

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 911 Session of
2009

INTRODUCED BY DeLUCA, FRANKEL, SIPTROTH AND WALKO,
MARCH 12, 2009

REFERRED TO COMMITTEE ON INSURANCE, MARCH 12, 2009

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," further providing for annual and
12 other reports, penalties.

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

15 Section 1. Section 320(d) of the act of May 17, 1921
16 (P.L.682, No.284), known as The Insurance Company Law of 1921,
17 amended February 17, 1994 (P.L.92, No.9) is amended to read:

18 Section 320. Annual and Other Reports; Penalties.--* * *

19 (d) [All financial analysis ratios and examination synopses
20 concerning insurance companies that are submitted to the
21 Insurance Department by the National Association of Insurance
22 Commissioners' Insurance Regulatory Information System are
23 confidential and may not be disclosed by the Insurance

Department. Work products developed by Insurance Department staff in conducting financial analyses of financial statements filed pursuant to this section are confidential and shall not be disclosed by the Insurance Department.]

(1) The following documents, materials and information shall be confidential and privileged, and shall not be subject to subpoena, discovery or the act of February 14, 2008 (P.L.6, No.3) known as the "Right-to-Know Law," or admissible as evidence in any private civil action:

(i) Documents, materials or other information prepared or provided by an insurance company, association or exchange solely in support of the statement of actuarial opinion filed under this section, including actuarial reports, work papers or actuarial opinion summaries and any other material solely prepared by the insurance company, association or exchange for the purpose of providing it to the Insurance Department in connection with actuarial reports, work papers or actuarial opinion summaries.

(ii) Financial analysis ratios, analyst team reports and other financial analytical results concerning insurance companies, associations and exchanges that are provided to the Insurance Department by the National Association of Insurance Commissioners.

(iii) Additional work products, documents, materials or information produced by, obtained by or provided to the Insurance Department in the course of conducting financial analyses of financial statements filed under this section.

(2) The protections established in paragraph (1)(i) and (iii) shall also apply to the materials or drafts of copies of the materials when in possession of the insurance company,

1 association or exchange provided the materials or drafts were
2 prepared solely for the purpose of submitting the materials to
3 the Insurance Department. Documents, materials or information
4 provided to the Insurance Department under paragraph (1)(i) or
5 (iii) that would otherwise be available from original sources
6 shall not be immune from discovery from the original source and
7 use in a private civil action because the materials or drafts
8 were provided to the Insurance Department.

9 (3) Neither the Insurance Commissioner nor an individual or
10 person who receives documents, materials or information while
11 acting under the authority of the Insurance Commissioner shall
12 be permitted or required to testify in a private civil action
13 concerning any confidential documents, materials or information
14 covered by this section.

15 (4) No waiver of an applicable privilege or claim of
16 confidentiality in the documents, materials or information shall
17 occur as a result of disclosure to the Insurance Commissioner or
18 as a result of the Insurance Commissioner's sharing information
19 under sections 201-A and 202-A of the act of May 17, 1921
20 (P.L.789, No.285), known as "The Insurance Department Act of
21 1921".

22 (5) The Insurance Commissioner may use the documents,
23 materials or other information obtained or created under this
24 section in furtherance of a regulatory or legal action brought
25 as part of the Insurance Commissioner's official duties.

26 * * *

27 Section 2. This act shall take effect in 60 days.