

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 748 Session of
1991

INTRODUCED BY CORMAN, HOLL, STOUT, HOPPER, ROBBINS, FISHER,
MADIGAN, HELFRICK, SCHWARTZ, BORTNER, SCANLON, ANDREZESKI,
REIBMAN, MUSTO, BAKER AND JUBELIRER, MARCH 19, 1991

REFERRED TO BANKING AND INSURANCE, MARCH 19, 1991

AN ACT

1 Amending the act of May 17, 1921 (P.L.789, No.285), entitled, as
2 amended, "An act relating to insurance; establishing an
3 insurance department; and amending, revising, and
4 consolidating the law relating to the licensing,
5 qualification, regulation, examination, suspension, and
6 dissolution of insurance companies, Lloyds associations,
7 reciprocal and inter-insurance exchanges, and certain
8 societies and orders, the examination and regulation of fire
9 insurance rating bureaus, and the licensing and regulation of
10 insurance agents and brokers; the service of legal process
11 upon foreign insurance companies, associations or exchanges;
12 providing penalties, and repealing existing laws," further
13 providing for the licensing and regulation of agents and
14 brokers; and imposing penalties.

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

17 Section 1. Section 601 of the act of May 17, 1921 (P.L.789,
18 No.285), known as The Insurance Department Act of one thousand
19 nine hundred and twenty-one, amended June 5, 1947 (P.L.439,
20 No.200), is amended to read:

21 Section 601. [Insurance Agents Defined.--An agent is an
22 individual, copartnership or corporation, authorized in writing
23 by a company, association, or exchange--

1 (a) To solicit risks and collect premiums, and to issue or
2 countersign policies in its behalf; or

3 (b) To solicit risks and collect premiums in its behalf.

4 A person, copartnership, association, or corporation, not a
5 duly licensed insurance broker, who, for or without
6 compensation, solicits insurance on behalf of any insurance
7 company, association, or exchange, or transmits for a person,
8 copartnership, association, or corporation, other than himself
9 or itself, an application for a policy of insurance to or from
10 such company, association, or exchange, or offers or assumes to
11 act in the negotiation of such insurance, or in any manner aids
12 in transacting the insurance business of any such company,
13 association, or exchange, by negotiating for or placing risks or
14 delivering policies or collecting premiums for such company,
15 association, or exchange, shall be an insurance agent within the
16 intent of this act, and shall thereby become liable to all the
17 duties, requirements, liabilities, and penalties to which an
18 agent of such company, association, or exchange is subject:

19 Provided, however, That the word "agent" shall not include non-
20 resident salaried employes of foreign exchanges which maintain
21 no offices in this Commonwealth and pay no commissions to such
22 employes, or officers or salaried employes of any insurance
23 company, association or exchange, which is authorized to
24 transact business in this Commonwealth, who do not solicit,
25 negotiate or place risks or as to title insurance, duly admitted
26 attorneys-at-law, licensed real estate agents, or real estate
27 brokers.] Certain Words Defined.--The word "agent," as used in
28 this article, means any of the following:

29 (1) Any person authorized in writing by an entity:

30 (i) to solicit risks and collect premiums and to issue or

1 countersign policies on its behalf; or

2 (ii) to solicit risks and collect premiums on its behalf.

3 (2) A person, not a licensed insurance broker, who, whether
4 or not for compensation:

5 (i) solicits insurance on behalf of any insurance entity;

6 (ii) transmits for a person other than himself an
7 application for a policy of insurance to or from the entity;

8 (iii) offers or assumes to act in the negotiation of such
9 insurance; or

10 (iv) in any manner aids in transacting the insurance
11 business of any entity by negotiating for or placing risks or
12 delivering policies or collecting premiums for the entity.

13 The term "agent" does not include:

14 (1) Nonresident salaried employes of foreign exchanges which
15 maintain no offices in this Commonwealth and pay no commissions
16 to such employes.

17 (2) Officers or salaried employes of any insurance entity
18 authorized to transact business in this Commonwealth who do not
19 solicit, negotiate or place risks.

20 (3) Individuals employed and used by agents, brokers or any
21 entity exclusively for the performance of clerical, stenographic
22 or similar office duties.

23 (4) This section does not apply to title insurance agents.

24 The word "appointment," as used in this article, is a written
25 agreement between an agent and an entity under which the agent
26 may solicit, negotiate, make, or procure insurance policies, for
27 compensation, which are issued by the appointing insurer or
28 insurers.

