

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1055 Session of
1997

INTRODUCED BY MICOZZIE, SATHER, COLAIZZO, MELIO, COLAFELLA,
NICKOL, GODSHALL, BAKER, SEMMEL, BATTISTO, ITKIN, YOUNGBLOOD,
SERAFINI, RAMOS AND JAMES, MARCH 25, 1997

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 9, 1997

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," providing
13 for risk-based capital requirements; FURTHER PROVIDING FOR
14 AGENTS AND BROKERS DEFINITIONS, SOLICITATION PENALTIES, <—
15 LICENSES, COMPENSATION PENALTIES AND REBATES AND INDUCEMENTS;
16 PROVIDING FOR AGENTS AND BROKERS DISCLOSURES; FURTHER
17 PROVIDING FOR GENERAL PENALTIES AND FOR INSTITUTIONAL AGENTS
18 AND BROKERS; AND PROVIDING FOR INSURANCE SALES BY FINANCIAL
19 INSTITUTIONS.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. The act of May 17, 1921 (P.L.789, No.285), known
23 as The Insurance Department Act of 1921, is amended by adding an
24 article to read:

25 ARTICLE V-A

1 RISK-BASED CAPITAL REQUIREMENTS

2 Section 501-A. Definitions.

3 The following words and phrases when used in this article
4 shall have, unless the context clearly indicates otherwise, the
5 meanings given to them in this section.

6 "Adjusted RBC report" means an RBC report that has been
7 recalculated by the Insurance Commissioner in accordance with
8 section 502-A(c).

9 "Authorized control level event" means one or more of the
10 following events:

11 (1) The filing of an RBC report by the insurer which
12 indicates that the insurer's total adjusted capital is greater
13 than or equal to its mandatory control level RBC but less than
14 its authorized control level RBC.

15 (2) The notification by the Insurance Commissioner to the
16 insurer of an adjusted RBC report that indicates the event in
17 paragraph (1).

18 (3) The failure of the insurer to respond, in a manner
19 satisfactory to the Insurance Commissioner, to a corrective
20 order, provided the insurer has not challenged the corrective
21 order under section 510-A.

22 (4) If the insurer has challenged a corrective order under
23 section 510-A and the Insurance Commissioner has, after a
24 hearing, rejected the challenge or modified the corrective
25 order, the failure of the insurer to respond, in a manner
26 satisfactory to the Insurance Commissioner, to the corrective
27 order subsequent to rejection or modification by the Insurance
28 Commissioner.

29 "Commissioner" means the Insurance Commissioner of the
30 Commonwealth.

"Company action level event" means one or more of the following events:

(1) The filing of an RBC report by an insurer that indicates that:

(i) the insurer's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC; or

(ii) if a life or health insurer, the insurer has total adjusted capital that is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 2.5 and has a negative trend.

(2) The notification by the Insurance Commissioner to the insurer of an adjusted RBC report that indicates an event in paragraph (1).

"Corrective order" means an order issued by the Insurance Commissioner specifying corrective actions that the Insurance Commissioner has determined are required under section 507-A(b).

"Department" means the Insurance Department of the Commonwealth.

"Domestic insurer" means an insurer that is incorporated or organized under the laws of this Commonwealth.

"Foreign insurer" means an insurer that is licensed by the Insurance Department to do business in this Commonwealth and incorporated or organized under the laws of a jurisdiction other than this Commonwealth.

"Insurer" means life or health insurers and property or casualty insurers.

"Life or health insurer" means a stock or mutual insurance company, association or exchange licensed by the Insurance Department to transact life or accident and health insurance

1 coverages or both.

2 "Mandatory control level event" means one or more of the
3 following events:

4 (1) The filing of an RBC report which indicates that the
5 insurer's total adjusted capital is less than its mandatory
6 control level RBC.

7 (2) Notification by the insurance commissioner to the
8 insurer of an adjusted RBC report that indicates the event in
9 paragraph (1).

10 "NAIC" means the National Association of Insurance
11 Commissioners or successor organization.

12 "Negative trend" means, with respect to a life or health
13 insurer, a decrease over a period of time, as determined in
14 accordance with the Trend Test Calculation included in the RBC
15 instructions.

16 "Property or casualty insurer" means a stock or mutual
17 insurance company, association or exchange licensed by the
18 Insurance Department to transact property or casualty insurance
19 coverages or both.

20 "RBC" means risk-based capital.

21 "RBC instructions" means the RBC report, including RBC
22 instructions and formula adopted by the NAIC as required by the
23 Insurance Commissioner under section 320(a)(2) of the act of May
24 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law
25 of 1921."

26 "RBC level" means an insurer's company action level RBC,
27 regulatory action level RBC, authorized control level RBC or
28 mandatory control level RBC where:

29 (1) "Company action level RBC" means the product of 2.0 and
30 the authorized control level RBC.

1 (2) "Regulatory action level RBC" means the product of 1.5
2 and the authorized control level RBC.

3 (3) "Authorized control level RBC" means the amount of an
4 insurer's authorized control level RBC calculated under the RBC
5 formula in accordance with the RBC instructions.

6 (4) "Mandatory control level RBC" means the product of .70
7 and the authorized control level RBC.

8 "RBC plan" means a comprehensive financial plan containing
9 the elements specified in section 506-A(a).

10 "RBC report" means the report required under sections 502-A
11 and 503-A of this article.

12 "Regulatory action level event" means one or more of the
13 following events:

14 (1) The filing of an RBC report by the insurer that
15 indicates that the insurer's total adjusted capital is greater
16 than or equal to its authorized control level RBC but less than
17 its regulatory action level RBC.

18 (2) The notification by the Insurance Commissioner to an
19 insurer of an adjusted RBC report that indicates the event in
20 paragraph (1).

21 (3) The failure of the insurer to file an RBC report by the
22 date required under this article unless the insurer has provided
23 an explanation for the failure that is satisfactory to the
24 Insurance Commissioner and has cured the failure within ten days
25 after the date the report is required to be filed under this
26 article.

27 (4) The failure of the insurer to submit an RBC plan or
28 revised RBC plan to the Insurance Commissioner within the time
29 period set forth in section 506-A(b) and (d).

30 (5) Notification by the Insurance Commissioner to the

1 insurer that:

2 (i) the RBC plan or revised RBC plan submitted by the
3 insurer is in the judgment of the Insurance Commissioner
4 unsatisfactory; and

5 (ii) the notification constitutes a regulatory action level
6 event with respect to the insurer.

7 (6) Notification by the Insurance Commissioner to the
8 insurer that the insurer has failed to adhere to its RBC plan or
9 revised RBC plan, but only if the failure has a substantial
10 adverse effect on the ability of the insurer to eliminate the
11 company action level event in accordance with its RBC plan or
12 revised RBC plan and the Insurance Commissioner has so stated in
13 the notification.

14 "Revised RBC plan" means an RBC plan that has been rejected
15 by the Insurance Commissioner and revised by the insurer, with
16 or without the Insurance Commissioner's recommendation.

17 "Total adjusted capital" means the sum of:

18 (1) an insurer's statutory capital and surplus as determined
19 in accordance with the statutory accounting applicable to its
20 annual financial statements filed with the Insurance Department;
21 and

22 (2) other items as the RBC instructions may provide.

23 Section 502-A. RBC Reports Required; Domestic Insurers.--(a)
24 Every domestic insurer shall, on or prior to each March 1,
25 prepare and submit to the commissioner and to the NAIC a report
26 of its RBC levels as of the end of the calendar year just ended,
27 in a form and containing the information required by the RBC
28 instructions.

29 (b) In addition, every domestic insurer shall file its RBC
30 report with the chief insurance regulatory official in any

1 jurisdiction in which the insurer is authorized to do business,
2 if the chief insurance regulatory official of the jurisdiction
3 has notified the insurer of its request in writing, in which
4 case the insurer shall file its RBC report not later than the
5 later of:

6 (1) the date instructed by the chief insurance regulatory
7 official of the jurisdiction requesting the filing; or

8 (2) March 1 of the year following the end of the calendar
9 year for which the report is requested.

10 (c) If a domestic insurer files an RBC report that, in the
11 judgment of the commissioner, is inaccurate, the commissioner
12 shall recalculate the RBC report to correct the inaccuracy and
13 shall notify the insurer of the amount of the recalculation. The
14 notice shall contain a statement of the reason for the
15 recalculation. If, within thirty days after the notification
16 from the commissioner, the insurer fails to prepare and submit
17 to the commissioner and to the NAIC an adjusted RBC report to
18 correct the inaccuracy in accordance with the commissioner's
19 notification, the commissioner may enter an order calling for an
20 investigatory hearing with no less than twenty days' notice to
21 the insurer for purposes of obtaining additional documentation,
22 data, information and testimony. Following the hearing, the
23 commissioner shall issue a final order accepting the RBC report
24 as filed or the adjusted RBC report as initially recalculated or
25 with other corrections.

