

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1867

 Session of 1989

INTRODUCED BY JAMES, REINARD, ROBINSON, COLAIZZO, ROEBUCK,
BILLOW, KOSINSKI, HARPER, JOSEPHS, WILLIAMS, LINTON,
DIETTERICK, FOX, FREIND, BATTISTO, BELFANTI, McCALL,
J. H. CLARK, EVANS, RIEGER, DONATUCCI, CARN, ACOSTA,
D. R. WRIGHT, RICHARDSON AND RYBAK, SEPTEMBER 18, 1989

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 20, 1990

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, providing for the ~~producer of record in assigned~~ <—
3 ~~risk plan policies.~~ ASSIGNED RISK PLAN. <—

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

6 SECTION 1. SECTION 1741 OF TITLE 75 OF THE PENNSYLVANIA <—
7 CONSOLIDATED STATUTES IS AMENDED TO READ:

8 § 1741. ESTABLISHMENT.

9 THE INSURANCE DEPARTMENT SHALL, AFTER CONSULTATION WITH THE
10 INSURERS LICENSED TO WRITE MOTOR VEHICLE LIABILITY INSURANCE IN
11 THIS COMMONWEALTH, ADOPT A REASONABLE ASSIGNED RISK PLAN FOR THE
12 EQUITABLE APPORTIONMENT AMONG THOSE INSURERS OF APPLICANTS FOR
13 MOTOR VEHICLE LIABILITY INSURANCE WHO ARE ENTITLED TO, BUT ARE
14 UNABLE TO, PROCURE INSURANCE THROUGH ORDINARY METHODS. WHEN THE
15 PLAN HAS BEEN ADOPTED, ALL MOTOR VEHICLE LIABILITY INSURERS
16 SHALL SUBSCRIBE THERETO AND SHALL PARTICIPATE IN THE PLAN. [THE

1 PLAN MAY PROVIDE REASONABLE MEANS FOR THE TRANSFER OF
2 INDIVIDUALS INSURED THEREUNDER INTO THE ORDINARY MARKET, AT THE
3 SAME OR LOWER RATES, PURSUANT TO REGULATIONS ESTABLISHED BY THE
4 DEPARTMENT.]

5 Section 4 2. Title 75 ~~of the Pennsylvania Consolidated~~ <—
6 ~~Statutes~~ is amended by adding ~~sections~~ A SECTION to read: <—
7 § 1745. Producer of record.

8 (a) General rule.--No person shall act as an agent or broker
9 or producer of applications or policies of automobile insurance
10 for the assigned risk plan unless that person is currently
11 licensed as a casualty insurance agent or broker. A licensed
12 agent or broker placing a policy or policies of insurance on
13 behalf of a named insured shall be the producer of record for
14 such policies.

15 (b) Private-passenger nonfleet risks.--With respect to
16 private-passenger nonfleet automobile risks only, if during the
17 36 successive months prior to the expiration of the policy, the <—
18 named insured and any other person who usually and customarily
19 operates the automobile having been licensed to operate an
20 automobile for not less than the three years previous to the
21 expiration of the policy, have not been involved in accidents or
22 convictions for which points are required to be assessed in
23 accordance with the rules of the Assigned Risk Plan, and, if
24 physical damage coverages were afforded, and there has not been
25 an at fault collision loss for the past three years, no more
26 than two comprehensive losses for the past year, the assigned
27 company shall offer to write the coverages previously afforded
28 by the policy being replaced for a period of one year, subject
29 at a minimum, to the following conditions: <—
30 THREE SUCCESSIVE YEARS PRIOR TO THE EXPIRATION OF THE POLICY, THE NAMED INSURED

1 AND ANY OTHER PERSON WHO USUALLY OPERATES THE AUTOMOBILE HAVING
2 BEEN LICENSED TO OPERATE AN AUTOMOBILE FOR AT LEAST TWO YEARS,
3 HAVE NOT BEEN INVOLVED IN ACCIDENTS OR CONVICTIONS FOR WHICH
4 POINTS ARE REQUIRED TO BE ASSESSED IN ACCORDANCE WITH THE RULES
5 OF THE PLAN, THE ASSIGNED COMPANY SHALL OFFER TO WRITE THE
6 COVERAGES PREVIOUSLY AFFORDED BY THE POLICY BEING REPLACED FOR A
7 PERIOD OF ONE YEAR, SUBJECT AT A MINIMUM, TO THE FOLLOWING
8 CONDITIONS:

9 (1) The kinds and amounts of coverages to be offered for
10 such risks shall not be less than those afforded by the
11 policy being replaced unless such kinds and amounts of
12 coverage have been refused by the insured in such manner and
13 form as approved by the Insurance Commissioner.

