

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1288

Session of
1977

INTRODUCED BY MESSRS. J. L. WRIGHT AND BURNS, JUNE 13, 1977

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 22, 1977

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," adding certain requirements before
12 which members of certain mutual insurance companies shall be
13 liable to assessment.

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

16 Section 1. ~~Section 808,~~ THE act of May 17, 1921 (P.L.682, <—
17 No.284), known as "The Insurance Company Law of 1921," amended <—
18 ~~December 30, 1974 (P.L.1045, No.342),~~ is amended BY ADDING <—
19 SECTIONS to read:

20 ~~Section 808. Assessments. A mutual insurance company, other <—~~
21 ~~than a mutual life company, not possessed of assets at least~~
22 ~~equal to the unearned premium reserve and other liabilities,~~
23 ~~shall make an assessment upon its members liable to assessment~~

1 ~~to provide for such deficiency. Such assessment shall be against~~
2 ~~each member in proportion to such liability as expressed in his~~
3 ~~policy. No member shall be assessed for any loss that occurred~~
4 ~~when his policy was not in effect and no assessment shall be~~
5 ~~made after two years from the expiration or cancellation date of~~
6 ~~a policy and no such assessment shall be made without the prior~~
7 ~~written approval of the Insurance Commissioner. NO MEMBER SHALL~~ <—
8 ~~BE ASSESSED UNDER A POLICY UNLESS THE INSURANCE COMPANY~~
9 ~~REPRESENTATIVE SHALL, PRIOR TO PURCHASE, EXPLAIN THE DEFINITION~~
10 ~~AND RESPONSIBILITIES OF PURCHASING AN ASSESSABLE POLICY, AND~~
11 ~~SHALL HAVE RECEIVED AND FORWARDED TO THE COMPANY REPRESENTED A~~
12 ~~SIGNED STATEMENT FROM THE PURCHASER THAT HE UNDERSTANDS THE~~
13 ~~POSSIBLE CONSEQUENCES OF THE ASSESSABLE POLICY. THE STATEMENT~~
14 ~~SHALL BE IN SUCH FORM AS SHALL BE PRESCRIBED BY THE INSURANCE~~
15 ~~COMMISSIONER. A COPY OF THE SIGNED STATEMENT SHALL BE GIVEN TO~~
16 ~~THE MEMBER AT THE TIME OF PURCHASE. For each year the policy is~~
17 ~~in force, such assessment shall be an amount not greater than~~
18 ~~the annual or the average yearly cost or premium of the policy~~
19 ~~for the period it has been in effect. Such assessment shall not~~
20 ~~exceed two times the average yearly cost or premium of the~~
21 ~~policy for the period it has been in effect. The Insurance~~
22 ~~Commissioner may, by written order, relieve the company from an~~
23 ~~assessment or other proceedings to restore such assets during~~
24 ~~the time fixed in such order. Any domestic company which shall~~
25 ~~be deficient in providing the unearned premium reserve required~~
26 ~~hereby may, notwithstanding such deficiency, come under this act~~
27 ~~on the condition that it shall each year thereafter reduce such~~
28 ~~deficiency at least fifteen per centum (15%) of the original~~
29 ~~amount thereof, and in such case it may increase its assessments~~
30 ~~accordingly.~~

~~The provisions of this section are not applicable to assessments made upon the members of a company by the Insurance Commissioner pursuant to the authority granted him by Article V, act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of one thousand nine hundred and twenty one."~~

SECTION 808.1. REQUIREMENTS TO ISSUE ASSESSABLE POLICIES ON AUTOMOBILES.--PRIOR TO THE SALE OF AN ASSESSABLE POLICY PROVIDING ANY TYPE OF INSURANCE UPON AUTOMOBILES, THE INSURANCE COMPANY REPRESENTATIVE OR BROKER SHALL EXPLAIN THE DEFINITION AND RESPONSIBILITIES OF PURCHASING AN ASSESSABLE POLICY TO THE APPLICANT. THE COMPANY REPRESENTATIVE OR BROKER SHALL SECURE AND FORWARD TO THE COMPANY A SIGNED STATEMENT FROM THE APPLICANT THAT HE UNDERSTANDS THE POSSIBLE CONSEQUENCES OF THE ASSESSABLE POLICY. THE STATEMENT SHALL BE IN SUCH A FORM AS SHALL BE PRESCRIBED AND APPROVED BY THE INSURANCE COMMISSIONER. A COPY OF THE SIGNED STATEMENT SHALL BE ATTACHED TO THE POLICY.