26 Section 503-A. RBC Requirements; Foreign Insurers.--(a) A
27 foreign insurer shall, upon the written request of the
28 commissioner, submit to the commissioner an RBC report as of the
29 end of the calendar year just ended no later than the later of:

30 (1) the date an RBC report would be required to be filed by

1 a domestic insurer under this article; or

2 (2) fifteen days after the request is received by the
3 foreign insurer.

4 (b) A foreign insurer shall, upon the written request of the
5 commissioner, submit to the commissioner a copy of an RBC plan
6 that is filed with the chief insurance regulatory official of
7 any other jurisdiction, within fifteen days after receiving the
8 request from the commissioner.

9 (c) In the event of a company action level event, regulatory
10 action level event or authorized control level event with
11 respect to a foreign insurer as determined under the RBC statute
12 applicable in the jurisdiction of domicile of the insurer, or,
13 if no RBC statute is in force in that jurisdiction, under the
14 provisions of this article, if the chief insurance regulatory
15 official of the jurisdiction of domicile of the foreign insurer
16 fails to require the foreign insurer to file an RBC plan in the
17 manner specified under that state's RBC statute, or if no RBC
18 statute is in force in that jurisdiction, under this article,
19 the commissioner may require the foreign insurer to file an RBC
20 plan with the commissioner. The failure of the foreign insurer
21 to file an RBC plan with the commissioner under this section
22 shall be grounds to order the insurer to cease and desist from
23 writing new insurance business in this Commonwealth. The
24 commissioner shall give written notice to the foreign insurer,
25 stating specifically the nature of the grounds for the order and
26 fixing a time and place, at least ten days thereafter, when a
27 hearing before the commissioner regarding the matter shall be
28 held.

29 (d) In the event of a mandatory control level event with
30 respect to a foreign insurer, if no domiciliary receiver has

1 been appointed with respect to the foreign insurer under the
2 rehabilitation and liquidation statute applicable in the
3 jurisdiction of domicile of the foreign insurer, the
4 commissioner may make application to the Commonwealth Court
5 under sections 553 and 554, and the occurrence of the mandatory
6 control level event shall be considered adequate grounds for the
7 application under sections 553(a) and 554(a).

8 Section 504-A. Calculation of RBC Relating to Life or Health
9 Insurers.--(a) A life or health insurer's RBC shall be
10 determined in accordance with the formula set forth in the RBC
11 instructions.

12 (b) The formula shall take into account and may adjust for
13 the covariance between the following risks determined in each
14 case by applying the factors in the manner set forth in the RBC
15 instructions:

16 (1) The risk with respect to the insurer's assets.

17 (2) The risk of adverse insurance experience with respect to
18 the insurer's liabilities and obligations.

19 (3) The interest rate risk with respect to the insurer's
20 business.

21 (4) All other business risks and other relevant risks as set
22 forth in the RBC instructions.

23 Section 505-A. Calculation of RBC Relating to Property or
24 Casualty Insurers.--(a) A property or casualty insurer's RBC
25 shall be determined in accordance with the formula set forth in
26 the RBC instructions.

27 (b) The formula shall take into account and may adjust for
28 the covariance between the following risks determined in each
29 case by applying the factors in the manner set forth in the RBC
30 instructions:

1 (1) Asset risk.

2 (2) Credit risk.

3 (3) Underwriting risk.

4 (4) All other business risks and other relevant risks as are
5 set forth in the RBC instructions.

6 Section 506-A. Company Action Level Event.--(a) In the
7 event of a company action level event, the insurer shall prepare
8 and submit to the commissioner an RBC plan that shall include,
9 at a minimum, all of the following:

10 (1) Identification of the conditions that contribute to the
11 company action level event.

12 (2) Proposals of corrective actions that the insurer intends
13 to take and that would be expected to result in the elimination
14 of the company action level event.

15 (3) Projections of the insurer's financial results for the
16 current year and at least the four succeeding years, both in the
17 absence of proposed corrective actions and giving effect to the
18 proposed corrective actions, including projections of statutory
19 operating income, net income, capital and surplus. Projections
20 for both new and renewal business may include separate
21 projections for each major line of business and separately
22 identify each significant income, expense and benefit component.

23 (4) Identification of the key assumptions impacting the
24 insurer's projections and the sensitivity of the projections to
25 the assumptions.

26 (5) Identification of the quality of and problems associated
27 with the insurer's business, including, but not limited to, its
28 assets, anticipated business growth and associated surplus
29 strain, extraordinary exposure to risk, mix of business and use
30 of reinsurance, if any, in each case.

1 (b) The RBC plan required under this section shall be
2 submitted within forty-five days after the occurrence of the
3 company action level event.

4 (c) Within sixty days after the submission by an insurer of
5 an RBC plan to the commissioner, the commissioner shall notify
6 the insurer whether the RBC plan shall be implemented or whether
7 the RBC plan is, in the judgment of the commissioner,
8 unsatisfactory. If the commissioner determines the RBC plan is
9 unsatisfactory, the notification to the insurer shall set forth
10 the reasons for the determination and may set forth proposed
11 revisions that will render the RBC plan satisfactory in the
12 judgment of the commissioner.

13 (d) Upon notification from the commissioner of a
14 determination that the RBC plan is unsatisfactory, the insurer
15 shall prepare a revised RBC plan, which may incorporate by
16 reference any revisions proposed by the commissioner and, unless
17 the commissioner has taken action under subsection (e), shall
18 submit the revised RBC plan to the commissioner within forty-
19 five days after the notification from the commissioner.

20 (e) In the event of a notification by the commissioner to an
21 insurer that the insurer's RBC plan or revised RBC plan is
22 unsatisfactory, the commissioner may specify in the notification
23 that the notification constitutes a regulatory action level
24 event or take action as necessary to place the insurer under
25 regulatory control under Article V.

26 (f) Every domestic insurer that files an RBC plan or revised
27 RBC plan with the commissioner shall file a copy of the RBC plan
28 or revised RBC plan with the chief insurance regulatory official
29 in any jurisdiction in which the insurer is authorized to do
30 business if:

1 (1) The jurisdiction has an RBC provision substantially
2 similar to section 512-A(a) and (b).

3 (2) The chief insurance regulatory official of that
4 jurisdiction has notified the insurer of his request for the
5 filing in writing, in which case the insurer shall file a copy
6 of the RBC plan or revised RBC plan in that jurisdiction no
7 later than the later of:

8 (i) fifteen days after the receipt of notice to file a copy
9 of its RBC plan or revised RBC plan with the jurisdiction; or

10 (ii) the date on which the RBC plan or revised RBC plan is
11 filed under this section.

12 Section 507-A. Regulatory Action Level Event.--(a) In the
13 event of a regulatory action level event, the commissioner:

14 (1) may require the insurer to prepare and submit an RBC
15 plan or, if applicable, a revised RBC plan;

16 (2) shall perform an examination under Article IX or
17 analysis as the commissioner deems necessary of the assets,
18 liabilities and operations of the insurer, including, if
19 applicable, a review of its RBC plan or revised RBC plan; and

20 (3) subsequent to an examination or analysis performed under
21 paragraph (2), shall issue an order specifying corrective
22 actions as the commissioner shall determine are required.

23 (b) In determining corrective actions, the commissioner may
24 take into account factors as the commissioner deems relevant
25 with respect to the insurer based upon the commissioner's
26 examination or analysis of the assets, liabilities and
27 operations of the insurer, including, but not limited to, the
28 results of any sensitivity tests undertaken pursuant to the RBC
29 instructions.

30 (c) The RBC plan or revised RBC plan required under this

section shall be submitted within forty-five days after the occurrence of the regulatory action level event.

(d) The commissioner may retain actuaries, investment experts, attorneys, appraisers, certified public accountants and other professionals and specialists as may be necessary in the judgment of the commissioner to review the insurer's RBC plan or revised RBC plan, examine or analyze the assets, liabilities and operations of the insurer and formulate the corrective order with respect to the insurer. The fees, costs and expenses relating to professionals and specialists retained under this section shall be charged to and paid by the affected insurer or other party as directed by the commissioner.

