applicability.

(a) Effective dates.--This act shall take effect immediately, except that:

(1) Subchapter C of Chapter 1 of Title 15 (relating to Corporation Bureau and UCC fees) shall take effect on the first day of the month following the month of enactment of this act.

(2) 15 Pa.C.S. § 1702(c) and the amendments to 15 Pa.C.S. §§ 1906 and 1924(b) shall be retroactive to October 1, 1989.

(3) The amendments to 15 Pa.C.S. § 5758(b) shall be retroactive to February 13, 1972.

(4) 15 Pa.C.S. §§ 135(c)(2) and 1901(a)(2) and Chapter 75 of Title 15 and section 401(a), insofar as it repeals the act of June 12, 1968 (P.L.173, No.94), known as the Cooperative Agricultural Association Act, shall take effect in four months.

(5) The amendments to Chapter 77 of Title 15 shall be retroactive to June 19, 1989.

(6) The amendments to 15 Pa.C.S. § 8562(b) shall take effect in four months and shall not apply to any certificate of partnership interest issued or issuable on the effective date of such amendments.

(7) Title 17 (relating to credit unions) and section 401(d) of this act shall take effect in two months.

(8) The expansion of the scope of Subpart B of Part II of Title 15 to include insurance corporations as defined in section 201 and all related changes in law affecting insurance corporations, including the repeals provided in section 401(b), shall take effect in six months.

(b) Applicability.--The provisions of Title 15 that are derived from former 42 Pa.C.S. Ch. 83 Subch. F (relating to corporate directors' liability):

(1) shall not be construed to repeal or otherwise affect or impair 15 Pa.C.S. § 1728 (relating to interested directors or officers; quorum) or 2538 (relating to approval of transactions with interested shareholders) or 42 Pa.C.S. § 8332.2 (relating to officer, director, or trustee of nonprofit organization negligence standard); and

(2) shall not apply to:

(i) any actions filed prior to January 27, 1987, nor to any breach of performance of duty or any failure of performance of duty by any director or officer of a business corporation occurring prior to that date; or

(ii) any actions filed against or any breach of performance of duty or any failure of performance of duty by any director or officer of any other domestic corporation for profit or not-for-profit occurring prior to the date that such corporation first became or becomes subject to former 42 Pa.C.S. Ch. 83 Subch. F or 15 Pa.C.S. Ch. 5 Subch. B (relating to indemnification and corporate directors' liability).