

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1989 Session of 2007

INTRODUCED BY WANSACZ, SHIMKUS, PASHINSKI, K. SMITH, ARGALL, BELFANTI, BENNINGHOFF, BIANCUCCI, BOBACK, BRENNAN, BUXTON, CARROLL, COHEN, CONKLIN, CURRY, DALLY, DeLUCA, DePASQUALE, DeWEESE, EACHUS, FREEMAN, GEORGE, GERGELY, GIBBONS, GOODMAN, GRUCELA, HALUSKA, HARHAI, HENNESSEY, JAMES, KORTZ, KOTIK, KULA, LEACH, LEVDANSKY, MAHONEY, MAJOR, MANN, McCALL, McILHATTAN, McILVAINE SMITH, MELIO, MILLARD, MUNDY, MYERS, PEIFER, PETRONE, PICKETT, PYLE, RAMALEY, READSHAW, SCAVELLO, SCHRODER, SEIP, SHAPIRO, SIPTROTH, STABACK, SURRA, TANGRETTI, R. TAYLOR, WAGNER, J. WHITE, YOUNGBLOOD, YUDICHAK, FABRIZIO AND THOMAS, OCTOBER 30, 2007

AS REPORTED FROM COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 14, 2008

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, in Commonwealth services, providing
3 for the Pennsylvania Flood Grant and Assistance Program.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Chapter 73 of Title 35 of the Pennsylvania
7 Consolidated Statutes is amended by adding a subchapter to read:

8 SUBCHAPTER C

9 PENNSYLVANIA FLOOD GRANT AND ASSISTANCE PROGRAM

10 Sec.

11 7331. Definitions.

12 7332. Pennsylvania Flood Grant and Assistance Program.

13 7333. Pennsylvania Flood Assistance Fund.

1 7334. Insurance surcharge.

2 ~~7335. Regulations.~~ <—

3 ~~7336. Expiration.~~

4 7335. MITIGATION PROGRAM. <—

5 7336. REGULATIONS.

6 7337. PROCEDURE; ENFORCEMENT; PENALTIES.

7 7338. EXPIRATION.

8 § 7331. Definitions.

9 The following words and phrases when used in this subchapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 ~~"Business owner's insurance." An insurance policy purchased~~ <—
13 ~~by a business owner to insure business property from damage.~~

14 "Fund." The Pennsylvania Flood Assistance Fund established
15 under this subchapter.

16 ~~"Homeowner's insurance." An insurance policy purchased by a~~ <—
17 ~~homeowner, including the owner of a condominium or a mobile~~
18 ~~home, to insure the home or its contents from damage. The term~~
19 ~~also includes insurance purchased by a tenant to insure the~~
20 ~~contents of the tenant's residence.~~

21 ~~"Program." The Pennsylvania Flood Grant and Assistance~~
22 ~~Program established under this subchapter.~~

23 "GROSS PREMIUMS." THE PREMIUMS, PREMIUM DEPOSITS OR <—
24 ASSESSMENTS RECEIVED BY ANY INSURANCE COMPANY, WHETHER RECEIVED
25 IN MONEY OR IN THE FORM OF NOTES, CREDITS OR ANY OTHER
26 SUBSTITUTES FOR MONEY, AND WHETHER COLLECTED IN THIS
27 COMMONWEALTH OR ELSEWHERE. THE TERM DOES NOT INCLUDE:

28 (1) AMOUNTS RETURNED ON POLICIES CANCELED OR NOT TAKEN.

29 (2) PREMIUMS RECEIVED FOR REINSURANCE.

30 (3) IN THE CASE OF A MUTUAL INSURANCE COMPANY,

1 ASSOCIATION, EXCHANGE AND STOCK COMPANY WITH PARTICIPATING
2 FEATURES, THAT PORTION OF THE ADVANCED PREMIUMS, PREMIUM
3 DEPOSITS OR ASSESSMENTS RETURNED IN CASH OR CREDITED TO
4 MEMBERS OR POLICYHOLDERS, WHETHER AS DIVIDENDS, EARNINGS,
5 SAVINGS OR RETURN DEPOSITS, UPON THE EXPIRATION OR
6 TERMINATION OF THEIR CONTRACTS.

