

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 667

Session of  
1971

INTRODUCED BY HANKINS, ARLENE, SMITH, DUFFIELD, McCREESH,  
MESSINGER, MAZZEI, NOLAN AND ROVNER, APRIL 27, 1971

AS REPORTED FROM COMMITTEE ON CONSUMER PROTECTION, HOUSE OF  
REPRESENTATIVES, AS AMENDED, NOVEMBER 9, 1971

AN ACT

1 Regulating the writing, cancellation of or refusal to renew  
2 policies of fire or casualty insurance; and imposing powers  
3 and duties on the Insurance Commissioner therefor.

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

6 Section 1. As used in this act:

7 ~~(1) "Policy" means a policy delivered or issued for delivery~~ <—  
8 ~~in this Commonwealth insuring residential, commercial, and~~  
9 ~~industrial property.~~

10 (1) "POLICY" OR "POLICY OF FIRE AND CASUALTY INSURANCE" <—  
11 MEANS ANY CONTRACT, INCLUDING ANY ENDORSEMENT, RIDER, BINDER  
12 (WRITTEN OR ORAL), COVER NOTE, CERTIFICATE OR OTHER INSTRUMENT  
13 OF INSURANCE ATTACHED OR RELATING THERETO, WITHOUT REGARD TO THE  
14 NATURE OF THE FORM OF THE SAME, DELIVERED OR ISSUED FOR DELIVERY  
15 IN THIS COMMONWEALTH, WHICH PROVIDES ANY OF THE COVERAGES  
16 ENUMERATED IN:

17 (I) CLAUSE (1) OF SUBSECTION (B) OF SECTION 202, ACT OF MAY

1 17, 1921 (P.L.682), KNOWN AS "THE INSURANCE COMPANY LAW OF  
2 1921," AS AMENDED, EXCEPT INSURANCE AGAINST PERILS TO PROPERTY  
3 ARISING FROM THE OWNERSHIP OR MAINTENANCE OR FROM THE USE OF  
4 AIRCRAFT, AUTOMOBILES, OR OTHER MOTOR VEHICLES.

5 (II) CLAUSES (4) AND (6) OF SUBSECTION (C) OF SAID SECTION  
6 202 OF "THE INSURANCE COMPANY LAW OF 1921," WHEN SUCH COVERAGES  
7 ARE WRITTEN IN CONJUNCTION WITH COVERAGE PROVIDED UNDER  
8 SUBSECTION (I) OF THIS SECTION.

9 (III) CLAUSE (13) OF SUBSECTION (C) OF SAID SECTION 202 OF  
10 "THE INSURANCE COMPANY LAW OF 1921."

11 (2) "Renewal" or "to renew" means the issuance and delivery  
12 by an insurer of a policy superseding at the end of the policy  
13 period a policy previously issued and delivered by the same  
14 insurer, such renewal policy to provide types and limits of  
15 coverage at least equal to those contained in the policy being  
16 superseded, or the issuance and delivery of a certificate or  
17 notice extending the term of a policy beyond its policy period  
18 or term with types and limits of coverage at least equal to  
19 those contained in the policy being extended: Provided, however,  
20 That any policy with a policy period or term of less than twelve  
21 months or any period with no fixed expiration date shall for the  
22 purpose of this act be considered as if written for successive  
23 policy periods or terms of twelve months.

24 (3) "Insurer" means any insurance company, association or  
25 exchange authorized to transact the business of fire or casualty  
26 insurance in the Commonwealth of Pennsylvania, INCLUDING <—  
27 ELIGIBLE UNLICENSED INSURERS UNDER THE ACT OF JANUARY 24, 1966  
28 (P.L.1509).

29 (4) "Nonpayment of premium" means failure of the named  
30 insured to discharge when due any of his obligations in

1 connection with the payment of premiums on a policy, or any  
2 installment of such premium, whether the premium is payable  
3 directly to the insurer or its agent or indirectly under any  
4 premium finance plan or extension of credit.

5 Section 2. No insurer shall cancel or refuse to write or  
6 renew a policy of fire or casualty insurance solely because of  
7 ANY ONE OR MORE OF THE FOLLOWING GROUNDS: the age, residence, <—  
8 race, color, creed, national origin, ancestry, MARITAL STATUS or <—  
9 lawful occupation (including the military service) of ~~anyone~~ ANY <—  
10 PERSON who has or seeks a policy; ~~of insurance because of the~~ <—  
11 location of the property; ~~or solely because~~ another insurer has <—  
12 refused to write a policy, or has cancelled or has refused to  
13 renew an existing policy in which that person was the named  
14 insured.

15 Section 3. No insurer shall cancel a policy except for  
16 nonpayment of premium, OR FOR SUCH OTHER REASONS AS HAVE BEEN <—  
17 APPROVED BY THE INSURANCE COMMISSIONER AS PROVISIONS OF THE  
18 POLICY SUBSEQUENT TO THE ENACTMENT OF THIS ACT.