29 The term "certificate of qualification" or "certificate," as
30 used in this article, is a document issued by the Insurance

1 Department attesting that an agent has met the standards set
2 forth under this subarticle to act as an agent in this
3 Commonwealth.

4 The term "entity," as used in this article, means any person
5 doing the business of insurance, including, but not limited to:

6 (1) the issuance or delivery of contracts or certificates of
7 insurance to persons resident in this Commonwealth;

8 (2) the solicitation of applications for such contracts or
9 other negotiations preliminary to the execution of such
10 contracts;

11 (3) the collection of premiums, membership fees, assessments
12 or other considerations for such contracts; or

13 (4) the transaction of matters subsequent to execution of
14 such contracts arising out of them,

15 whether or not such person has obtained a certificate of
16 authority, license or certificate of qualification.

17 The term "nonresident agent," as used in this article, is an
18 applicant or certificate holder with both business address and
19 legal residence outside this Commonwealth.

20 The term "person," as used in this article, means any
21 individual, corporation, association, partnership, reciprocal
22 exchange, inter-insurer, Lloyds insurer, fraternal benefit
23 society, beneficial association and any other legal entity
24 engaged in the business of insurance, including agents, brokers
25 and adjusters and also means health care plans as defined in 40
26 Pa.C.S. Chs. 61 (relating to hospital plan corporations), 63
27 (relating to professional health services plan corporations), 65
28 (relating to fraternal benefit societies) and 67 (relating to
29 beneficial societies) and the act of December 29, 1972
30 (P.L.1701, No.364), known as the "Health Maintenance

1 Organization Act." For purposes of this article, health care
2 plans, fraternal benefit societies and beneficial societies
3 shall be deemed to be engaged in the business of insurance.

4 Section 2. Section 602 of the act is amended to read:

5 Section 602. [Insurance Companies, Et Cetera, To Certify
6 Names of Agents.--Insurance companies, associations, and
7 exchanges, authorized by law to transact business within this
8 Commonwealth, shall, from time to time, certify to the Insurance
9 Commissioner the names of all agents appointed by them to
10 solicit insurance in this Commonwealth.] Requirements to Act as
11 an Agent.--(a) A person may not act as an agent unless he
12 complies with all of the following:

13 (1) That person has obtained a certificate from the
14 Insurance Department reflecting the lines of authority for the
15 kinds of insurance for which that person intends to act as
16 agent.

17 (2) That person has a current appointment or appointments
18 from an insurer or insurers.

19 (3) That person with a valid license to sell insurance
20 issued after December 31, 1970 has complied with any continuing
21 education requirements set forth in the regulations promulgated
22 by the Insurance Department.

23 (b) A certificate to act as an agent shall not be granted to
24 any corporation unless by provisions of its charter it is
25 authorized to engage in the business of insurance or real estate
26 and unless individual certificates are also secured for each
27 active officer of such corporation. A certificate shall not be
28 granted to a partnership unless individual certificates are also
29 secured for each active member of the partnership.

30 Section 3. Section 603 of the act, amended or added August

1 21, 1961 (P.L.1018, No.457), July 31, 1968 (P.L.1029, No.310),
2 June 16, 1972 (P.L.436, No.131) and repealed in part April 28,
3 1978 (P.L.202, No.53), is amended to read:

4 Section 603. [Agent's Licenses.--(a) The Insurance
5 Commissioner may issue, upon certification as aforesaid by any
6 company, association, or exchange, authorized by law to transact
7 business within this Commonwealth, an agent's license to any
8 person of at least eighteen years of age and to any
9 copartnership or corporation. No license as agent shall be
10 granted to any corporation unless by provisions of its charter
11 it is authorized to engage in the business of insurance or real
12 estate, and unless individual licenses are also secured for each
13 active officer of such corporation; and no license shall be
14 granted to a copartnership or firm unless individual licenses
15 are also secured for each active member of such copartnership or
16 firm. Before any such license is granted, the applicant shall
17 first make answer, in writing and under oath, to interrogatories
18 on forms and supplements such as the Insurance Commissioner
19 shall prepare and submit, which answers shall be vouched for by
20 indorsement of the company, association, or exchange interested,
21 and to the effect that the applicant is of good business
22 reputation, and of experience in underwriting, other than
23 soliciting, and is worthy of a license: Provided, That any
24 applicant who shall have held, for any period during the five
25 years immediately preceding the application, a license to
26 transact, as agent, any class or kind of insurance business for
27 any company, association, or exchange, authorized to transact
28 business within this Commonwealth, shall be entitled, upon
29 proper application, to receive a license to transact, as agent,
30 the same class or kind of insurance business for any other