7 (4) NOTES OR OTHER OBLIGATIONS RECEIVED BY A MUTUAL
8 INSURANCE COMPANY TO SECURE CONTINGENT PREMIUM LIABILITIES TO
9 THE EXTENT THAT NO ASSESSMENT HAS BEEN MADE AND COLLECTED
10 AGAINST THE NOTES OR OBLIGATIONS.

11 "INSURANCE COMPANY." AN INSURANCE COMPANY, ASSOCIATION OR
12 EXCHANGE, INCORPORATED OR ORGANIZED BY OR UNDER THE LAWS OF THIS
13 COMMONWEALTH, THE UNITED STATES, TERRITORIES, DEPENDENCIES,
14 OTHER STATES OR FOREIGN GOVERNMENTS, AND ENGAGED IN TRANSACTING
15 INSURANCE BUSINESS OF ANY KIND OR CLASSIFICATION WITHIN THIS
16 COMMONWEALTH. THE TERM INCLUDES AN ELIGIBLE SURPLUS LINES
17 INSURER ACCEPTING INSURANCE UNDER ARTICLE XVI OF THE ACT OF MAY
18 17, 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE COMPANY LAW
19 OF 1921.

20 "PROPERTY INSURANCE." INSURANCE AGAINST DIRECT LOSS TO REAL
21 OR TANGIBLE PERSONAL PROPERTY AT A FIXED LOCATION CAUSED BY
22 PERILS DEFINED AND LIMITED IN THE STANDARD FIRE POLICY PURSUANT
23 TO THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE
24 INSURANCE COMPANY LAW OF 1921, OR ANY LINE OF INSURANCE THAT,
25 WHEN WRITTEN, IS ASSIGNED TO THE FOLLOWING SPECIFIC LINES OF
26 BUSINESS ON A COMPANY'S ANNUAL STATEMENT REQUIRED TO BE FILED
27 PURSUANT TO SECTION 320 OF THE INSURANCE COMPANY LAW OF 1921:

28 (1) FIRE.

29 (2) ALLIED LINES.

30 (3) FARM OWNERS MULTI-PERIL.

- 1 (4) HOMEOWNER MULTI-PERIL.
- 2 (5) COMMERCIAL MULTI-PERIL (NONLIABILITY).
- 3 (6) COMMERCIAL MULTI-PERIL (LIABILITY).

4 § 7332. Pennsylvania Flood Grant and Assistance Program.

5 (a) Establishment.--The Pennsylvania Flood Grant and
6 Assistance Program is established within the agency to provide
7 grants for flood prevention and for assistance with repair of
8 flood-related damage.

9 (b) Flood prevention grants.--

10 (1) The agency shall coordinate with the Department of
11 Environmental Protection to develop a program that awards <—
12 PROCEDURES THAT AWARD grants to individuals, businesses or <—
13 municipalities for flood prevention projects. Flood
14 prevention projects may include:

15 (i) construction of, improvements to or maintenance
16 of dams, reservoirs or levees; or

17 (ii) stabilization or restoration of stream beds,
18 banks or channels.

19 (2) ~~The grant program~~ THIS SUBSECTION shall provide <—
20 funds for projects approved by the Department of
21 Environmental Protection that are not otherwise receiving
22 Commonwealth funds.

23 (c) Flood repair assistance.--

24 (1) The agency shall coordinate with the Department of
25 Community and Economic Development to develop a program that <—
26 ~~awards~~ PROCEDURES THAT AWARD grants to individuals, <—
27 businesses or municipalities for assistance with repair of
28 flood-related damage. The assistance may be used for:

29 (i) repair of damage to residences, businesses or
30 municipal buildings; or

1 (ii) repair of damage to roads, bridges, parks or
2 other municipal facilities.

