

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 701** Session of
1993

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

SENATOR SCANLON, BANKING AND INSURANCE, AS AMENDED,
APRIL 27, 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 *

1 (e) The provisions of this section shall not apply to the
2 following:

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

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

29 (3) Contracts of reinsurance.

30 (4) Transactions in this Commonwealth which (i) involve a

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

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

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

30 (A) AN OUT-OF-STATE TRUSTEE OF A FUND IN ANOTHER STATE, AN <—

1 ORGANIZATION IN ANOTHER STATE OR A TRUST OR TRUSTEE OF A TRUST
2 ESTABLISHED OR PARTICIPATED IN BY ONE OR MORE ORGANIZATIONS IN
3 ANOTHER STATE, IN WHICH (STATE) THE INSURANCE SUPERVISORY
4 OFFICIAL OR AGENCY OF THAT STATE HAS DETERMINED THAT: THE
5 ISSUANCE OF THE GROUP POLICY OR CERTIFICATE IS NOT CONTRARY TO
6 THE BEST INTERESTS OF THE GENERAL PUBLIC; THE ISSUANCE OF THE
7 GROUP POLICY OR CERTIFICATE WOULD RESULT IN ECONOMIES OF
8 ACQUISITION OR ADMINISTRATION; THE BENEFITS ARE REASONABLE IN
9 RELATION TO THE PREMIUM CHARGED; AND, FOR GROUP ACCIDENT AND
10 HEALTH INSURANCE, THE COVERAGE IS IN COMPLIANCE WITH ANY
11 MANDATED BENEFIT ACT SPECIFICALLY PROVIDING FOR COVERAGE ON
12 RESIDENTS OF THIS COMMONWEALTH REGARDLESS OF WHETHER THE GROUP
13 POLICY IS USED WITHIN OR OUTSIDE THIS COMMONWEALTH.

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

15 (C) A trustee of a fund established by any person acting
16 directly as an employer having its principal office located in a
17 state other than this Commonwealth.

18 (D) An association, ~~organized or domiciled in a state other~~ <—
19 ~~than this Commonwealth, which has a constitution and bylaws, has~~
20 ~~been~~ OR A TRUST OR TRUSTEE OF A TRUST ESTABLISHED OR <—

21 PARTICIPATED IN BY ONE OR MORE ASSOCIATIONS TO INSURE
22 ASSOCIATION MEMBERS, SPOUSES OR DEPENDENTS OF MEMBERS: PROVIDED,
23 HOWEVER, THAT THE ASSOCIATION MUST BE ORGANIZED OR DOMICILED IN
24 A STATE OTHER THAN THIS COMMONWEALTH, HAVE A CONSTITUTION AND
25 BYLAWS, BE organized by other than an insurer, ~~is~~ BE maintained <—
26 in good faith for purposes other than that of obtaining
27 insurance, ~~has~~ HAVE been in active existence for at least two <—
28 years, ~~operates~~ OPERATE from offices other than the insurer's <—
29 and ~~is~~ BE controlled by principals other than the insurer's. <—

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

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

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

4 AN "ORGANIZATION" MEANS ANY OF THE FOLLOWING: <—

5 (A) ANY BANK, RETAILER OR OTHER ISSUER WHICH:

6 (I) ISSUES A CREDIT CARD, CHARGE CARD OR PAYMENT CARD FOR
7 THE PURCHASE OF GOODS OR SERVICES; AND

8 (II) IS ISSUED A POLICY INSURING HOLDERS OF THE CARD.

9 (B) ANY BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION,
10 MUTUAL FUND, MONEY MARKET FUND, STOCK BROKER OR OTHER SIMILAR
11 FINANCIAL INSTITUTION WHICH:

12 (I) IS REGULATED BY FEDERAL OR STATE LAW; AND

13 (II) IS ISSUED A POLICY INSURING ITS DEPOSITORS, ACCOUNT
14 HOLDERS OR MEMBERS.

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

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

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

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

1 provisions of this section if:

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

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

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

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

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

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

1 marine protection and indemnity, lessees and charterers'
2 liability, or other risks including strikes and war risks
3 commonly insured under ocean or wet marine forms of policies.

4 Section 2. This act shall take effect in 90 days.