19 Section 4. No cancellation or refusal to renew by an insurer  
20 of a policy of fire or casualty insurance shall be effective  
21 unless a written notice of the cancellation or refusal to renew  
22 is received by the insured either at the address shown in the  
23 policy or at a forwarding address. Such notice shall:

24 (1) Be approved as to form by the Insurance Commissioner  
25 prior to use;

26 (2) State the date, not less than thirty days after the date  
27 of delivery OR MAILING on which such cancellation or refusal to <—  
28 renew shall become effective;

29 (3) State ~~that~~ the specific reason OR REASONS of the insurer <—  
30 for cancellation or refusal to renew; ~~is for nonpayment of the~~ <—

1 ~~premium;~~

2 (4) Advise the insured of his right to request, in writing,  
3 within ten days of the receipt of the notice of cancellation or  
4 intention not to renew that the Insurance Commissioner review  
5 the action of the insurer;

6 ~~(5) Either in the notice or in an accompanying statement~~ <—

7 ~~advise~~ (5) ADVISE the insured of his possible eligibility for <—  
8 insurance under the act of July 31, 1968 (Act No. 233), known as  
9 "The Pennsylvania Fair Plan Act."

10 Section 5. ~~Nothing~~ EXCEPT AS OTHERWISE PROVIDED IN THIS <—  
11 SECTION NOTHING in this act shall apply:

12 (1) If the insurer has manifested its willingness to renew  
13 by issuing or offering to issue a renewal policy, certificate or  
14 other evidence of renewal, ~~or has manifested such intention by~~ <—  
15 ~~any other means;~~ INCLUDING THE MAILING OF A RENEWAL PREMIUM <—  
16 NOTICE TO THE INSURED NOT LESS THAN THIRTY DAYS IN ADVANCE OF  
17 THE EXPIRATION DATE OF THE POLICY;

18 (2) If the named insured has demonstrated by some overt  
19 action to the insurer or its agent OTHER THAN MERE NONPAYMENT OF <—  
20 PREMIUM that he wishes the policy to be cancelled or that he  
21 does not wish the policy to be renewed;

22 (3) To any policy of fire or casualty insurance which has  
23 been in effect less than sixty days, INCLUDING ANY NOTICE OF <—  
24 TERMINATION PERIOD, unless it is a renewal policy, except that  
25 no insurer shall decline to continue in force such a policy of  
26 fire or casualty insurance solely on the basis of the grounds  
27 set forth in section 3 hereof. ANY DECLINATION OF COVERAGE <—  
28 WITHIN THE SIXTY-DAY PERIOD PROVIDED IN THIS CLAUSE SHALL, FOR  
29 PURPOSES OF REVIEW BY THE INSURANCE COMMISSIONER, BE DEEMED A  
30 REFUSAL TO WRITE AND SHALL BE SUBJECT TO THE PROVISIONS OF

1 SECTION 6 AND OF SUBSECTION (B) OF SECTION 7 OF THIS ACT. NOTICE  
2 OF ANY SUCH DECLINATION SHALL:

3 (I) BE APPROVED AS TO FORM BY THE INSURANCE COMMISSIONER  
4 PRIOR TO USE;

5 (II) ADVISE THE INSURED OF HIS RIGHTS UNDER SUBSECTION (B)  
6 OF SECTION 7 OF THIS ACT;

7 (III) ADVISE THE INSURED OF HIS POSSIBLE ELIGIBILITY FOR  
8 INSURANCE UNDER "THE PENNSYLVANIA FAIR PLAN ACT."

9 Section 6. There shall be no liability on the part of and no  
10 cause of action of any nature shall arise against the Insurance  
11 Commissioner, any insurer, the authorized representatives,  
12 agents and employes of either or any firm, person or corporation  
13 furnishing to the insurer information as to reasons for  
14 cancellation or refusal to write or renew for any statement made  
15 by any of them in complying with this act or for the providing  
16 of information pertaining thereto.

17 Section 7. (a) Any insured may within ten days of the  
18 receipt by the insured of notice of cancellation or notice of  
19 intention not to renew, request in writing to the Insurance  
20 Commissioner that he review the action of the insurer in  
21 cancelling or refusing to renew the policy of such insured.

22 (b) Any applicant for a policy who is refused such policy by  
23 an insurer may, in writing, within ten days of notice of such  
24 refusal request the insurer to supply the reasons for such  
25 refusal. The insurer shall supply such reasons within five days  
26 of receipt by it of such request. Within ten days of the receipt  
27 of such reasons, the applicant may request, in writing, to the  
28 Insurance Commissioner that he review the action of the insurer  
29 in refusing to write a policy for the applicant.