Section 508-A. Authorized Control Level Event.--In the event of an authorized control level event with respect to an insurer, the commissioner shall:

(1) Take such actions as are required under section 507-A regarding an insurer with respect to which a regulatory action level event has occurred.

(2) If the commissioner deems it to be in the best interests of the policyholders and creditors of the insurer and of the public, take actions necessary to cause the insurer to be placed under regulatory control under Article V. In the event the commissioner takes action under Article V, the authorized control level event shall be deemed sufficient grounds for the commissioner to take that action.

Section 509-A. Mandatory Control Level Event.--In the event of a mandatory control level event:

(1) With respect to a life or health insurer, the commissioner shall take actions necessary to place the insurer under regulatory control under sections 512 through 563. The

mandatory control level event shall be deemed sufficient grounds for the commissioner to take action under section 514; however, the commissioner may forego action for up to ninety days after the mandatory control level event if the commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety-day period.

(2) With respect to a property or casualty insurer, the commissioner shall take actions necessary to place the insurer under regulatory control under sections 512 through 563 or, in the case of an insurer that is writing no business, may allow the insurer to run off its existing business under the supervision of the commissioner. In either event, the mandatory control level event shall be deemed sufficient grounds for the commissioner to take action under section 514; however, the commissioner may forego action for up to ninety days after the mandatory control level event if the commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety-day period.

Section 510-A. Hearings.--(a) The insurer shall have the right to a confidential departmental hearing at which the insurer may challenge a determination or action by the commissioner upon one or more of the following events:

(1) Issuance of a final order by the commissioner accepting an adjusted RBC report under section 502-A(c).

(2) Notification to an insurer by the commissioner of a corrective order with respect to the insurer.

(b) The insurer shall notify the commissioner of the insurer's request for a hearing under this section within five days after the action or notification by the commissioner under subsection (a). Upon receipt of the insurer's request for a

1 hearing, the commissioner shall set a date for the hearing,
2 which date shall be no less than ten days nor more than thirty
3 days after the date of the insurer's request.

4 Section 511-A. Notices.--(a) Notices by the commissioner to
5 an insurer which may result in regulatory action under this
6 article shall be effective upon dispatch if transmitted by
7 certified mail or any other form of delivery that insures
8 signature upon receipt.

9 (b) Notices by the commissioner to an insurer transmitted by
10 a form of delivery other than that provided in subsection (a)
11 shall be effective upon the insurer's receipt of the notice.

12 Section 512-A. Confidentiality; Prohibition on
13 Announcements; Prohibition on Use in Ratemaking.--(a) RBC
14 reports, to the extent the information therein is not required
15 to be set forth in a publicly available annual statement
16 schedule, and RBC plans, including the results or report of any
17 examination or analysis of an insurer performed under this
18 article, and any corrective order issued by the commissioner
19 pursuant to examination or analysis with respect to a domestic
20 insurer or foreign insurer that are filed with the commissioner
21 constitute information that may be damaging to the insurer if
22 made available to its competitors and, therefore, shall be kept
23 confidential by the commissioner.

24 (b) Information described in subsection (a) shall be given
25 confidential treatment, may not be subject to subpoena by any
26 Federal, state or other jurisdiction and may not be made public
27 by the commissioner or any other person, except to insurance or
28 other regulatory officials of this or other jurisdictions,
29 without the prior written consent of the insurer to which the
30 information pertains, unless the commissioner determines to make

1 the information public for purposes of actions taken by the
2 commissioner under Article V.

3 (c) The comparison of an insurer's total adjusted capital to
4 any of its RBC levels is a regulatory tool that may indicate the
5 need for possible corrective action with respect to the insurer
6 and is not intended as a means to rank insurers generally.

7 Therefore, except as otherwise required under the provisions of
8 this article, the making, publishing, disseminating, circulating
9 or placing before the public or causing, directly or indirectly,
10 to be made, published, disseminated, circulated or placed before
11 the public in a newspaper, magazine or other publication or in
12 the form of a notice, circular, pamphlet, letter or poster or
13 over a radio or television station, or in any other way, an
14 advertisement, announcement or statement containing an
15 assertion, representation or statement with regard to the RBC
16 levels of an insurer or of a component derived in the
17 calculation, by an insurer, agent, broker or other person would
18 be misleading and is prohibited, provided, however, that if a
19 materially false statement with respect to the comparison
20 regarding an insurer's total adjusted capital to its RBC levels
21 or an inappropriate comparison of any other amount to the
22 insurer's RBC levels is published in a written publication and
23 the insurer is able to demonstrate to the commissioner with
24 substantial proof the falsity or inappropriateness of the
25 statement, the insurer may publish an announcement in a written
26 publication if the sole purpose of the announcement is to rebut
27 the materially false or inappropriate statement.

28 (d) The RBC instructions, RBC reports, adjusted RBC reports,
29 RBC plans and revised RBC plans are intended solely for use by
30 the commissioner in monitoring the solvency of insurers and the

need for possible corrective action with respect to insurers and shall not be used by the commissioner for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or any affiliate is authorized to write.

Section 513-A. Exemptions.--(a) The following insurers are exempt from this article:

(1) Monoline mortgage guaranty insurers.

(2) Financial guaranty insurers.

(3) Title insurers.

(b) A domestic property or casualty insurer that meets all of the following conditions is exempt from this article unless the commissioner makes a specific finding that application of this article to the insurer is necessary for the commissioner to carry out statutory responsibilities:

(1) Writes direct business only in this Commonwealth.

(2) Writes direct annual premiums of ten million dollars (\$10,000,000) or less or such higher amount as the commissioner may order in five-year intervals as necessary to reflect the impact of inflationary factors.

(3) Assumes no reinsurance in excess of five per centum of direct premium written except for assumed reinsurance of business directly written in this Commonwealth if the assuming insurer's total annual net written premium, direct plus assumed minus ceded, is ten million dollars (\$10,000,000) or less.

Section 514-A. Supplemental Provisions; Rules.--(a) The provisions of this article are supplemental to any other provisions of the laws of this Commonwealth and shall not

preclude or limit any other powers or duties of the commissioner under those laws, including, but not limited to, Article V and 31 Pa. Code Ch. 160 (relating to standards to define insurers deemed to be in hazardous financial condition).

(b) The commissioner may adopt regulations necessary for the implementation of this article.

Section 515-A. Additional Penalties.--An insurer that fails to file an RBC report or adjusted RBC report within the time required under this article shall, in addition to any other penalties provided by law, forfeit a sum not to exceed two hundred dollars (\$200) for each day during which the insurer fails to file.

~~Section 2. This act shall take effect immediately.~~ <—

SECTION 2. THE DEFINITION OF "PERSON" IN SECTION 601 OF THE ACT, AMENDED JUNE 11, 1992 (P.L.284, NO.48), IS AMENDED AND THE SECTION IS AMENDED BY ADDING DEFINITIONS TO READ: <—

SECTION 601. CERTAIN WORDS DEFINED.--* * *

THE TERM "CUSTOMER INFORMATION," AS USED IN THIS ARTICLE, MEANS INDIVIDUALLY IDENTIFIABLE INSURANCE-RELATED INFORMATION REGARDING A PERSON THAT HAS BEEN DERIVED FROM A RECORD OF A FINANCIAL INSTITUTION RELATED TO ITS LENDING ACTIVITIES. SUCH INFORMATION SHALL BE LIMITED TO INFORMATION CONCERNING THE TERMS AND CONDITIONS OF INSURANCE COVERAGE, INSURANCE EXPIRATIONS, INSURANCE CLAIMS OR INSURANCE HISTORY OF AN INDIVIDUAL. THE TERM DOES NOT INCLUDE CUSTOMER NAMES, ADDRESSES OR TELEPHONE NUMBERS.

* * *

THE TERM "FINANCIAL INSTITUTION," AS USED IN THIS ARTICLE, MEANS ANY FEDERAL OR STATE-CHARTERED BANK, BANK AND TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, TRUST COMPANY OR CREDIT UNION.

1 THE TERM "INSURER," AS USED IN THIS ARTICLE, MEANS ANY
2 INSURANCE COMPANY, ASSOCIATION, EXCHANGE, HEALTH MAINTENANCE
3 ORGANIZATION, PREFERRED PROVIDER ORGANIZATION AND PROFESSIONAL
4 HEALTH PLAN CORPORATION.