1 company, association, or exchange, so authorized to transact
2 business, without the necessity of submitting to an examination.
3 When the Insurance Commissioner is satisfied that the applicant
4 is worthy of license, and that he is reasonably familiar with
5 provisions of the insurance law of this Commonwealth, he shall
6 issue a license stating that the company, association, or
7 exchange, represented by the agent, has complied with the
8 requirements of law and has been authorized by the Insurance
9 Commissioner to transact business within this Commonwealth, and
10 that the agent has been duly appointed by the company,
11 association, or exchange named in the license. Licenses of life
12 insurance agents shall expire annually at midnight of March
13 thirty-first, licenses of fire insurance agents shall expire
14 annually at midnight of September thirtieth, and the licenses of
15 casualty and health and accident insurance agents shall expire
16 annually at midnight of December thirty-first, unless sooner
17 terminated as the result of severance of business relations
18 between the company, association, or exchange and the agent, or
19 unless revoked by the Insurance Commissioner for cause. The
20 provisions of this section shall apply to domestic mutual fire
21 insurance companies, but no agent of a domestic mutual fire
22 insurance company acting or authorized to act as such on the
23 effective date of this act shall be required to take an
24 examination for licensure.

25 (b) Nothing in subsection (a) of this section shall be
26 construed as requiring agents of domestic mutual fire insurance
27 companies which agents write only coverages other than insurance
28 upon automobiles authorized by clauses (1), (2) and (3) of
29 subsection (b) of section 202 of the act of May 17, 1921 (P.L.
30 682), known as "The Insurance Company Law of 1921," to submit to

1 examination prior to licensure by the Insurance Commissioner.

2 (c) The examination provided for in subsection (a) shall not
3 be required of any person who has received the designation of
4 Chartered Life Underwriter, (C.L.U.) from the American College
5 of Life Underwriters, except, that such person may be examined
6 on pertinent provisions of the insurance laws as determined by
7 the Insurance Commissioner.] Requirements to Obtain a
8 Certificate of Qualification.--(a) In order to obtain a
9 certificate to act as an agent a person shall comply with all of
10 the following:

11 (1) Be at least eighteen years of age.

12 (2) Have successfully passed an examination required by the
13 Insurance Department demonstrating reasonable familiarity with
14 insurance laws and the business of insurance in general.

15 (3) Complete a verified application on a form approved by
16 the Insurance Department.

17 (4) Have secured on the application a verified statement by
18 the sponsoring entity that the applicant is of good business
19 reputation and is worthy of a certificate.

20 (5) Pay in full all appropriate fees.

21 (b) The Insurance Department may, upon proper and acceptable
22 application, exempt from the requirement to successfully pass an
23 examination for such appropriate line or lines of authority any
24 person who has met at least one of the following:

25 (1) Has held, for any period during the two years
26 immediately preceding the application, a certificate of
27 qualification from the Insurance Department reflecting at least
28 one of the same lines of authority for which he is now applying.

29 (2) Received the designation of Chartered Life Underwriter
30 (C.L.U.) from the American College of Life Underwriters, the

1 designation of Chartered Property and Casualty Underwriter
2 (C.P.C.U.) from the American Institute for Property and
3 Liability Underwriters, the designation of Certified Insurance
4 Counselor (C.I.C.) from the Society of Certified Insurance
5 Counselors, or any other professional designation approved by
6 the Insurance Commissioner.

7 (3) Is an agent of a domestic mutual fire insurance company,
8 whose agents write only coverages other than insurance upon
9 automobiles authorized by paragraphs (1), (2) and (3) of
10 subdivision (b) of section 202 of the act of May 17, 1921
11 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

12 (4) Is qualified to apply for and receive authorization from
13 the Insurance Department to act as an agent on the effective
14 date of this act.

15 (5) Is an agent of a fraternal benefit society who, under
16 section 706 of the act of July 29, 1977 (P.L.105, No.38), known
17 as the "Fraternal Benefit Society Code," is not required to take
18 an examination.