SECTION 808.2. PENALTIES.--(A) ANY MUTUAL COMPANY, OR ANY OFFICER OR AGENT THEREOF, OR ANY BROKER, WHICH OR WHO ISSUES OR DELIVERS TO ANY PERSON IN THIS COMMONWEALTH ANY POLICY IN VIOLATION OF THE PROVISIONS OF SECTION 808.1, OR FORGES AN APPLICANT'S SIGNATURE ON THE FORM DESCRIBED IN SECTION 808.1, SHALL BE GUILTY OF A MISDEMEANOR, AND, UPON CONVICTION THEREOF, SHALL BE SENTENCED TO PAY A FINE OF NOT MORE THAN THREE HUNDRED DOLLARS (\$300) FOR EACH OFFENSE.

(B) THE INSURANCE COMMISSIONER MAY, IN HIS DISCRETION, TAKE, AGAINST THE OFFENDING PARTY, ANY ONE OR MORE OF THE FOLLOWING COURSES OF ACTION:

(1) REVOKE THE LICENSE OF ANY COMPANY, CORPORATION, ASSOCIATION, OR OTHER INSURER, OR OF THE AGENT THEREOF, WHICH OR WHO VIOLATES ANY OF THE SAID PROVISIONS.

1 (2) IMPOSE A PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS
2 (\$1,000) FOR EACH ACT OF VIOLATION OF ANY PROVISIONS OF SECTION
3 808.1.

4 (C) ANY FINES COLLECTED UNDER THIS SECTION SHALL BE
5 ALLOCATED TO THE APPLICABLE GUARANTY FUND FOR SUCH USE AS THE
6 DIRECTORS OF SUCH FUND MAY DEEM APPROPRIATE.

7 (D) BEFORE THE INSURANCE COMMISSIONER SHALL TAKE ANY ACTION
8 AS AUTHORIZED ABOVE, HE SHALL GIVE WRITTEN NOTICE TO THE PERSON,
9 COMPANY, ASSOCIATION, ACCUSED OF VIOLATING THE LAW, STATING
10 SPECIFICALLY THE NATURE OF ALLEGED VIOLATIONS, AND FIXING A TIME
11 AND PLACE, AT LEAST TEN DAYS THEREAFTER, WHEN A HEARING OF THE
12 MATTER SHALL BE HELD. AFTER SUCH HEARING OR UPON FAILURE OF THE
13 ACCUSED TO APPEAR AT SUCH HEARING, THE INSURANCE COMMISSIONER
14 SHALL IMPOSE SUCH OF THE ABOVE PENALTIES, AS HE DEEMS ADVISABLE.
15 WHEN THE INSURANCE COMMISSIONER SHALL HAVE TAKEN ANY ACTION AS
16 ABOVE SET FORTH, THE PARTY AGGRIEVED MAY APPEAL TO THE
17 COMMONWEALTH COURT.

18 SECTION 808.3. ASSESSMENT.--NO ASSESSMENT MAY BE MADE ON ANY
19 POLICY ISSUED IN VIOLATION OF THE PROVISIONS OF SECTION 808.1.

20 SECTION 808.4. BINDER.--NOTHING IN THE PROVISIONS OF
21 SECTIONS 808.1, 808.2 AND 808.3 SHALL BE CONSTRUED TO BAR THE
22 EXTENSION OF INSURANCE COVERAGE BY ORAL BINDER, PROVIDED THAT
23 ASSESSABLE POLICIES EXTENDED BY ORAL BINDER MUST COMPLY WITH THE
24 PROVISIONS OF SECTIONS 808.1, 808.2 AND 808.3.

25 Section 2. This act shall take effect in 60 days.