14 ~~(2) Following such offer to write, the assigned company~~ <—
15 ~~offering to write shall be required to issue coverage for a~~
16 ~~period of not less than one year. The company shall service~~
17 ~~the policy through the agent or broker recognized by the~~
18 ~~insured as the producer of record.~~

19 (2) SUCH OFFER TO WRITE SHALL PROVIDE FOR AN OPTION TO <—
20 BE EXERCISED BY THE NAMED INSURED FOR CONTINUED SERVICING BY
21 HIS AGENT OR BROKER, OTHERWISE KNOWN AS THE PRODUCER OF
22 RECORD WHERE SUCH ELECTION IS MADE, AN INSURER SHALL CONTINUE
23 TO RECOGNIZE THE PRODUCER OF RECORD AND SHALL PAY A
24 COMMISSION IN AN AMOUNT NOT LESS THAN THE RATE OF COMMISSION
25 PAID BY THAT INSURER OR 10% OF POLICY PREMIUM, WHICHEVER IS
26 GREATER.

27 (3) A RECOGNIZED PRODUCER OF RECORD SHALL BE PERMITTED
28 BY THE INSURER TO SERVICE THE NEEDS OF THE POLICYHOLDER WITH
29 RESPECT TO PRIVATE-PASSENGER NONFLEET AUTOMOBILE RISKS.

30 ~~(3)~~ (4) No assigned company INSURER offering to write <—

1 ~~the insurance in accordance with this section shall refuse to~~
2 ~~service a policy through the producer of record recognized by~~
3 ~~the named insured. The company INSURER shall be obligated to~~ <—
4 ~~renew the coverage from year to year unless the company may~~ <—
5 ~~refuse to renew or write such coverage in conformity with the~~
6 ~~provisions of the act of June 5, 1968 (P.L.140, No.78),~~
7 ~~entitled, "An act regulating the writing, cancellation of or~~
8 ~~refusal to renew policies of automobile insurance; and~~
9 ~~imposing powers and duties on the Insurance Commissioner~~
10 ~~therefor," or the named insured refuses to renew such~~
11 ~~insurance. No company shall refuse to service any policy or~~
12 ~~recognize a producer of record solely because such producer~~
13 ~~of record is not licensed as an agent for that company.~~

14 ~~(4) Each company that shall refuse to recognize the~~
15 ~~producer of record shall be ineligible to receive credit for~~
16 ~~such private passenger nonfleet automobile insurance policy~~
17 ~~it offers to remove from the assigned risk plan.~~

18 ~~(5) For the purposes of this section only, an agent~~
19 ~~shall be deemed to have a limited broker's license solely for~~
20 ~~the purpose of servicing insureds of private passenger~~
21 ~~nonfleet vehicles insured in the plan with an assigned~~
22 ~~company for whom the agent is not licensed as an agent.~~
23 ~~Assigned companies making an offer to remove any private~~
24 ~~passenger nonfleet automobile insured from the Assigned Risk~~
25 ~~Plan shall compensate a producer of record not licensed as an~~
26 ~~agent of the company at not less than 60% of its standard~~
27 ~~rate of compensation to contract agents.~~

28 ~~§ 1746. Broker of record authorization.~~

29 ~~The Assigned Risk Plan shall be bound by letters of~~
30 ~~authorization from the producer. EXCEPT IN ACCORDANCE WITH THE~~ <—

1 ACT OF JUNE 5, 1968 (P.L.140, NO.78), ENTITLED "AN ACT
2 REGULATING THE WRITING, CANCELLATION OF OR REFUSAL TO RENEW
3 POLICIES OF AUTOMOBILE INSURANCE; AND IMPOSING POWERS AND DUTIES
4 ON THE INSURANCE COMMISSIONER THEREFOR," AND SECTION 1799.3
5 (RELATING TO LIMIT ON CANCELLATIONS, REFUSALS TO RENEW, REFUSALS
6 TO WRITE, SURCHARGES, RATE PENALTIES AND POINT ASSIGNMENTS), OR
7 THE NAMED INSURED REFUSES TO RENEW SUCH INSURANCE.

8 (C) LIMITED BROKER'S LICENSE.--FOR PURPOSES OF THIS SECTION
9 ONLY, A PRODUCER OF RECORD NOT OTHERWISE A BROKER SHALL BE
10 DEEMED TO HAVE A LIMITED BROKER'S LICENSE SOLELY FOR THE PURPOSE
11 OF SERVICING INSUREDS OF PRIVATE-PASSENGER NONFLEET VEHICLES WHO
12 ACCEPT THE INSURER'S OFFER. NO AGENCY RELATIONSHIP SHALL BE
13 DEEMED TO EXIST BETWEEN ANY INSURER AND ANY PRODUCER OF RECORD,
14 UNLESS SUCH AGENT IS LICENSED OR IS SUBSEQUENTLY LICENSED BY THE
15 INSURER.

16 Section 2 3. This act shall take effect in 60 days.

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