19 Section 4. Section 604 of the act, amended December 3, 1975
20 (P.L.471, No.137), is amended to read:

21 Section 604. [Penalty for Acting as Agent Without License.--
22 Any individual, copartnership, or corporation transacting
23 business within this Commonwealth as the agent of an insurance
24 company, association, or exchange, without a license as required
25 by this act, shall be guilty of a misdemeanor, and, upon
26 conviction thereof, shall be sentenced to pay a fine not
27 exceeding one thousand dollars. Prosecution for any violation
28 under this section may be instituted by the Insurance
29 Commissioner or a duly designated deputy.] Issuance of
30 Certificate of Qualification.--(a) When the Insurance

1 Department is satisfied that the applicant is worthy of a
2 certificate of qualification and has successfully passed an
3 examination and otherwise complied with this article, it shall
4 issue a certificate. The certificate shall state that the agent
5 has complied with this article and has been authorized by the
6 Insurance Department to transact business in specific lines of
7 authority in this Commonwealth.

8 (b) A person who was licensed to act as an agent on the
9 effective date of this act may obtain a certificate to act as an
10 agent reflecting the lines of authority for which that person
11 was previously licensed or qualified by filing the appropriate
12 application for an original certificate of qualification with
13 the Insurance Department and paying the fee for an original
14 agent's certificate as specified under this subarticle.

15 (c) A certificate of qualification shall state that a person
16 is empowered to act as an insurance agent under the laws of the
17 Commonwealth for specified lines of authority. The agent shall
18 display his certificate of qualification in the agent's place of
19 business.

20 (d) (1) All agents licensed on the effective date of this
21 act shall complete and submit a conversion application in
22 accordance with Insurance Department instructions. For the
23 purpose of conversion each person shall pay a fee not to exceed
24 six dollars and fifty cents. Such fee shall accompany the
25 conversion application and be returned to the Insurance
26 Department no later than three months from date of receipt. The
27 fees collected by the Insurance Department shall be placed in an
28 Insurance Department Restricted Revenue Account dedicated to
29 fund the conversion to the single license system established by
30 this act.

1 (2) Those persons who have complied with subsection (d)(1)
2 shall receive, complete, and submit a single license application
3 to convert their existing licenses to a certificate of
4 qualification in accordance with Insurance Department
5 regulation. The regulation shall provide for, but not be limited
6 to, timeliness of compliance, amount of fee, if any, to be
7 charged, and any late fee penalties for noncompliance.

8 (3) Persons in compliance with subsection (d)(2) shall
9 receive a certificate of qualification from the Insurance
10 Department. A person receiving a valid certificate of
11 qualification will be able to solicit additional appointments
12 immediately. However, a licensed agent who fails to comply with
13 subsection (d)(2) as of the transition date to a single license
14 system shall have his license or licenses terminated.

15 (4) Insurers will be deemed to have appointed all their
16 agents licensed on the transition date as provided for by
17 Insurance Department regulation. The first appointment report
18 shall be filed with the Insurance Department ninety days after
19 the transition date and must include all existing agents and any
20 new appointments. Appointment reports shall be filed on a
21 monthly basis thereafter pursuant to Insurance Department
22 regulation.

23 Section 5. Sections 605 and 606 of the act are amended to
24 read:

25 Section 605. [Personal Liability of Agents Acting for
26 Unauthorized Companies.--An insurance agent shall be personally
27 liable on all contracts of insurance or suretyship unlawfully
28 made by or through him, directly or indirectly, for or in behalf
29 of any company, association, or exchange not authorized to do
30 business in this Commonwealth. Any person soliciting risks,

1 forwarding premiums, or countersigning or delivering policies,
2 shall be deemed to be the agent of the company, association, or
3 exchange, within the meaning of this section.] Appointment.--(a)
4 No agent shall do business on behalf of any entity without a
5 written appointment from that entity.

6 (b) All appointments shall be obtained by procedures
7 established by the Insurance Department's regulations.

8 (c) Insurance entities authorized by law to transact
9 business in this Commonwealth shall, from time to time as
10 determined by the Insurance Department, certify to the Insurance
11 Department the names of all agents appointed by them.

12 (d) Each appointment fee, both new and renewal, shall be
13 paid in full by the entity appointing the agent.

14 Section 606. [Penalty for Advertising as Agent of
15 Unauthorized Company, Et Cetera.--Any person who, by poster,
16 circular, letter, or in any other way or manner, represents or
17 advertises himself as the agent of any insurance company,
18 association, or exchange of any other State or government, which
19 has not complied with the laws of this State, shall be guilty of
20 a misdemeanor, and, upon conviction, shall be sentenced to pay a
21 fine of not more than one thousand dollars.] Reports by Entities
22 to the Insurance Department.--All entities shall report to the
23 Insurance Department all appointments and terminations of
24 appointments in the format and time frame required by the
25 Insurance Department's regulations.