5 * * *

6 THE TERM "PERSON," AS USED IN THIS ARTICLE, MEANS ANY
7 INDIVIDUAL, CORPORATION, ASSOCIATION, PARTNERSHIP, RECIPROCAL
8 EXCHANGE, INTER-INSURER, LLOYDS INSURER, FINANCIAL INSTITUTION,
9 FRATERNAL BENEFIT SOCIETY, BENEFICIAL ASSOCIATION AND ANY OTHER
10 LEGAL ENTITY ENGAGED IN THE BUSINESS OF INSURANCE, INCLUDING
11 AGENTS, BROKERS AND ADJUSTERS AND ALSO MEANS HEALTH CARE PLANS
12 AS DEFINED IN 40 PA.C.S. CHS. 61 (RELATING TO HOSPITAL PLAN
13 CORPORATIONS), 63 (RELATING TO PROFESSIONAL HEALTH SERVICES PLAN
14 CORPORATIONS), 65 (RELATING TO FRATERNAL BENEFIT SOCIETIES) AND
15 67 (RELATING TO BENEFICIAL SOCIETIES) AND THE ACT OF DECEMBER
16 29, 1972 (P.L.1701, NO.364), KNOWN AS THE "HEALTH MAINTENANCE
17 ORGANIZATION ACT." FOR PURPOSES OF THIS ARTICLE, HEALTH CARE
18 PLANS, FRATERNAL BENEFIT SOCIETIES AND BENEFICIAL SOCIETIES
19 SHALL BE DEEMED TO BE ENGAGED IN THE BUSINESS OF INSURANCE.

20 SECTION 3. SECTIONS 609 AND 622(A) OF THE ACT, AMENDED OR
21 ADDED JUNE 11, 1992 (P.L.284, NO.48), ARE AMENDED TO READ:

22 SECTION 609. PENALTY FOR SOLICITING FOR NONEXISTENT
23 ENTITY.--ANY INDIVIDUAL, AND THE OFFICERS, MANAGERS, AGENTS,
24 OWNERS OR REPRESENTATIVES OF AND ANY CORPORATION [OR],
25 PARTNERSHIP OR FINANCIAL INSTITUTION, OFFERING IN THIS
26 COMMONWEALTH TO SELL, PROCURE OR OBTAIN POLICIES, CERTIFICATES,
27 AGREEMENTS, BINDERS OR APPLICATIONS FOR INSURANCE, SURETY OR
28 INDEMNITY FOR OR ON BEHALF OF ANY SPURIOUS, FICTITIOUS,
29 NONEXISTENT, DISSOLVED, INACTIVE, LIQUIDATED, LIQUIDATING OR
30 BANKRUPT INSURANCE ENTITY, SOCIETY OR ORDER COMMITS A

1 MISDEMEANOR OF THE THIRD DEGREE.

2 SECTION 622. BROKERS' LICENSES.--(A) THE INSURANCE
3 DEPARTMENT MAY ISSUE TO ANY INDIVIDUAL OR TO ANY PARTNERSHIP
4 [OR], CORPORATION OR FINANCIAL INSTITUTION A LICENSE TO ACT AS
5 AN INSURANCE BROKER TO NEGOTIATE CONTRACTS OF INSURANCE OR
6 REINSURANCE WITH ANY INSURANCE ENTITY OR THE APPOINTED AGENTS
7 THEREOF AUTHORIZED BY LAW TO TRANSACT BUSINESS IN THIS
8 COMMONWEALTH.

9 * * *

10 SECTION 4. SECTION 634 OF THE ACT, AMENDED DECEMBER 30, 1974
11 (P.L.1047, NO.343), IS AMENDED TO READ:

12 SECTION 634. PENALTIES FOR PAYING OR RECEIVING COMMISSION OR
13 COMPENSATION FOR INSURING LIVES OF ATTORNEYS, PARTNERS, CLERKS,
14 SERVANTS, OR EMPLOYES.--(A) IT SHALL BE UNLAWFUL FOR ANY
15 PERSON, COPARTNERSHIP, CORPORATION, FINANCIAL INSTITUTION,
16 INSURANCE AGENT, BROKER, SOLICITOR, OR REPRESENTATIVE TO PAY OR
17 CAUSE TO BE PAID ANY COMMISSION OR COMPENSATION WHATSOEVER TO
18 ANY ATTORNEY, PARTNER, CLERK, SERVANT, EMPLOYEE, OR ANY OTHER
19 PERSON, HOWSOEVER HIRED OR EMPLOYED BY OR WITH ANY INSURED OR
20 ANY BENEFICIARY NAMED IN ANY POLICY OF LIFE INSURANCE. IT SHALL
21 BE UNLAWFUL FOR ANY ATTORNEY, PARTNER, CLERK, SERVANT, EMPLOYEE,
22 OR ANY OTHER PERSON, HOWSOEVER HIRED OR EMPLOYED BY OR WITH ANY
23 INSURED OR ANY BENEFICIARY NAMED IN ANY POLICY OF LIFE
24 INSURANCE, TO RECEIVE, DIRECTLY OR INDIRECTLY, ANY COMMISSION,
25 COMPENSATION, OR OTHER BENEFIT BECAUSE OR BY REASON OF ANY SUCH
26 LIFE INSURANCE BEING PLACED, SOLD, OR SOLICITED ON THE LIFE OR
27 FOR THE BENEFIT OF THEIR RESPECTIVE CLIENTS, EMPLOYERS, OR
28 MASTERS, OR ANY OF THEM. IT SHALL BE UNLAWFUL FOR ANY ATTORNEY,
29 OFFICER, CLERK, SERVANT, OR EMPLOYEE OF ANY CORPORATION,
30 PARTNERSHIP, ASSOCIATION, FINANCIAL INSTITUTION, OR INDIVIDUAL

1 TO RECEIVE, DIRECTLY OR INDIRECTLY, ANY COMMISSION,
2 COMPENSATION, OR BENEFIT BECAUSE OR BY REASON OF ANY LIFE
3 INSURANCE BEING PLACED, SOLD, OR SOLICITED ON THE LIFE OR FOR
4 THE BENEFIT OF ANY ATTORNEY, OFFICER, CLERK, SERVANT, OR EMPLOYE
5 OF THE SAME CORPORATION, COPARTNERSHIP, ASSOCIATION, FINANCIAL
6 INSTITUTION, OR INDIVIDUAL, WHETHER OR NOT ANY SUCH ATTORNEY,
7 PARTNER, OFFICER, CLERK, SERVANT, OR EMPLOYE, OR OTHER PERSON,
8 HIRED OR EMPLOYED BY OR WITH THE INSURED OR OF ANY BENEFICIARY
9 NAMED IN ANY POLICY OF LIFE INSURANCE, IS DULY LICENSED BY THE
10 PROPER AUTHORITY IN THIS COMMONWEALTH TO PLACE, SELL, OR SOLICIT
11 LIFE INSURANCE.

12 (B) EVERY SUCH ATTORNEY, PARTNER, OFFICER, CLERK, SERVANT,
13 OR EMPLOYE OR OTHER PERSON, HIRED OR EMPLOYED OR CONTINUING TO
14 BE HIRED OR EMPLOYED IN THE RELATION AFORESAID, WITHIN NINETY
15 DAYS BEFORE OR AFTER THE PLACING, SELLING, OR SOLICITING OF LIFE
16 INSURANCE ON THE LIFE OR FOR THE BENEFIT OF THEIR RESPECTIVE
17 CLIENTS, PARTNERS, OFFICERS, EMPLOYEES, MASTERS, OR PERSON IN THE
18 RELATION AFORESAID, OR ANY OF THEM, SHALL BE SUBJECT TO THE
19 PROVISIONS OF THIS SECTION; AND EVERY PERSON, COPARTNERSHIP,
20 FINANCIAL INSTITUTION, OR CORPORATION PARTICIPATING IN THE
21 PAYMENT OR RECEIPT OF ANY COMPENSATION OR BENEFIT IN VIOLATION
22 OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR, AND, UPON
23 CONVICTION THEREOF, SHALL BE LIABLE TO A FINE OF NOT MORE THAN
24 ONE THOUSAND DOLLARS, PAYABLE TO THE COMMONWEALTH, AND
25 IMPRISONMENT OF NOT LESS THAN THIRTY DAYS NOR MORE THAN SIX
26 MONTHS, AT THE DISCRETION OF THE COURT.

