

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1632 Session of 2005

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INTRODUCED BY KENNEY, CORNELL, GINGRICH, MACKERETH, REICHLEY,  
BEBKO-JONES, BELARDI, BISHOP, BOYD, BUNT, CALTAGIRONE,  
CAPPELLI, CREIGHTON, DeLUCA, DeWEESE, EACHUS, FREEMAN, GEIST,  
GOOD, GOODMAN, JAMES, KOTIK, LEACH, LEDERER, LEVDANSKY, MANN,  
MUNDY, NICKOL, PHILLIPS, ROSS, RUBLEY, SAINATO, SATHER,  
SCAVELLO, SCHRODER, B. SMITH, STABACK, E. Z. TAYLOR,  
J. TAYLOR, TIGUE, TRUE, WALKO, WATSON AND YOUNGBLOOD,  
JUNE 6, 2005

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
DECEMBER 6, 2005

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### AN ACT

1 Amending the act of July 22, 1974 (P.L.589, No.205), entitled  
2 "An act relating to unfair insurance practices; prohibiting  
3 unfair methods of competition and unfair or deceptive acts  
4 and practices; and prescribing remedies and penalties,"  
5 further defining "abuse," "unfair methods of competition" and  
6 "unfair or deceptive acts or practices."

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. The definition of "abuse" in section 3 of the act  
10 of July 22, 1974 (P.L.589, No.205), known as the Unfair  
11 Insurance Practices Act, added April 4, 1996 (P.L.100, No.24),  
12 is amended to read:

13 Section 3. Definitions.--As used in this act:

14 "Abuse" has the meaning given in 23 Pa.C.S. § 6102(a)  
15 (relating to definitions), notwithstanding the limited  
16 applicability provision in paragraph (5) of the definition of

1 "abuse" in 23 Pa.C.S. § 6102(a). The term also means attempting  
2 to cause or intentionally, knowingly or recklessly causing  
3 damage to property so as to intimidate or attempt to control the  
4 behavior of another person.

5 \* \* \*

6 Section 2. Section 5(a)(14) of the act, added April 4, 1996  
7 (P.L.100, No.24), is amended to read:

8 Section 5. Unfair Methods of Competition and Unfair or  
9 Deceptive Acts or Practices Defined.--(a) "Unfair methods of  
10 competition" and "unfair or deceptive acts or practices" in the  
11 business of insurance means:

12 \* \* \*

13 (14) (i) Taking any of the following actions because the  
14 insured or applicant for an insurance policy or insurance  
15 contract is a victim of abuse:

16 (A) Denying, refusing to issue, refusing to renew, refusing  
17 to reissue or cancelling or terminating an insurance policy or  
18 insurance contract or restricting coverage under an insurance  
19 policy or insurance contract.

20 (B) Adding a surcharge, applying a rating factor or using  
21 any other underwriting standard or practice which adversely  
22 takes into account a history or status of abuse.

23 (C) Excluding or limiting benefits or coverage under an  
24 insurance policy or insurance contract for losses incurred.

25 ~~(D) Refusing to pay losses arising out of abuse to an~~ <—  
26 ~~innocent insured under a property and casualty insurance policy~~  
27 ~~or contract to the extent of the insured's legal interest in the~~  
28 ~~covered property if the loss is caused by the intentional act of~~  
29 ~~an insured or using other exclusions or limitations on coverage~~  
30 ~~which the commissioner has determined unreasonably restrict the~~

~~ability of victims of abuse to be indemnified for such losses.~~

~~(E) Failing to develop and adhere to written policies specifying procedures to be followed by employees and by insurance professionals it contracts with, for the purpose of protecting the safety and privacy of a victim of abuse when investigating a claim, pursuing subrogation or taking any other action relating to a claim involving a victim of abuse.~~

~~(F) Failing to distribute its written policies to employees and insurance professionals.~~

(D) REFUSING TO PAY AN INSURED FOR LOSSES ARISING OUT OF ABUSE TO THAT INSURED UNDER A PROPERTY AND CASUALTY INSURANCE POLICY OR CONTRACT TO THE EXTENT OF THE INSURED'S LEGAL INTEREST IN THE COVERED PROPERTY IF THE LOSS IS CAUSED BY THE INTENTIONAL ACT OF ANOTHER INSURED, OR USING OTHER EXCLUSIONS OR LIMITATIONS WHICH THE COMMISSIONER HAS DETERMINED UNREASONABLY RESTRICT THE ABILITY OF VICTIMS OF ABUSE TO BE INDEMNIFIED FOR SUCH LOSSES. WHEN AN INSURED SUBMITS A CLAIM FOR LOSSES PURSUANT TO THIS SUBSECTION, THE INSURER SHALL PROVIDE TO THE INSURED A NOTICE STATING:

(I) THAT THE INSURER CANNOT REFUSE TO PAY A CLAIM WITHOUT CONDUCTING A REASONABLE INVESTIGATION;

(II) THAT SUCH INVESTIGATION MAY INCLUDE OR RESULT IN CONTACT WITH OTHER INSUREDS;

(III) THAT AT THE REQUEST OF THE INSURED, THE INSURER WILL NOT DISCLOSE THE LOCATION OF THE INSURED TO THE OTHER INSUREDS OR THIRD PARTIES AS PART OF THE INVESTIGATION;

(IV) THAT THE INSURER WILL NOTIFY THE INSURED AT LEAST FOURTEEN DAYS PRIOR TO INSTITUTING ANY LEGAL ACTION AGAINST THE INSURED ALLEGED TO HAVE CAUSED THE LOSS; AND

(V) THE NATIONAL DOMESTIC VIOLENCE HOTLINE NUMBER.

1       (ii) Nothing in this paragraph shall be construed as:  
2       (A) requiring that a person issue, renew or reissue an  
3 insurance policy or insurance contract solely because the  
4 insured or applicant is a victim of abuse; or  
5       (B) requiring a person to provide benefits or coverage for  
6 losses incurred solely because the insured or applicant is a  
7 victim of abuse.  
8       (iii) A person shall not be in violation of this paragraph  
9 if any action taken is permissible by law and applies to the  
10 same extent to all applicants and insureds without regard to  
11 whether an applicant or insured is a victim of abuse.

12       \* \* \*

13       Section 3. This act shall take effect in 60 days.