3 (2) Assistance provided under this subsection shall be
4 limited to repairing damage caused by a flood for which no
5 Federal OR STATE declaration of disaster is made. <—

6 (3) The assistance shall supplement any coverage through
7 the homeowner's or businesses-owner's insurance policy, and
8 the agency shall ensure that the program's application
9 process establishes that the homeowner's or business-owner's
10 policy is the payer of first resort.

11 § 7333. Pennsylvania Flood Assistance Fund.

12 (a) Establishment.--The Pennsylvania Flood Assistance Fund
13 is established within the State Treasury. All moneys received by
14 the State Treasurer from the Department of Revenue arising from
15 the surcharge imposed in section 7334 (relating to insurance
16 surcharge) shall be credited to the fund.

17 ~~(b) Continuing appropriation. The moneys in the fund are~~ <—
18 ~~appropriated on a continuing basis to the agency for~~
19 ~~distribution to the Department of Environmental Protection or~~
20 ~~the Department of Community and Economic Development for grants~~
21 ~~under the program.~~

22 (B) THE PENNSYLVANIA FLOOD GRANT AND ASSISTANCE PROGRAM <—
23 RESTRICTED REVENUE ACCOUNT.--

24 (1) WITHIN THE FUND THERE SHALL BE ESTABLISHED THE
25 PENNSYLVANIA FLOOD GRANT AND ASSISTANCE PROGRAM RESTRICTED
26 REVENUE ACCOUNT. ON JULY 1 OF EACH YEAR THAT SECTION 7332
27 (RELATING TO PENNSYLVANIA FLOOD GRANT AND ASSISTANCE PROGRAM)
28 AND SUBSECTION (A) ARE IN EFFECT, THE FUNDS NECESSARY TO MAKE
29 THE BALANCE IN THE ACCOUNT \$3,000,000 SHALL BE TRANSFERRED TO
30 THE ACCOUNT FROM FUNDS AVAILABLE IN THE FUND.

1 (2) ANY FUNDS IN THE PENNSYLVANIA FLOOD GRANT AND
2 ASSISTANCE PROGRAM RESTRICTED REVENUE ACCOUNT ARE
3 APPROPRIATED ON A CONTINUING BASIS FOR THE PURPOSES OF
4 SECTION 7332 AND THIS SECTION.

5 (3) ALL REMAINING MONEY IN THE FUND SHALL BE
6 APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE PURPOSES SET
7 FORTH IN SECTION 7335 (RELATING TO MITIGATION PROGRAM).

8 (c) Use of funds.--Moneys in the fund shall be used
9 exclusively for the purposes set forth in this subchapter and
10 shall not be diverted to any other fund.

11 § 7334. Insurance surcharge.

12 ~~(a) Imposition. An annual surcharge of \$1 is imposed on~~ <—
13 ~~each homeowner's insurance policy and each business owner's~~
14 ~~insurance policy issued in this Commonwealth. This surcharge is~~
15 ~~a charge additional to the premium for each insurance policy,~~
16 ~~but nonpayment of the surcharge may provide just cause for~~
17 ~~cancellation of the policy.~~

18 ~~(b) Deposit into fund. The surcharge shall be collected by~~
19 ~~each insurer issuing homeowner's or businesses owner's insurance~~
20 ~~policies, and it shall be remitted to the Department of Revenue~~
21 ~~quarterly on dates determined by the department for deposit into~~
22 ~~the fund.~~

23 (A) IMPOSITION.--FOR THE PURPOSE OF PROVIDING FUNDS <—
24 NECESSARY FOR THIS SUBCHAPTER, EVERY INSURANCE COMPANY WRITING
25 PROPERTY INSURANCE IN THIS COMMONWEALTH SHALL PAY AN ASSESSMENT
26 OF 20¢ PER ANNUM, PER EVERY \$100 OF GROSS PREMIUM ON ALL
27 PROPERTY INSURANCE PREMIUMS COLLECTED.