27 SECTION 5. SECTION 635 OF THE ACT IS AMENDED TO READ:

28 SECTION 635. REBATES AND INDUCEMENTS PROHIBITED.--(A) NO
29 INSURANCE AGENT, SOLICITOR OR BROKER, PERSONALLY OR BY ANY OTHER
30 PARTY, SHALL OFFER, PROMISE, ALLOW, GIVE, SET OFF, OR PAY,

1 DIRECTLY OR INDIRECTLY, ANY REBATE OF, OR PART OF, THE PREMIUM
2 PAYABLE ON THE POLICY OR ON ANY POLICY OR AGENT'S COMMISSION
3 THEREON, OR EARNINGS, PROFIT, DIVIDENDS, OR OTHER BENEFIT
4 FOUNDED, ARISING, ACCRUING OR TO ACCRUE THEREON OR THEREFROM, OR
5 ANY SPECIAL ADVANTAGE IN DATE OF POLICY OR AGE OF ISSUE, OR ANY
6 PAID EMPLOYMENT OR CONTRACT FOR SERVICES OF ANY KIND, OR ANY
7 OTHER VALUABLE CONSIDERATION OR INDUCEMENT, TO OR FOR INSURANCE
8 ON ANY RISK IN THIS COMMONWEALTH, NOW OR HEREAFTER TO BE
9 WRITTEN, WHICH IS NOT SPECIFIED IN THE POLICY CONTRACT OF
10 INSURANCE; NOR SHALL ANY SUCH AGENT, SOLICITOR, OR BROKER,
11 PERSONALLY OR OTHERWISE, OFFER, PROMISE, GIVE, OPTION, SELL, OR
12 PURCHASE ANY STOCKS, BONDS, SECURITIES, OR PROPERTY, OR ANY
13 DIVIDENDS OR PROFITS ACCRUING OR TO ACCRUE THEREON, OR OTHER
14 THING OF VALUE WHATSOEVER, AS INDUCEMENT TO INSURANCE OR IN
15 CONNECTION THEREWITH. NOTHING IN THIS SECTION SHALL BE CONSTRUED
16 TO PREVENT THE TAKING OF A BONA FIDE OBLIGATION, WITH LEGAL
17 INTEREST, IN PAYMENT OF ANY PREMIUM.

18 (B) NO FINANCIAL INSTITUTION, NOR ANY DIRECTOR, OFFICER,
19 EMPLOYEE, AGENT OR BROKER THEREOF, MAY REQUIRE THE PURCHASE OF
20 INSURANCE FROM A FINANCIAL INSTITUTION OR ITS AFFILIATE OR FROM
21 A DESIGNATED INSURER, AGENT OR BROKER AS A CONDITION OF ANY LOAN
22 OR DEPOSIT TRANSACTION. NEITHER A FINANCIAL INSTITUTION NOR ANY
23 DIRECTOR, OFFICER, EMPLOYEE, AGENT OR BROKER THEREOF MAY REJECT A
24 REQUIRED POLICY SOLELY BECAUSE THE POLICY WAS SOLD BY A PERSON
25 WHO IS NOT ASSOCIATED WITH THE FINANCIAL INSTITUTION. NO
26 FINANCIAL INSTITUTION MAY IMPOSE ANY UNREASONABLE REQUIREMENT ON
27 ANY AGENT OR BROKER NOT ASSOCIATED WITH THAT FINANCIAL
28 INSTITUTION.

29 SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

30 SECTION 637.1. DISCLOSURES AND ACKNOWLEDGMENTS.--(A) AN

1 AGENT OR BROKER EMPLOYED BY OR AFFILIATED WITH A FINANCIAL
2 INSTITUTION WHO SOLICITS THE SALE OF ANNUITIES OR LIFE
3 INSURANCE, EXCEPT CREDIT LIFE INSURANCE, ON OR FROM THE PREMISES
4 OF THAT FINANCIAL INSTITUTION, SHALL PROVIDE THE APPLICANT WITH
5 WRITTEN DISCLOSURE AT OR PRIOR TO THE TIME OF APPLICATION FOR
6 LIFE INSURANCE OR ANNUITIES FROM THE FINANCIAL INSTITUTION THAT
7 SUCH LIFE INSURANCE OR ANNUITY IS:

8 (1) NOT A DEPOSIT;

9 (2) NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE
10 CORPORATION OR ANY OTHER AGENCY OR INSTRUMENTALITY OF THE
11 FEDERAL GOVERNMENT;

12 (3) NOT GUARANTEED BY THE FINANCIAL INSTITUTION OR AN
13 AFFILIATED INSURED DEPOSITORY INSTITUTION; AND

14 (4) SUBJECT TO INVESTMENT RISK, INCLUDING POTENTIAL LOSS
15 OF PRINCIPAL, WHEN APPROPRIATE.

16 (B) COMPLIANCE BY A FINANCIAL INSTITUTION WITH THE
17 DISCLOSURE REQUIREMENTS SET FORTH IN THE "INTERAGENCY STATEMENT
18 ON RETAIL SALES OF NONDEPOSIT INVESTMENT PRODUCTS" ISSUED
19 FEBRUARY 15, 1994, BY THE BOARD OF GOVERNORS OF THE FEDERAL
20 RESERVE SYSTEM, THE FEDERAL DEPOSIT INSURANCE CORPORATION, THE
21 OFFICE OF THE COMPTROLLER OF THE CURRENCY, AND THE OFFICE OF
22 THRIFT SUPERVISION, SHALL SATISFY THE REQUIREMENTS OF SUBSECTION
23 (A).

24 (C) WHEN A FINANCIAL INSTITUTION REQUIRES A CUSTOMER TO
25 OBTAIN INSURANCE IN CONNECTION WITH A LOAN AND THE INSURANCE IS
26 AVAILABLE THROUGH THE FINANCIAL INSTITUTION, THE AGENT OR BROKER
27 OF THE FINANCIAL INSTITUTION SHALL INFORM THE CUSTOMER AT OR
28 PRIOR TO THE TIME OF APPLICATION THAT THE PURCHASE OF THE
29 INSURANCE FROM THE FINANCIAL INSTITUTION IS NOT A CONDITION OF
30 THE LOAN AND WILL NOT AFFECT CURRENT OR FUTURE CREDIT DECISIONS.

1 THE AGENT OR BROKER OF THE FINANCIAL INSTITUTION MAY INFORM THE
2 CUSTOMER THAT INSURANCE IS AVAILABLE FROM THE FINANCIAL
3 INSTITUTION. THE FINANCIAL INSTITUTION SHALL OBTAIN A WRITTEN
4 STATEMENT OR ACKNOWLEDGMENT FROM THE CUSTOMER PRIOR TO THE
5 PURCHASE OF INSURANCE STATING THAT THE CUSTOMER HAS BEEN ADVISED
6 THAT THE CUSTOMER IS NOT REQUIRED TO PURCHASE FROM THE FINANCIAL
7 INSTITUTION ANY INSURANCE AS A CONDITION OF RECEIVING ANY LOAN.

8 (D) FOR MARKETING TECHNIQUES THAT DO NOT INVOLVE DIRECT
9 CONTACT WITH THE CUSTOMER AT THE TIME OF SOLICITATION OR
10 APPLICATION, THE INSURANCE COMMISSIONER SHALL PROMULGATE RULES
11 AND REGULATIONS PROVIDING FOR ALTERNATIVE DISCLOSURE METHODS
12 UNDER SUBSECTIONS (A) AND (C).

13 SECTION 7. SECTION 639(A) AND (C) OF THE ACT, AMENDED JUNE
14 11, 1992 (P.L.284, NO.48) AND DECEMBER 12, 1994 (P.L.1035,
15 NO.141), ARE AMENDED TO READ:

16 SECTION 639. PENALTIES IMPOSED BY INSURANCE DEPARTMENT.--(A)
17 UPON SATISFACTORY EVIDENCE OF THE [VIOLATION OF] CONDUCT
18 VIOLATING SECTIONS 602, 605, 606, 607, 608, 609, 622 [AND], 623,
19 631 THROUGH 638, 646, 647, 648 AND 649 BY ANY AGENT OF ANY
20 INSURANCE ENTITY [OR BY ANY], INSURANCE BROKER OR SURPLUS LINES
21 LICENSEE OR ON SATISFACTORY EVIDENCE OF SUCH CONDUCT THAT WOULD
22 DISQUALIFY THE AGENT OR BROKER FROM INITIAL ISSUANCE OF A
23 CERTIFICATE OF QUALIFICATION UNDER SECTION 604 OR 622, THE
24 DEPARTMENT MAY PURSUE ANY ONE OR MORE OF THE FOLLOWING COURSES
25 OF ACTION REGARDLESS OF WHETHER THE AGENT OR BROKER WAS SO
26 AUTHORIZED BY THE DEPARTMENT:

27 (1) SUSPEND OR REVOKE OR REFUSE TO RENEW THE CERTIFICATE OF
28 QUALIFICATION OR LICENSE OF THE OFFENDING PARTY OR PARTIES.