26 Section 6. Section 607 of the act, amended December 30, 1974
27 (P.L.1047, No.343), is amended to read:

28 Section 607. [Penalty for Soliciting for Fictitious or Dead
29 Companies, Et Cetera.--Any individual, and the officers,
30 managers, agents, owners, or representatives of and any

1 corporation, partnership, or association, offering within this
2 State, in person or by advertisement, poster, letter, circular,
3 or otherwise to sell, procure, or obtain policies, certificates,
4 agreements, binders, or applications for insurance, surety, or
5 indemnity, for or on behalf of any spurious, fictitious,
6 nonexisting, dissolved, inactive, liquidated or liquidating or
7 bankrupt insurance company, association, exchange, society, or
8 order, shall be guilty of a misdemeanor, and, upon conviction,
9 shall be sentenced to not more than one year or less than six
10 months imprisonment, and, in addition, shall pay a fine not
11 exceeding one thousand dollars for each and every violation.]

12 Personal Liability of Agents for Unauthorized Entity.--An
13 insurance agent shall be personally liable on all contracts of
14 insurance or suretyship unlawfully made by or through him,
15 directly or indirectly, for or on behalf of any entity not
16 authorized to do business in this Commonwealth. This section
17 applies to any person who transacts business in this
18 Commonwealth as an agent of an insurance entity without a
19 certificate as required by this article.

20 Section 7. Section 608 of the act, amended July 14, 1977
21 (P.L.88, No.31), is amended to read:

22 Section 608. [Nonresident Agents.--(a) The Insurance
23 Commissioner may issue a license as agent to a person not
24 resident of this Commonwealth, upon compliance with the
25 applicable provisions of this act, if the state or the Province
26 of Canada of such person's residence will accord the same
27 privilege to a resident of this Commonwealth.

28 (b) The Insurance Commissioner may enter into reciprocal
29 agreements with the appropriate official of any such other state
30 or province waiving the written examination of any applicant

1 resident in such other state or province, if:

2 (1) A written examination is required of applicants for an
3 insurance agent's license in such other state or province;

4 (2) The appropriate official of the other state or province
5 certifies that the applicant holds a currently valid license as
6 an insurance agent in such other state or province and either
7 passed such a written examination or was the holder of an
8 insurance agent's license prior to the time a written
9 examination was required;

10 (3) That in such other state or province a resident of this
11 Commonwealth is privileged to procure an insurance agent's
12 license upon the foregoing conditions and without discrimination
13 as to fees otherwise in favor of the residents of such other
14 state or province.

15 (c) No such applicant or licensee shall have a place of
16 business in the Commonwealth, nor be an officer, director,
17 stockholder, or partner in any corporation or partnership doing
18 business in the Commonwealth as a life insurance agency.

19 (d) If the laws of another state or the Province of Canada
20 require the sharing of commissions with resident agents of that
21 state or province on applications for insurance written by
22 nonresident agents, then the same provisions shall apply when
23 resident agents of that state or province, licensed as
24 nonresident agents of Pennsylvania, write applications for
25 insurance on residents of the Commonwealth.] Penalty for
26 Advertising as Agent of Unauthorized Entity.--Any person who
27 represents or advertises himself as the agent of any foreign or
28 alien insurance entity which has not complied with the laws of
29 this Commonwealth commits a misdemeanor of the third degree.

30 Section 8. The act is amended by adding sections to read:

1 Section 609. Penalty for Soliciting for Nonexistent
2 Entity.--Any individual, and the officers, managers, agents,
3 owners or representatives of and any corporation or partnership,
4 offering in this Commonwealth to sell, procure or obtain
5 policies, certificates, agreements, binders or applications for
6 insurance, surety or indemnity, for or on behalf of any
7 spurious, fictitious, nonexistent, dissolved, inactive,
8 liquidated, liquidating or bankrupt insurance entity, society or
9 order, commits a misdemeanor of the third degree.

10 Section 610. Requirements for Nonresidents to Obtain
11 Certificate of Qualification.--(a) The Insurance Department may
12 issue a certificate to a person not a resident of this
13 Commonwealth, upon compliance with the applicable provisions of
14 this article, if the state or the province of the Dominion of
15 Canada of the person's residence accords the same privilege to a
16 resident of this Commonwealth.

17 (b) The Insurance Department may enter into reciprocal
18 agreements with the appropriate official of any such other state
19 or province waiving the written examination of any applicant
20 resident in the other state or province if the following
21 conditions exist:

22 (1) A written examination, with no exemptions not
23 substantially similar to those set forth in section 603(b)(1)
24 and (2), is required of applicants for an insurance agent's
25 certificate or its equivalent in the other state or province.