28 (B) DEPOSIT INTO FUND.--AN INSURANCE COMPANY SHALL FILE A
29 REPORT WITH THE AGENCY ON A FORM PRESCRIBED BY THE AGENCY ON OR
30 BEFORE APRIL 15 OF EACH YEAR, SHOWING THE GROSS PREMIUMS

1 RECEIVED FROM BUSINESS TRANACTED IN THIS COMMONWEALTH DURING
2 THE PRECEDING YEAR, ENDING DECEMBER 31. WHEN FILING THE REPORT,
3 THE INSURANCE COMPANY SHALL COMPUTE AND PAY TO THE COMMONWEALTH
4 THE TAX UPON THE GROSS PREMIUMS RECEIVED FROM BUSINESS
5 TRANACTED WITHIN THIS COMMONWEALTH DURING THE PRECEDING YEAR.
6 § 7335. MITIGATION PROGRAM.

7 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), THE
8 DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL ADMINISTER AND
9 ENFORCE THIS SUBCHAPTER AND MAY MAKE RULES AND REGULATIONS
10 NECESSARY FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS
11 SUBCHAPTER.

12 (B) INSURANCE MATTERS.--THE INSURANCE DEPARTMENT SHALL
13 ADMINISTER AND ENFORCE THOSE PROVISIONS OF THIS SUBCHAPTER AS TO
14 MATTERS UNDER ITS JURISDICTION AS DETERMINED BY THIS SECTION OR
15 OTHER STATUTE AND MAY MAKE RULES AND REGULATIONS NECESSARY FOR
16 THE ADMINISTRATION AND ENFORCEMENT OF THOSE PROVISIONS.

17 § ~~7335~~ 7336. Regulations.

18 The agency, in consultation with the Department of
19 Environmental Protection, the Department of Community and
20 Economic Development or the Department of Revenue, shall
21 promulgate any regulations necessary to implement ~~the program~~
22 THIS SUBCHAPTER.

23 § 7337. PROCEDURES; ENFORCEMENT; PENALTIES.

24 (A) GENERAL RULE.--PARTS III, IV, V, VI AND VII OF ARTICLE
25 IV OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX
26 REFORM CODE OF 1971, ARE INCORPORATED BY REFERENCE INTO THIS
27 SUBCHAPTER INSOFAR AS THEY ARE APPLICABLE TO THE ASSESSMENT
28 IMPOSED UNDER THIS SUBCHAPTER.

29 (B) OTHER REMEDIES.--ENFORCEMENT REMEDIES UNDER THIS SECTION
30 ARE IN ADDITION TO ANY OTHER REMEDIES OR PENALTIES IMPOSED BY

1 ANY OTHER APPLICABLE STATUTE, INCLUDING THE ACT OF JULY 22, 1974
2 (P.L.589, NO.205), KNOWN AS THE UNFAIR INSURANCE PRACTICES ACT.
3 A VIOLATION BY ANY PERSON OF THIS SUBCHAPTER SHALL BE DEEMED AN
4 UNFAIR METHOD OF COMPETITION AND AN UNFAIR OR DECEPTIVE ACT OR
5 PRACTICE UNDER THE UNFAIR INSURANCE PRACTICES ACT.

6 § ~~7336~~ 7338. Expiration. <—

7 ~~This subchapter~~ SECTIONS 7332 (RELATING TO PENNSYLVANIA FLOOD <—
8 GRANT AND ASSISTANCE PROGRAM) AND 7333 (RELATING TO PENNSYLVANIA
9 FLOOD ASSISTANCE FUND) shall expire on the sixth anniversary of
10 the effective date of this section. At that time, any moneys in <—
11 the fund that have not been committed to a specific grant or
12 assistance under the program shall be transferred to the General
13 Fund.

14 Section 2. This act shall take effect in 180 days.