29 (2) IMPOSE A CIVIL PENALTY OF NOT MORE THAN [ONE THOUSAND
30 DOLLARS (\$1,000.00)] FIVE THOUSAND DOLLARS (\$5,000.00) FOR EACH

1 [ACT] ACTION IN VIOLATION OF ANY OF THE PROVISIONS LISTED IN
2 THIS SUBSECTION.

3 (3) ISSUE AN ORDER TO CEASE AND DESIST.

4 (4) IMPOSE SUCH OTHER CONDITIONS AS THE DEPARTMENT MAY DEEM
5 APPROPRIATE.

6 * * *

7 (C) ANY AGENT OR SOLICITOR OF ANY ENTITY OR ANY INSURANCE
8 BROKER OR ANY PERSON, PARTNERSHIP, ASSOCIATION OR CORPORATION
9 VIOLATING THE PROVISIONS OF SECTIONS 633.1, 635, 636, 637 [AND],
10 638, 646, 647, 648 AND 649 OF THE ACT SHALL BE GUILTY OF A
11 MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE SENTENCED TO
12 PAY A FINE OF NOT MORE THAN [ONE THOUSAND DOLLARS (\$1,000.00)]
13 FIVE THOUSAND DOLLARS (\$5,000.00) FOR EACH AND EVERY VIOLATION
14 OR, AT THE DISCRETION OF THE COURT, TO IMPRISONMENT IN THE
15 COUNTY JAIL OF THE COURT IN WHICH THE OFFENSE IS COMMITTED FOR A
16 PERIOD OF NOT MORE THAN SIX (6) MONTHS.

17 SECTION 8. SECTION 641 OF THE ACT, AMENDED MAY 27, 1994
18 (P.L.257, NO.41), IS AMENDED TO READ:

19 SECTION 641. [LENDING INSTITUTIONS,] PUBLIC UTILITIES [AND
20 HOLDING COMPANIES] NOT TO BE LICENSED.--(A) AS USED IN THIS
21 SECTION:

22 [(1) "LENDING INSTITUTION" MEANS ANY INSTITUTION THAT
23 ACCEPTS DEPOSITS AND LENDS MONEY IN THE COMMONWEALTH OF
24 PENNSYLVANIA, INCLUDING BANKS AND SAVINGS AND LOAN ASSOCIATIONS,
25 BUT EXCLUDING INSURANCE COMPANIES.]

26 (2) "PUBLIC UTILITY" MEANS A PRIVATE EMPLOYER SUBJECT TO THE
27 JURISDICTION OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION AND
28 ENGAGED IN THE BUSINESS OF RENDERING ELECTRIC, GAS, WATER AND
29 STEAM HEAT SERVICES TO THE PUBLIC IN THIS COMMONWEALTH:

30 PROVIDED, HOWEVER, THAT THE TERM "PUBLIC UTILITY" SHALL NOT

1 INCLUDE RURAL ELECTRIFICATION COOPERATIVES.

2 [(3) THE TERMS "SUBSIDIARY" AND "AFFILIATE" SHALL BE DEFINED
3 IN THE REGULATIONS PROMULGATED BY THE INSURANCE COMMISSIONER,
4 EXCEPT THAT "AFFILIATE" SHALL NOT APPLY TO AN ENTITY WHICH OWNS
5 AN INTEREST IN ANOTHER COMPANY OR CORPORATION WHERE THE
6 OWNERSHIP INTEREST IS NOT SUFFICIENT TO PERMIT EXERCISE OF
7 EFFECTIVE CONTROL, AND DOES NOT INVOLVE DIRECT OR INDIRECT
8 OWNERSHIP OR CONTROL OF FIVE PER CENTUM OR MORE OF THE VOTING
9 STOCK OF SUCH COMPANY OR CORPORATION. NOR SHALL IT APPLY TO AN
10 ENTITY WHOSE STOCK IS OWNED BY ANOTHER, PROVIDED THAT THE AMOUNT
11 OF STOCK OWNED BY ANY ONE COMPANY OR CORPORATION DOES NOT PERMIT
12 EFFECTIVE CONTROL AND DOES NOT EXCEED FIVE PER CENTUM OF THE
13 VOTING STOCK OF THE ENTITY. THE TERM "AFFILIATE" SHALL, SUBJECT
14 TO THE PROVISIONS TO INVEST IN STOCK CONTAINED IN THIS
15 SUBSECTION, INCLUDE BANK HOLDING COMPANY, SAVINGS AND LOAN
16 HOLDING COMPANY, AND A PUBLIC UTILITY HOLDING COMPANY AS
17 HEREINAFTER DEFINED.

18 (4) "BANK HOLDING COMPANY" SHALL MEAN AND INCLUDE THE
19 DEFINITION OF SUCH TERM IN SECTION TWO OF AN ACT OF CONGRESS
20 ENTITLED THE "BANK HOLDING COMPANY ACT OF 1956," AS AMENDED:
21 PROVIDED, HOWEVER, THAT IF ON OR BEFORE THE EFFECTIVE DATE OF
22 THIS ACT, A BANK HOLDING COMPANY HAS BEEN GRANTED AN EXEMPTION
23 BY THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM PURSUANT
24 TO SECTION 4(D) OF THE BANK HOLDING COMPANY ACT OF 1956, AS
25 AMENDED, SUCH BANK HOLDING COMPANY SHALL NOT BE HELD TO BE A
26 BANK HOLDING COMPANY WITHIN THE MEANING OF SECTION 2 OF THE BANK
27 HOLDING COMPANY ACT OF 1956, AS AMENDED.

28 (5) "CREDIT LIFE, HEALTH, AND ACCIDENT INSURANCE" MEANS
29 INSURANCE ON THE LIFE AND HEALTH OF A BORROWER FROM A LENDING
30 INSTITUTION TO SECURE THE REPAYMENT OF THE AMOUNT BORROWED, IN

1 ACCORDANCE WITH REGULATIONS PROMULGATED BY THE INSURANCE
2 COMMISSIONER.

3 (5.1) "CREDIT UNEMPLOYMENT INSURANCE" MEANS INSURANCE ON A
4 DEBTOR TO PROVIDE INDEMNITY FOR PAYMENTS BECOMING DUE ON A
5 SPECIFIC LOAN OR OTHER CREDIT TRANSACTION WHILE THE DEBTOR IS
6 UNEMPLOYED AS DEFINED IN THE POLICY.

7 (6) "TITLE INSURANCE" SHALL MEAN AND INCLUDE THE DEFINITION
8 OF SUCH TERM IN SECTION SEVEN HUNDRED AND ONE OF THE ACT OF MAY
9 17, 1921 (P.L.682, NO.284), KNOWN AS "THE INSURANCE COMPANY LAW
10 OF 1921."

11 (7) A "SAVINGS AND LOAN HOLDING COMPANY" SHALL MEAN AND
12 INCLUDE THE DEFINITION OF SUCH TERM AS DEFINED IN TITLE 12,
13 UNITED STATES CODE, SECTIONS 1730A (A) (1) (D) (E) (F).]

14 (8) "PUBLIC UTILITY HOLDING COMPANY" SHALL MEAN AND INCLUDE
15 THE DEFINITION OF SUCH TERM AS DEFINED IN TITLE 15, UNITED
16 STATES CODE, SECTIONS 79B (A) (7), INCLUDING ELECTRIC, GAS,
17 WATER AND STEAM HEAT SERVICES.

18 [(9) "DEPOSITS" SHALL MEAN AND INCLUDE THE DEFINITION OF
19 SUCH TERM AS SET FORTH IN TITLE 12, UNITED STATES CODE, SECTION
20 1813 (L), (1), (2), (3), (4), (5).]

