

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1200 Session of
1977INTRODUCED BY HANKINS, DUFFIELD, NOLAN, HESS, MELLOW AND
ANDREWS, NOVEMBER 14, 1977

AS AMENDED ON SECOND CONSIDERATION, DECEMBER 12, 1977

AN ACT

1 Establishing certain procedures relating to the termination of
2 insurance agency contracts or accounts and providing
3 penalties.

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

6 Section 1. Definitions.

7 The following words and phrases when used in this act shall
8 have, unless the context clearly indicates otherwise, the
9 meanings given to them in this section:

10 "Agent." An insurance agent authorized to transact AND <—
11 TRANSACTING the business of automobile insurance in the
12 Commonwealth.

13 "Insurer." An insurance company, association or exchange
14 authorized to transact AND TRANSACTING the business of <—
15 automobile insurance in the Commonwealth.

16 Section 2. Cancellation of contract.

17 (a) Notice.--After an agency contract has been in effect for
18 a period of five years, no insurer shall terminate its contract

1 with an agent without first providing such agent and the
2 Insurance Commissioner with written notification at least 90
3 days prior to the date of termination.

4 (b) Reason for action.--Such notification shall set forth
5 the insurer's reason for the action.

6 (c) Privileged information.--Any information, document,
7 record or statement so furnished or disclosed to the department
8 shall be absolutely privileged and shall not be admissible as
9 evidence in or as basis for any action against the appointing
10 insurer or against any representative of the foregoing.

11 (d) Administrative review.--Any agent may within 30 days of
12 receipt of notice of termination, request in writing to the
13 Insurance Commissioner that he review the action of the insurer
14 for the purpose of determining that said termination was in
15 compliance with the provisions of this section.

16 (e) Restriction on termination.--No insurer shall terminate
17 its contract with an agent due to the adverse experience of a
18 single year.

19 Section 3. Continuation of business.

20 (a) Policies.--Where an insurer notifies an agent that its
21 contract shall be terminated, the insurer shall offer to
22 continue such agent's policies and any amendments thereto,
23 through such agent for a period of 12 months from the effective
24 date of termination, subject to the insurer's current
25 underwriting standards.

26 (b) Commissions.--The terminated agent shall be entitled to
27 receive commissions on account of all business continued or
28 written pursuant to this subsection at the insurer's prevailing
29 commission rate for such business.

30 (c) Application of section.--The provisions of the section

1 do not apply to business owned by the insurer and not by the
2 agent, provided such insurer offers to continue such policies
3 through another of its agents.

4 Section 4. Certain agreements permitted.

5 (a) Construction of act.--Nothing contained in this act
6 shall be deemed or construed to prohibit an amendment or
7 addendum subsequent to the inception date of the original agency
8 agreement providing in such subsequent amendment or addendum
9 that the original agency agreement may be terminated at a sooner
10 time than is required by this act provided the agent agrees in
11 writing to such sooner termination.

12 (b) Certain terminations excepted.--This section shall not
13 apply to:

14 (1) an agent whose license has been revoked by the
15 Insurance Commissioner or whose contract has been terminated
16 for insolvency abandonment, gross and willful misconduct or
17 failure to pay over to the insurer moneys due to the insurer
18 after his receipt of a written demand thereof; or

19 (2) an agent who has demonstrated gross incompetence
20 which would normally be cause for agency contract termination.

21 Section 5. Penalties.

22 (a) Summary offense.--Any person, agent or insurer who
23 willfully violates any provision of this act shall, upon
24 conviction thereof, at a summary proceeding, be sentenced to pay
25 a fine not exceeding \$500, plus costs. Conviction under this
26 subsection shall not bar administrative action by the Insurance
27 Commissioner under this section.

28 (b) Administrative action.--Upon satisfactory evidence of a
29 violation of this act by any person, agent or insurer, the
30 Insurance Commissioner may, in his discretion, pursue any one or

1 more of the following courses of action:

2 (1) Suspend or revoke the license of such offending
3 person, agent or insurer.

4 (2) Refuse, for a period not to exceed one year
5 thereafter, to issue a new license to or to renew a license
6 of, such person, agent or insurer.

7 (3) Impose a civil penalty of not more than \$500 for
8 each and every act in violation of this act.

9 (c) Review and appeal.--Any adjudication of the Insurance
10 Commissioner under subsection (b) shall be subject to review and
11 appeal in accordance with the act of June 4, 1945 (P.L.1388,
12 No.442), known as the "Administrative Agency Law."

13 Section 6. Effective date.

14 This act shall take effect immediately.