26 (2) The appropriate official certifies that the applicant
27 holds a currently valid certificate or its equivalent as an
28 insurance agent in the other state or province and either passed
29 a written examination or was the holder of an insurance agent's
30 certificate or its equivalent prior to the time a written

1 examination was required.

2 (3) In the other state or province, a resident of this
3 Commonwealth may obtain an insurance agent's certificate or its
4 equivalent upon the conditions stated in this subsection,
5 without discrimination as to fees or otherwise in favor of the
6 residents of the other state or province.

7 (c) If the law of another state or province of the Dominion
8 of Canada requires the sharing of commissions with resident
9 agents of the state or province on applications for insurance
10 written by nonresident agents, then the same provisions shall
11 apply when resident agents of that state or province authorized
12 as nonresident agents in this Commonwealth write applications
13 for insurance on residents of this Commonwealth.

14 Section 9. Section 621 of the act is amended to read:

15 Section 621. [Insurance Broker Defined.--An insurance broker
16 is a person, copartnership, or corporation, not an officer or
17 agent of the company, association, or exchange interested, who
18 or which, for compensation, acts or aids in any manner in
19 obtaining insurance for a person other than himself or itself.]

20 Definitions and Applicability.--(a) As used in this subarticle
21 and Subarticle C, the term "insurance broker" means a person,
22 not an officer or agent of the entity interested, who, for
23 compensation, acts or aids in any manner in obtaining insurance,
24 other than title insurance, for a person other than himself.

25 (b) This subarticle does not apply to title insurance
26 brokers.

27 Section 10. Section 622 of the act, amended March 28, 1974
28 (P.L.231, No.52) and repealed in part April 28, 1978 (P.L.202,
29 No.53), is amended to read:

30 Section 622. Brokers' Licenses.--[The Insurance Commissioner

1 may issue, to any person of at least eighteen years of age or to
2 any copartnership or corporation, a license to act as an
3 insurance broker to negotiate contracts of insurance or
4 reinsurance, with any insurance company, association, or
5 exchange, or the agents thereof, authorized by law to transact
6 business within this Commonwealth. No license shall be issued to
7 any corporation to act as an insurance broker unless by its
8 charter it is authorized to engage in the business of insurance
9 or real estate. Before any license is issued, the applicant
10 shall make answer, in writing and under oath, to such
11 interrogatories and on such forms and supplements as the
12 Insurance Commissioner shall prepare and submit, which answers
13 shall be vouched for by indorsement of at least two agents or by
14 the officers of any insurance company, association, or exchange,
15 who are acquainted with the applicant, to the effect that the
16 applicant is of good business reputation, and has experience in
17 underwriting, other than soliciting, and is worthy of a license.
18 When the Insurance Commissioner is satisfied that the applicant
19 is worthy of a license, and that he is reasonably familiar with
20 provisions of the insurance laws of this Commonwealth, he shall
21 issue a broker's license to expire annually one year from date
22 of issue, unless sooner revoked by the Insurance Commissioner
23 for cause.] (a) The Insurance Department may issue to any
24 individual or to any partnership or corporation a license to act
25 as an insurance broker to negotiate contracts of insurance or
26 reinsurance with any insurance entity or the appointed agents
27 thereof authorized by law to transact business in this
28 Commonwealth.

29 (b) A license shall not be issued to any partnership or
30 corporation to act as an insurance broker unless by its charter

1 it is authorized to engage in the business of insurance or real
2 estate and unless individual certificates or licenses are also
3 secured for each active partner or officer of such partnership
4 or corporation.

5 (c) No person shall act as an insurance broker without a
6 license.

7 (d) In order to obtain a license to act as a broker a person
8 shall:

9 (1) Be at least eighteen years of age.

10 (2) Have successfully passed an examination required by the
11 Insurance Department demonstrating reasonable familiarity with
12 insurance laws and the business of insurance in general.

13 (3) Complete a verified application on a form approved by
14 the Insurance Department.

15 (4) Pay in full all appropriate fees.

16 (e) The Insurance Department may, upon proper and acceptable
17 application, exempt from the requirement to successfully pass an
18 examination for such appropriate lines of authority for the
19 kinds of insurance business any person who has received the
20 designation of Chartered Life Underwriter (C.L.U.), from the
21 American College of Life Underwriters, the designation of
22 Chartered Property and Casualty Underwriter (C.P.C.U.) from the
23 American Institute for Property and Liability Underwriters, the
24 designation of Certified Insurance Counselor (C.I.C.) from the
25 Society of Certified Insurance Counselors, or any other
26 professional designation approved by the Insurance Commissioner.