21 (B) NO [LENDING INSTITUTION,] PUBLIC UTILITY[, BANK HOLDING
22 COMPANY, SAVINGS AND LOAN HOLDING COMPANY] OR ANY SUBSIDIARY OR
23 AFFILIATE OF [THE FOREGOING] A PUBLIC UTILITY, OR OFFICER OR
24 EMPLOYEE THEREOF, MAY, DIRECTLY OR INDIRECTLY, BE LICENSED OR
25 ADMITTED AS AN INSURER OR BE LICENSED TO SELL INSURANCE IN THIS
26 STATE EITHER AS A BROKER OR AS AN AGENT [EXCEPT THAT A LENDING
27 INSTITUTION OR BANK HOLDING COMPANY, SUBSIDIARY OR AFFILIATE OF
28 A LENDING INSTITUTION. A FINANCIAL INSTITUTION MAY BE LICENSED
29 TO SELL CREDIT LIFE, HEALTH AND ACCIDENT INSURANCE, AS REGULATED
30 UNDER THE ACT OF SEPTEMBER 2, 1961 (P.L.1232, NO.540), KNOWN AS

1 THE "MODEL ACT FOR THE REGULATION OF CREDIT LIFE INSURANCE AND
2 CREDIT ACCIDENT AND HEALTH INSURANCE," TO SELL CREDIT
3 UNEMPLOYMENT INSURANCE, SUBJECT TO SUBSECTION (B.1) AND AS
4 REGULATED UNDER THE "MODEL ACT FOR THE REGULATION OF CREDIT LIFE
5 INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE," AND TO SELL
6 AND UNDERWRITE TITLE INSURANCE IN ACCORDANCE WITH REGULATIONS
7 PROMULGATED BY THE INSURANCE COMMISSIONER].

8 [(B.1) (1) ALL CREDIT UNEMPLOYMENT INSURANCE IN CONNECTION
9 WITH LOANS OR OTHER CREDIT TRANSACTIONS SHALL BE SUBJECT TO THE
10 SAME PROVISIONS OF THE "MODEL ACT FOR THE REGULATION OF CREDIT
11 LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE" AS
12 APPLY TO CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH
13 INSURANCE.

14 (2) THE TOTAL AMOUNT OF BENEFITS PAYABLE BY CREDIT
15 UNEMPLOYMENT INSURANCE IN THE EVENT OF UNEMPLOYMENT AS DEFINED
16 IN THE POLICY SHALL NOT EXCEED THE AGGREGATE OF THE PERIODIC
17 SCHEDULED UNPAID INSTALLMENTS OF THE INDEBTEDNESS. THE AMOUNT OF
18 EACH MONTHLY PAYMENT SHALL NOT EXCEED THE ORIGINAL INDEBTEDNESS
19 DIVIDED BY THE NUMBER OF INSTALLMENTS.

20 (3) THE INSURANCE COMMISSIONER SHALL SET A LOSS RATIO FOR
21 CREDIT UNEMPLOYMENT INSURANCE. THE LOSS RATIO SHALL BE SET AND
22 REGULATED IN THE SAME MANNER AS THE LOSS RATIO IS SET AND
23 REGULATED FOR CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH
24 INSURANCE.

25 (4) CREDIT UNEMPLOYMENT INSURANCE SOLD IN CONNECTION WITH
26 OPEN-END CREDIT MUST PROVIDE, IN THE EVENT OF THE DEBTOR'S
27 INVOLUNTARY UNEMPLOYMENT, MONTHLY BENEFITS AT LEAST EQUAL TO THE
28 DEBTOR'S MINIMUM MONTHLY PAYMENT CALCULATED AT THE TIME OF SUCH
29 UNEMPLOYMENT, SUBJECT TO A MAXIMUM MONTHLY INDEMNITY AS
30 CONTAINED IN THE CERTIFICATE OF INSURANCE.

1 (5) AT THE MINIMUM, CREDIT UNEMPLOYMENT INSURANCE BENEFITS
2 ARE PAYABLE UPON THE DEBTOR MEETING THE ELIGIBILITY REQUIREMENTS
3 FOR UNEMPLOYMENT COMPENSATION.

4 (6) THE PERIOD DURING WHICH CREDIT UNEMPLOYMENT INSURANCE
5 BENEFITS ARE PAYABLE IN THE EVENT OF THE DEBTOR'S INVOLUNTARY
6 UNEMPLOYMENT SHALL CONTINUE AT LEAST UNTIL THE EARLIEST OF THE
7 FOLLOWING:

8 (I) RETURN OF THE DEBTOR TO FULL-TIME WORK.

9 (II) SATISFACTION OF THE LOAN OR OTHER CREDIT TRANSACTION.

10 (III) IN THE CASE OF OPEN-END CREDIT, PAYMENT OF TWELVE
11 CONSECUTIVE MONTHLY INSTALLMENTS.

12 (7) CREDIT UNEMPLOYMENT INSURANCE SHALL NOT BE REQUIRED AS A
13 CONDITION OF THE EXTENSION OF CREDIT.

14 (8) IF A CREDITOR OFFERS CREDIT UNEMPLOYMENT INSURANCE TO
15 ANY OF ITS DEBTORS, IT MUST OFFER IT UNDER THE SAME TERMS AND
16 CONDITIONS TO ALL OF ITS LIKE DEBTORS AND UNDER THE SAME TERMS
17 AND CONDITIONS AT ALL OF ITS OFFICES OR LOCATIONS IN THIS
18 COMMONWEALTH.]

19 (C) THE INSURANCE COMMISSIONER IS AUTHORIZED TO PROMULGATE
20 REGULATIONS IN ORDER TO EFFECTUATE THE PURPOSES OF THIS SECTION,
21 WHICH ARE TO HELP MAINTAIN THE SEPARATION BETWEEN [LENDING
22 INSTITUTIONS AND] PUBLIC UTILITIES AND THE INSURANCE BUSINESS
23 AND TO MINIMIZE THE POSSIBILITIES OF UNFAIR COMPETITIVE
24 PRACTICES BY [LENDING INSTITUTIONS AND] PUBLIC UTILITIES AGAINST
25 INSURANCE COMPANIES, AGENTS AND BROKERS.

26 SECTION 9. ARTICLE VI OF THE ACT IS AMENDED BY ADDING A
27 SUBDIVISION TO READ:

28 (C.1) SALE OF INSURANCE BY FINANCIAL INSTITUTIONS.

29 SECTION 646. THE SALE OF INSURANCE BY FINANCIAL
30 INSTITUTIONS.--(A) A FINANCIAL INSTITUTION MAY NOT BE LICENSED

1 OR ADMITTED AS AN INSURER, EXCEPT TO UNDERWRITE TITLE INSURANCE
2 IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE INSURANCE
3 COMMISSIONER.

4 (B) A FINANCIAL INSTITUTION, AND ANY OFFICER, EMPLOYE OR
5 AGENT THEREOF, THAT SELLS INSURANCE SHALL BE LICENSED IN
6 ACCORDANCE WITH THE PROVISIONS OF THIS ACT AND REGULATIONS
7 PROMULGATED UNDER THIS ACT.

8 SECTION 647. PHYSICAL PREMISES.--(A) THE SALE OF ANNUITIES
9 OR INSURANCE, EXCEPT CREDIT INSURANCE, BY FINANCIAL INSTITUTIONS
10 AND AGENTS AND BROKERS THEREOF SHALL TAKE PLACE IN A LOCATION
11 THAT IS DISTINCT FROM THE AREA WHERE DEPOSITS ARE TAKEN AND LOAN
12 APPLICATIONS ARE DISCUSSED AND ACCEPTED. SIGNS OR OTHER MEANS
13 SHALL BE USED TO DISTINGUISH THE INSURANCE OR ANNUITIES SALES
14 AREA FROM THE DEPOSIT TAKING AND LENDING AREAS. THE INSURANCE
15 COMMISSIONER SHALL EXEMPT A FINANCIAL INSTITUTION FROM THE
16 REQUIREMENTS OF THIS SECTION IF THE NUMBER OF STAFF OR SIZE OF
17 THE FACILITY WOULD PREVENT COMPLIANCE.

18 (B) COMPLIANCE BY A FINANCIAL INSTITUTION WITH THE SETTING
19 AND CIRCUMSTANCES REQUIREMENTS SET FORTH IN THE "INTERAGENCY
20 STATEMENT ON RETAIL SALES OF NONDEPOSIT INVESTMENT PRODUCTS"
21 ISSUED FEBRUARY 15, 1994, BY THE BOARD OF GOVERNORS OF THE
22 FEDERAL RESERVE SYSTEM, THE FEDERAL DEPOSIT INSURANCE
23 CORPORATION, THE OFFICE OF THE COMPTROLLER OF THE CURRENCY, AND
24 THE OFFICE OF THRIFT SUPERVISION, SHALL SATISFY THE REQUIREMENTS
25 OF SUBSECTION (A).

26 SECTION 648. CUSTOMER PRIVACY.--(A) NO FINANCIAL
27 INSTITUTION SHALL USE OR SHARE WITH A THIRD PARTY ANY CUSTOMER
28 INFORMATION FOR THE PURPOSE OF SELLING OR SOLICITING THE
29 PURCHASE OF INSURANCE OR ANNUITIES UNLESS THE REQUIREMENTS OF
30 THIS SECTION ARE MET.

