

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 701 Session of 1993

INTRODUCED BY SCANLON, MUSTO, WILLIAMS, AFFLERBACH, SCHWARTZ AND
O'PAKE, MARCH 23, 1993

REFERRED TO BANKING AND INSURANCE, MARCH 23, 1993

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 group policies.

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

16 Section 1. Section 208(e) of the act of May 17, 1921
17 (P.L.789, No.285), known as The Insurance Department Act of one
18 thousand nine hundred and twenty-one, amended or added July 31,
19 1968 (P.L.763, No.239), July 9, 1976 (P.L.912, No.166) and July
20 9, 1992 (P.L.434, No.91), is amended to read:

21 Section 208. Certificates of Authority To Do Business.--* *

22 *

23 (e) The provisions of this section shall not apply to the

1 following:

2 (1) Transactions regulated by the act of January 24, 1966
3 (1965 P.L.1509, No.531), entitled "An act relating to,
4 regulating, taxing, supervising and controlling the placing of
5 insurance on risks located in the Commonwealth of Pennsylvania
6 with insurers not licensed to transact insurance business in
7 Pennsylvania, permitting licensed insurers to afford coverage
8 which may be placed with unlicensed insurers, providing fees and
9 penalties, and repealing certain existing laws."

10 (2) Any life insurance or annuity company organized and
11 operated, without profit to any shareholder or individual,
12 exclusively for the purpose of aiding nonprofit educational or
13 scientific institutions by issuing insurance and annuity
14 contracts only to or for the benefit of such institutions and
15 individuals engaged in the service of such institutions. Any
16 insurance company as described in this clause is required to
17 join the Life and Health Insurance Guaranty Association pursuant
18 to the act of November 26, 1978 (P.L.1188, No.280), known as the
19 "Life and Health Insurance Guaranty Association Act," and to
20 join any successor association pursuant to any similar statute
21 which replaces the "Life and Health Insurance Guaranty
22 Association Act." The assessments for any company so required to
23 join shall be the same as for member insurers, but these
24 assessments shall not apply to annuity considerations. The "Life
25 and Health Insurance Guaranty Association Act" shall not apply
26 to annuity contracts issued by any insurance company as
27 described in this clause.

28 (3) Contracts of reinsurance.

29 (4) Transactions in this Commonwealth which (i) involve a
30 policy lawfully solicited, written and delivered outside of this

1 Commonwealth covering only subjects of insurance not resident,
2 located, or expressly to be performed in this Commonwealth at
3 the time of issuance of such policy, and (ii) are subsequent to
4 the issuance of such policy.

5 (5) (i) Transactions in this Commonwealth, except group
6 credit life or group credit accident and health insurance
7 transactions, involving group [or blanket] accident and health
8 or life insurance policies or group annuity contracts where the
9 group policy [or contract is issued and delivered pursuant to
10 the group or blanket insurance or group annuity laws of a
11 jurisdiction in which the insurer is authorized to do an
12 insurance business and in which the policyholder is domiciled or
13 has its principal place of business or otherwise has a bona fide
14 situs.] is issued to:

15 (A) An out-of-State trustee of a fund where Commonwealth
16 residents shall not at any time comprise twenty-five per centum
17 or more of the total certificate holders, or where Commonwealth
18 residents shall not at any time comprise the largest share of
19 the total certificate holders, whichever is less. This clause
20 shall apply only if the insurer supplies to the Insurance
21 Commissioner certification as to its insured trusts and, for
22 each trust, the percentage of Commonwealth certificate holders
23 or the number of Commonwealth certificate holders compared to
24 the total number of certificate holders. The initial
25 certification shall be supplied no later than the effective date
26 of this act, and thereafter no later than the first day of March
27 of each year. The certification shall be filed along with the
28 annual statement but shall not be made a part thereof.

29 (B) An out-of-State single employer.

30 (C) A trustee of a fund established by any person acting

1 directly as an employer having its principal office located in a
2 state other than this Commonwealth.

3 (D) An association, organized or domiciled in a state other
4 than this Commonwealth, which has a constitution and bylaws, has
5 been organized by other than an insurer, is maintained in good
6 faith for purposes other than that of obtaining insurance, has
7 been in active existence for at least two years, operates from
8 offices other than the insurer's and is controlled by principals
9 other than the insurer's.

10 (E) A union-negotiated out-of-State trust.

11 (F) Other groups as may be determined by the Insurance
12 Commissioner at his discretion.

13 (ii) As used in this clause (5):

14 An "out-of-State single employer" means any person acting
15 directly as an employer and has its principal office located in
16 a state other than this Commonwealth.

17 An "out-of-State trustee" of a fund means a trustee of a fund
18 established by an insurer for or established by two or more
19 persons acting directly as employers in the same industry and
20 the trustee has its principal office located in a state other
21 than this Commonwealth.

22 A "union-negotiated out-of-State trust" means a trust
23 established under a collective bargaining agreement and which is
24 located in a state other than this Commonwealth.

25 [(5.1) Transactions in this Commonwealth, except group
26 credit life or group credit accident and health insurance
27 transactions, involving a group or blanket insurance policy or
28 group annuity contract not exempt under the provisions of clause
29 (5) of this subsection, shall nonetheless be exempt from the
30 provisions of this section if:

1 (i) they involve a group which conforms to one of the
2 definitions of eligibility for group coverage contained in the
3 laws of this Commonwealth; and,

4 (ii) the group policy or contract is lawfully issued without
5 this Commonwealth in a jurisdiction in which the insurer is
6 authorized to do an insurance business.]

7 It shall be the responsibility of the insurer claiming exemption
8 under this subsection to demonstrate compliance with each of the
9 above conditions.

10 (6) (i) Any insurance company or underwriter issuing
11 contracts of insurance to industrial insureds, (ii) industrial
12 insureds, or (iii) contracts of insurance issued to an
13 industrial insured: Provided, That nothing herein shall relieve
14 such industrial insured from the requirement of compliance with
15 the applicable provisions of the act of January 24, 1966 (1965
16 P.L.1509, No.531), referred to above. For purposes of this
17 section, an "industrial insured" is an insured (i) who procures
18 the insurance of any risk or risks by use of the services of a
19 full-time employe acting as an insurance manager or buyer or the
20 services of a regularly and continuously retained qualified
21 insurance consultant, (ii) whose aggregate annual premiums for
22 insurance on all risks total at least twenty-five thousand
23 dollars (\$25,000), and (iii) who has at least twenty-five full-
24 time employes.

25 (7) Transactions in this Commonwealth involving a policy of
26 insurance issued prior to the effective date of this act.

27 (8) Insurance on the property and operation of railroads or
28 aircraft engaged in interstate or foreign commerce, insurance of
29 vessels, crafts or hulls, cargoes, marine builder's risks,
30 marine protection and indemnity, lessees and charterers'

- 1 liability, or other risks including strikes and war risks
- 2 commonly insured under ocean or wet marine forms of policies.
- 3 Section 2. This act shall take effect in 90 days.