27 (f) When the Insurance Department is satisfied that the
28 applicant is worthy of a license and is reasonably familiar with
29 the insurance laws of this Commonwealth and the business of
30 insurance in general, it shall issue a broker's license to

1 expire two years from the date of issue, unless sooner revoked
2 by the Insurance Department for cause.

3 (g) A broker's license shall state that a person is
4 empowered to act as an insurance agent under the laws of the
5 Commonwealth for specified lines of authority. The broker shall
6 display his broker's license in the broker's place of business.

7 (h) Insurance brokers with a valid license to sell, issued
8 after December 31, 1970, shall comply with any continuing
9 education requirements established by the Insurance Department
10 by regulation.

11 Section 11. Section 623 of the act, amended December 3, 1975
12 (P.L.471, No.137), is amended to read:

13 Section 623. [Penalties for Acting as Broker Without a
14 License, and Transacting Business with an Unlicensed Broker.--
15 Any person, copartnership, or corporation transacting business
16 as an insurance broker, within this Commonwealth, or soliciting
17 insurance or transmitting for a partnership, copartnership,
18 association, or corporation, other than himself or itself, an
19 application for a policy of insurance, or offering or assuming
20 to act in the negotiation of such insurance, or in any manner
21 aiding in transacting an insurance business, or negotiating for
22 or placing risks, or delivering policies or collecting premiums
23 for policies which are effective in this State, without a
24 license as broker, or in the case of title insurance without
25 being admitted to practice as an attorney-at-law or being
26 licensed as a real estate broker or real estate agent, unless he
27 or she or it be acting as a licensed agent and then only for the
28 companies he, she or it is duly licensed by this Commonwealth to
29 represent, shall be deemed guilty of a misdemeanor, and, upon
30 conviction thereof, shall pay a fine not exceeding one thousand

1 dollars. Any company, association, or exchange, or the agent of
2 any company, association, or exchange, accepting applications or
3 orders for insurance or securing any insurance business through
4 anyone acting without a license, as aforesaid, shall be guilty
5 of a misdemeanor, and, upon conviction thereof, shall pay a fine
6 not exceeding one thousand dollars. Prosecution for any
7 violation under this section may be instituted by the Insurance
8 Commissioner or a duly designated deputy.] Doing Business with
9 Unlicensed Brokers.--Any entity or the appointed agent of any
10 entity accepting applications or orders for insurance or
11 securing any insurance business through anyone acting without a
12 license commits a misdemeanor of the third degree.

13 Section 12. Section 626 of the act, added June 5, 1947
14 (P.L.456, No.206), is amended to read:

15 Section 626. [Payment of Commissions to Brokers.--Any
16 insurance company, association or exchange, or the agent
17 thereof, may pay money, commission or brokerage, or give or
18 allow anything of value to a duly licensed insurance broker for,
19 or on account of, the solicitation or negotiation of contracts
20 for insurance on property or risks within the Commonwealth.]
21 Payment of Commissions to Brokers.--Any insurance entity or the
22 appointed agent thereof may pay money, commission or brokerage,
23 or give or allow anything of value to a duly licensed broker for
24 the solicitation or negotiation of contracts for insurance on
25 property or risks in this Commonwealth.

26 Section 13. Section 631 of the act is amended to read:

27 Section 631. [Penalty for Acting for Companies, Et Cetera,
28 Failing to Appoint Insurance Commissioner for Service of
29 Process.--Any person, copartnership, or corporation, acting as
30 agent or broker for himself or for others, not having been

1 specially and lawfully licensed so to do, who solicits or
2 procures, or aids in the solicitation or procurement of,
3 policies or certificates of insurance from, or adjusts losses,
4 or in any manner aids in the transaction of any business for,
5 any foreign insurance company, association, or exchange, which
6 has not executed and filed in the office of the Insurance
7 Commissioner a written appointment of the commissioner to be the
8 true and lawful attorney of such company, association, or
9 exchange in and for this State, upon whom all lawful process in
10 any action or proceeding against the company, association, or
11 exchange may be served, is guilty of a misdemeanor, and, upon
12 conviction, shall be sentenced to pay a fine of not less than
13 three hundred dollars and not more than one thousand dollars.]