1 (B) THE FOLLOWING NOTICE TO A LOAN CUSTOMER SHALL BE SET
2 FORTH IN STANDARD OR LARGER TYPE:

3 USE OF INSURANCE INFORMATION RELATING
4 TO YOUR LOAN

5 AS A CURRENT LOAN CUSTOMER WE MAY HAVE INSURANCE COVERAGE
6 INFORMATION THAT WAS OBTAINED AS PART OF YOUR LOAN
7 PROCESS. UNDER PENNSYLVANIA LAW, YOU HAVE THE RIGHT TO
8 DIRECT THAT WE NOT USE OR SHARE THIS INFORMATION IN THE
9 MARKETING OF INSURANCE OR ANNUITIES. TO EXERCISE THIS
10 RIGHT, YOU MUST SIGN AND RETURN THIS FORM WITHIN THIRTY
11 (30) DAYS. IF YOU DO NOT SIGN AND RETURN THIS FORM TO US,
12 WE MAY USE OR SHARE THIS INFORMATION IN THE MARKETING OF
13 INSURANCE OR ANNUITIES.

14
15 (SIGNATURE)

16 (C) THE NOTICE PRESCRIBED IN SUBSECTION (B) SHALL BE SENT BY
17 FIRST CLASS MAIL AND MAY BE INCLUDED IN A SOLICITATION FOR THE
18 PURCHASE OF INSURANCE OR ANNUITIES. THIS NOTICE SHALL BE
19 ADDRESSED TO THE INDIVIDUAL CUSTOMER AND SHALL INCLUDE A POSTAGE
20 PREPAID RESPONSE MECHANISM.

21 (D) IF A LOAN CUSTOMER HAS NOT RESPONDED TO THE NOTICE
22 PRESCRIBED IN SUBSECTION (B), THE FINANCIAL INSTITUTION SHALL
23 SEND A SECOND NOTICE. THE SECOND NOTICE SHALL MEET THE
24 REQUIREMENTS SET FORTH IN SUBSECTIONS (B) AND (C).

25 (E) FOR THE PURPOSE OF COMPLYING WITH SUBSECTION (A), A
26 FINANCIAL INSTITUTION MAY DIRECTLY OBTAIN WRITTEN CONSENT FOR
27 THE USE OF CUSTOMER INFORMATION FROM A CURRENT OR PROSPECTIVE
28 LOAN CUSTOMER. THE FOLLOWING NOTICE, SET FORTH IN STANDARD OR
29 LARGER TYPE, SHALL BE USED FOR THIS PURPOSE.

30 USE OF INSURANCE INFORMATION RELATING

1 TO YOUR LOAN

2 THE BORROWER HEREBY CONSENTS TO THE USE OR SHARING OF ANY
3 INSURANCE COVERAGE INFORMATION OBTAINED AS PART OF THE
4 LOAN PROCESS IN THE MARKETING OF INSURANCE OR ANNUITIES.

5

6 (SIGNATURE)

7 SECTION 649. CREDIT, LIFE, HEALTH AND ACCIDENT INSURANCE AND
8 CREDIT UNEMPLOYMENT INSURANCE.--(A) A PERSON WHO SELLS CREDIT
9 LIFE, HEALTH AND ACCIDENT INSURANCE AND CREDIT UNEMPLOYMENT
10 INSURANCE SHALL DO SO IN ACCORDANCE WITH THE ACT OF SEPTEMBER 2,
11 1961 (P.L.1232, NO.540), KNOWN AS THE "MODEL ACT FOR THE
12 REGULATION OF CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND
13 HEALTH INSURANCE."

14 (B) A PERSON WHO SELLS CREDIT PERSONAL PROPERTY INSURANCE
15 SHALL DO SO IN ACCORDANCE WITH REGULATIONS OF THE DEPARTMENT.

16 (C) ALL CREDIT UNEMPLOYMENT INSURANCE SOLD IN CONNECTION
17 WITH LOANS OR OTHER CREDIT TRANSACTIONS SHALL BE SUBJECT TO THE
18 SAME PROVISIONS OF THE "MODEL ACT FOR THE REGULATION OF CREDIT
19 LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE" AS
20 APPLY TO CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH
21 INSURANCE.

22 (D) CREDIT UNEMPLOYMENT INSURANCE SHALL ALSO BE SUBJECT TO
23 THE FOLLOWING:

24 (1) THE TOTAL AMOUNT OF BENEFITS PAYABLE BY CREDIT
25 UNEMPLOYMENT INSURANCE IN THE EVENT OF UNEMPLOYMENT AS DEFINED
26 IN THE POLICY SHALL NOT EXCEED THE AGGREGATE OF THE PERIODIC
27 SCHEDULED UNPAID INSTALLMENTS OF THE INDEBTEDNESS. THE AMOUNT OF
28 EACH MONTHLY PAYMENT SHALL NOT EXCEED THE ORIGINAL INDEBTEDNESS
29 DIVIDED BY THE NUMBER OF INSTALLMENTS.

30 (2) THE INSURANCE COMMISSIONER SHALL SET A LOSS RATIO FOR

1 CREDIT UNEMPLOYMENT INSURANCE. THE LOSS RATIO SHALL BE SET AND
2 REGULATED IN THE SAME MANNER AS THE LOSS RATIO IS SET AND
3 REGULATED FOR CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH
4 INSURANCE.

5 (3) CREDIT UNEMPLOYMENT INSURANCE SOLD IN CONNECTION WITH
6 OPEN-END CREDIT MUST PROVIDE, IN THE EVENT OF THE DEBTOR'S
7 INVOLUNTARY UNEMPLOYMENT, MONTHLY BENEFITS AT LEAST EQUAL TO THE
8 DEBTOR'S MINIMUM MONTHLY PAYMENT CALCULATED AT THE TIME OF SUCH
9 UNEMPLOYMENT, SUBJECT TO A MAXIMUM MONTHLY INDEMNITY AS
10 CONTAINED IN THE CERTIFICATE OF INSURANCE.

11 (4) AT THE MINIMUM, CREDIT UNEMPLOYMENT INSURANCE BENEFITS
12 ARE PAYABLE UPON THE DEBTOR MEETING THE ELIGIBILITY REQUIREMENTS
13 FOR UNEMPLOYMENT COMPENSATION.

14 (5) THE PERIOD DURING WHICH CREDIT UNEMPLOYMENT INSURANCE
15 BENEFITS ARE PAYABLE IN THE EVENT OF THE DEBTOR'S INVOLUNTARY
16 UNEMPLOYMENT SHALL CONTINUE AT LEAST UNTIL THE EARLIEST OF THE
17 FOLLOWING:

18 (I) RETURN OF THE DEBTOR TO FULL-TIME WORK.

19 (II) SATISFACTION OF THE LOAN OR OTHER CREDIT TRANSACTION.

20 (III) IN THE CASE OF OPEN-END CREDIT, PAYMENT OF TWELVE
21 CONSECUTIVE MONTHLY INSTALLMENTS.

22 (6) CREDIT UNEMPLOYMENT INSURANCE SHALL NOT BE REQUIRED AS A
23 CONDITION OF THE EXTENSION OF CREDIT.

24 (7) IF A CREDITOR OFFERS CREDIT UNEMPLOYMENT INSURANCE TO
25 ANY OF ITS DEBTORS, IT MUST OFFER IT UNDER THE SAME TERMS AND
26 CONDITIONS TO ALL OF ITS LIKE DEBTORS AND UNDER THE SAME TERMS
27 AND CONDITIONS AS ALL OF ITS OFFICES OR LOCATIONS IN THIS
28 COMMONWEALTH.

29 SECTION 650. FEDERAL PREEMPTION.--NOTWITHSTANDING ANY LAW OR
30 REGULATION OF THIS COMMONWEALTH TO THE CONTRARY, IN THE EVENT OF

1 FEDERAL PREEMPTION OF ANY OF THE PROVISIONS OF THIS ACT OR ANY
2 OTHER LAW OF THIS COMMONWEALTH REGARDING THE SALE OF INSURANCE
3 OR ANNUITIES BY FEDERALLY CHARTERED FINANCIAL INSTITUTIONS,
4 STATE-CHARTERED FINANCIAL INSTITUTIONS SHALL NOT BE SUBJECT TO
5 THOSE PROVISIONS OR LAWS WHICH WERE THE SUBJECT OF THE FEDERAL
6 PREEMPTION.

7 SECTION 10. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.