30 Section 8. On receipt of a request for review, the Insurance

1 Commissioner or his designated representative shall notify the  
2 insurer thereof and shall review the matter to determine whether  
3 the cancellation or refusal to renew or to write was in  
4 violation of this act, and shall within forty days of the  
5 receipt of such request either order the policy written or  
6 reinstated or uphold the cancellation or refusal to renew. In  
7 the case of a cancellation of or refusal to renew a policy, such  
8 policy shall remain in effect until the conclusion of such  
9 review except for appeals from cancellations for nonpayment of  
10 premiums in which case the policy shall terminate as of the date  
11 the policy would otherwise end, unless the appeal is upheld or  
12 the policy reinstated.

13 Section 9. The Insurance Commissioner shall promulgate rules  
14 and regulations necessary for the administration of this act.  
15 The commissioner may provide in such rules and regulations for  
16 the establishment of a filing fee not exceeding fifteen dollars  
17 (\$15), to accompany the request for review. Should the Insurance  
18 Commissioner decide the appeal in favor of the insured, the  
19 filing fee shall be returned immediately and the fee shall be  
20 paid by the insurer. No part of the review by the Insurance  
21 Commissioner or his designated representative shall be subject  
22 to the provisions of sections 31 through 36 of the act of June  
23 4, 1945 (P.L.1388), known as the "Administrative Agency Law."  
24 The decision of the Insurance Commissioner or his designated  
25 representative shall be subject to appeal in accordance with  
26 sections 41 through 46 of that act: Provided, however, That the  
27 court hearing such appeal shall not decline to affirm such  
28 decision on the ground that the requirements of sections 31  
29 through 36 of that act have not been complied with.

30 Section 10. ~~(a) Failure by an insurer to comply with any~~

<—

1 ~~order of the Insurance Commissioner or his designated~~  
2 ~~representatives under section 9 of this act shall constitute an~~  
3 ~~act of unfair discrimination under section 353 of the act of May~~  
4 ~~17, 1921 (P.L.682), known as "The Insurance Company Law of~~  
5 ~~1921."~~

6     ~~(b)~~ Each insurer shall maintain records IN SUCH FORM AS THE     <—  
7 INSURANCE COMMISSIONER SHALL REQUIRE of the numbers of  
8 cancellations and refusals to write or renew policies and the  
9 reasons therefor and shall supply to the Insurance Commissioner  
10 such information as he may request.

11     SECTION 11. UPON FAILURE BY AN INSURER TO COMPLY WITH ANY     <—  
12 ORDER OF THE INSURANCE COMMISSIONER OR HIS DESIGNATED  
13 REPRESENTATIVES UNDER SECTION 9 OF THIS ACT, OR UPON  
14 SATISFACTORY EVIDENCE OF THE VIOLATION BY ANY INSURER OR AGENT  
15 OF AN INSURER, OF ANY OF THE PROVISIONS OF THIS ACT, OR OF ANY  
16 RULES OR REGULATIONS PROMULGATED HEREUNDER BY THE INSURANCE  
17 COMMISSIONER, THE INSURANCE COMMISSIONER MAY IN HIS DISCRETION  
18 PURSUE ANY ONE OR MORE OF THE FOLLOWING COURSES OF ACTION:

19     (1) SUSPEND OR REVOKE OR REFUSE TO RENEW THE CERTIFICATE OF  
20 AUTHORITY OR LICENSE TO TRANSACT THE BUSINESS OF INSURANCE OF  
21 SUCH INSURER OR AGENT.

22     (2) FOR FAILURE OF AN INSURER TO COMPLY WITH ANY ORDER OF  
23 THE INSURANCE COMMISSIONER OR HIS DESIGNATED REPRESENTATIVES  
24 UNDER SECTION 9 OF THIS ACT, IMPOSE A PENALTY NOT TO EXCEED THE  
25 GREATER OF ONE THOUSAND DOLLARS (\$1,000) OR ONE HUNDRED DOLLARS  
26 (\$100) PER DAY FOR EACH DAY THAT SUCH INSURER FAILS TO COMPLY  
27 WITH ANY SUCH ORDER.

28     (3) IMPOSE A PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS  
29 (\$1,000) FOR EACH AND EVERY ACT IN VIOLATION OF ANY OF SAID  
30 PROVISIONS, RULES OR REGULATIONS BY SAID INSURER OR AGENT.

1 ANY PROCEEDING BY THE INSURANCE COMMISSIONER UNDER THIS  
2 SECTION SHALL BE SUBJECT TO THE PROVISIONS OF "ADMINISTRATIVE  
3 AGENCY LAW."

4 Section ~~11~~. 12. All acts and parts of acts are repealed in <—  
5 so far as they are inconsistent herewith.

6 SECTION 13. THIS ACT SHALL TAKE EFFECT SIXTY DAYS AFTER ITS <—  
7 ENACTMENT.