14 Fraudulent Unlicensed Activity.--A person who without a
15 certificate of qualification performs the duties of an agent as
16 defined in section 601 and any regulations promulgated
17 thereunder, or who without a license performs the duties of a
18 broker as defined in section 621 and any regulations promulgated
19 thereunder, commits a felony of the third degree.

20 Section 14. Section 639 of the act, amended December 30,
21 1974 (P.L.1047, No.343) and repealed in part April 28, 1978
22 (P.L.202, No.53), is amended to read:

23 Section 639. [Revocation, Et Cetera, of License; Penalty.--
24 Upon satisfactory evidence of the violation of any of the
25 provisions of sections six hundred four, six hundred six, six
26 hundred seven, six hundred twenty-three, six hundred thirty-one,
27 six hundred thirty-two, six hundred thirty-three, six hundred
28 thirty-three point one, six hundred thirty-four, six hundred
29 thirty-five, six hundred thirty-six, six hundred thirty-seven,
30 and six hundred thirty-eight of this act, by any agent or

1 solicitor of any insurance company, association, or exchange, or
2 by any insurance broker or excess insurance broker, or upon
3 satisfactory evidence of such conduct as would disqualify such
4 agent or broker or excess broker from initial issuance of a
5 license under sections six hundred three, six hundred twenty-two
6 and six hundred twenty-four, the Insurance Commissioner may, in
7 his discretion, pursue any one or more of the following courses
8 of action regardless of whether such agent, solicitor or broker
9 was licensed or not licensed by the Insurance Commissioner:

10 (1) Suspend or revoke or refuse to renew the license of such
11 offending party or parties;

12 (2) Impose a civil penalty of not more than one thousand
13 dollars for each and every act in violation of any of said
14 sections by said party or parties.

15 Before the Insurance Commissioner shall take any action as
16 above set forth, he shall give written notice to the person,
17 company, association, or exchange, accused of violating the law,
18 stating specifically the nature of such alleged violation and
19 fixing a time and place, at least ten (10) days thereafter, when
20 a hearing of the matter shall be held. After such hearing or
21 upon failure of the accused to appear at such hearing, the
22 Insurance Commissioner shall impose such of the above penalties
23 as he deems advisable.

24 Any agent or solicitor of any insurance company, association,
25 or exchange, or any insurance broker, or any person,
26 copartnership, association, or corporation, violating the
27 provisions of sections six hundred thirty-three point one, six
28 hundred thirty-five, six hundred thirty-six, six hundred thirty-
29 seven, and six hundred thirty-eight of this act, shall be guilty
30 of a misdemeanor, and, upon conviction thereof, shall be

1 sentenced to pay a fine of not more than one thousand dollars
2 (\$1,000.00) for each and every violation, or, at the discretion
3 of the court, to imprisonment in the county jail of the county
4 in which the offense is committed for a period of not more than
5 six months, or both.] Penalties Imposed by Insurance

6 Department.--(a) Upon satisfactory evidence of the violation of
7 sections 602, 605, 606, 608, 609, 622, 631 through 638 by any
8 agent of any insurance entity or by any insurance broker or upon
9 satisfactory evidence of such conduct that would disqualify the
10 agent or broker from initial issuance of a certificate of
11 qualification under section 604 or 622, the department may
12 pursue any one or more of the following courses of action
13 regardless of whether the agent or broker was so authorized by
14 the department:

15 (1) Suspend or revoke or refuse to issue the certificate of
16 qualification or license of the offending party or parties.

17 (2) Impose a civil penalty of not more than one thousand
18 dollars for each act in violation of any of the provisions
19 listed in this subsection.

20 (b) Before the Insurance Commissioner shall take any action
21 as above set forth, he shall give written notice to the entity,
22 accused of violating the law, stating specifically the nature of
23 such alleged violation and fixing a time and place, at least ten
24 days thereafter, when a hearing of the matter shall be held.
25 After such hearing or upon failure of the accused to appear at
26 such hearing, the Insurance Commissioner shall impose such of
27 the above penalties as he deems advisable.

28 (c) Any agent or solicitor of any entity, or any insurance
29 broker, or any person, partnership, association, or corporation,
30 violating the provisions of sections 633.1, 635, 636, 637 and

1 638 of the act, shall be guilty of a misdemeanor, and, upon
2 conviction thereof, shall be sentenced to pay a fine of not more
3 than one thousand dollars for each and every violation, or, at
4 the discretion of the court, to imprisonment in the county jail
5 of the court in which the offense is committed for a period of
6 not more than six months.

7 Section 15. This act shall take effect immediately.