

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1737 Session of
2009

INTRODUCED BY GODSHALL, BEYER, BOBACK, BRENNAN, CLYMER, MOUL,
PASHINSKI, PICKETT, ROAE, SCHRODER, SWANGER AND J. TAYLOR,
JUNE 17, 2009

REFERRED TO COMMITTEE ON INSURANCE, JUNE 17, 2009

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 powers and duties of the Insurance Fraud
14 Prevention Authority and for the Insurance Fraud Prevention
15 Trust Fund.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Sections 1122 and 1123 of the act of May 17, 1921
19 (P.L.789, No.285), known as The Insurance Department Act of
20 1921, added December 6, 2002 (P.L.1183, No.147), are amended to
21 read:

22 Section 1122. Powers and duties.

23 The authority shall have the powers necessary and convenient
24 to carry out and effectuate the purposes and provisions of this

1 article and the purposes of the authority and the powers
2 delegated by other laws, including, but not limited to:

3 (1) Employ administrative, professional, clerical and
4 other personnel as may be required and organize the staff as
5 may be appropriate to effectuate the purposes of this
6 article.

7 (2) Have a seal and alter the same at pleasure, have
8 perpetual succession, make, execute and deliver contracts,
9 conveyances and other instruments necessary or convenient to
10 the exercise of its powers and make and amend bylaws.

11 (3) Procure insurance against any loss in connection
12 with its property, assets or activities.

13 (4) Apply for, solicit, receive, establish priorities
14 for, allocate, disburse, contract for, administer and spend
15 funds in the fund and other funds that are made available to
16 the authority from any source consistent with the purposes of
17 this article.

18 (5) Make grants to and provide financial support for the
19 Section of Insurance Fraud, the unit of insurance fraud in
20 the Philadelphia District Attorney's Office, other county
21 district attorneys' offices, other government agencies,
22 community, consumer and business organizations consistent
23 with the purposes of this article and considering the extent
24 of the insurance fraud problem in each county of this
25 Commonwealth.

26 (6) Advise the State Treasurer in relation to the
27 investment of any money held in the fund and any funds held
28 in reserve or sinking funds and any money not required for
29 immediate use or disbursement and to advise the State
30 Treasurer in relation to the use of depositories for moneys

1 of the fund.

2 (7) Assess the scope of the problem of insurance fraud,
3 including areas of this Commonwealth where the problem is
4 greatest, and review State and local criminal justice
5 policies, programs and plans dealing with insurance fraud.

6 (8) Develop and sponsor the implementation of Statewide
7 plans, programs and strategies to combat insurance fraud,
8 improve the administration of the insurance fraud laws and
9 provide a forum for identification of critical problems for
10 those persons dealing with insurance fraud. In conjunction
11 with this power, the authority shall require health care
12 facilities to place posters in each facility announcing that
13 a \$25,000 reward will be paid to persons reporting insurance
14 fraud when the report leads to an arrest and conviction.
15 Rewards pursuant to this provision shall be paid from the
16 Insurance Fraud Prevention Trust Fund.

17 (9) Coordinate the development, adoption and
18 implementation of plans, programs and strategies relating to
19 interagency and intergovernmental cooperation with respect to
20 insurance fraud law enforcement.

21 (10) Promulgate rules or regulations related to the
22 expenditure of moneys held in the fund in order to assist and
23 support those agencies, units of government, county district
24 attorneys' offices and other organizations charged with the
25 responsibility of reducing insurance fraud or interested and
26 involved in achieving this goal.

27 (11) Audit at its discretion the plans and programs that
28 it has funded in whole or in part in order to evaluate the
29 effectiveness of the plans and programs and withdraw funding
30 should the authority determine that a plan or program is

1 ineffective or is no longer in need of further financial
2 support from the fund.

3 (12) Report annually on or before the first day of April
4 to the Governor and the General Assembly on the authority's
5 activities in the preceding period of operation.

6 (13) Meet with the Section of Insurance Fraud on at
7 least a quarterly basis in order to advise and assist it in
8 implementing its statutory mandate.

9 (14) Advise the General Assembly on matters relating to
10 insurance fraud and recommend to the General Assembly on an
11 annual basis any changes to the operation of the Section of
12 Insurance Fraud. The report shall be available for public
13 inspection.

14 (15) Establish either alone or in cooperation with
15 authorized insurance companies and licensed agents and
16 producers a fund to reward persons not connected with the
17 insurance industry who provide information or furnish
18 evidence leading to the arrest and conviction of persons
19 responsible for insurance fraud.

20 (16) Require as a condition of every application and
21 request for financial support, including every application
22 for ongoing renewal of a multiyear grant under section
23 1123(f), that the applicant describe both the nature of and
24 the amount of funding for the activities, if any, devoted to
25 the investigation and prosecution of insurance fraud at the
26 time of the application or request.

27 (17) Require as a condition of every application and
28 request for financial support that every recipient of funding
29 report annually within four months of the close of each
30 funding cycle to the authority on the use of the funds

1 obtained from the authority during the previous year,
2 including a description of programs implemented and results
3 obtained. The authority will include this information on the
4 use of funds by grantees in its annual report under paragraph
5 (12) and send a copy specifically to the chairman and the
6 minority chairman of the standing committees of the Senate
7 and the chairman and the minority chairman of the standing
8 committees of the House of Representatives with jurisdiction
9 over insurance matters.

10 Section 1123. Insurance Fraud Prevention Trust Fund.

11 (a) Establishment.--There is hereby established a separate
12 account in the State Treasury to be known as the Insurance Fraud
13 Prevention Trust Fund. This fund shall be administered by the
14 State Treasurer with the advice of the authority. All interest
15 earned from the investment or deposit of moneys accumulated in
16 the fund shall be deposited in the fund for the same use.

17 (b) Funds.--All moneys deposited into the fund shall be held
18 in trust and shall not be considered general revenue of the
19 Commonwealth but shall be used only to effectuate the purposes
20 of this article as determined by the authority and shall be
21 subject to audit by the Auditor General.

22 (c) Assessment.--

23 (1) Annually on or before the first day of April, each
24 insurer engaged in the writing of the insurance coverages
25 listed below, as a condition of its authorization to transact
26 business in this Commonwealth, shall pay into the fund in
27 trust an amount equal to the product obtained by multiplying
28 \$8,000,000 by a fraction, the numerator of which is the
29 direct premium collected for those coverages listed below by
30 that insurer in this Commonwealth during the preceding

1 calendar year and the denominator of which is the direct
2 premium written on such coverages in this Commonwealth by all
3 insurers in the same period.

4 (2) The following coverages, as listed in the Annual
5 Statistical Report of the Insurance Department, shall be
6 considered in determining assessments: all fire and casualty
7 direct business written and accident and health and credit
8 accident and health written under life/annuity/accident and
9 health direct business written. Assessments made under this
10 section shall not be considered burdens and prohibitions
11 under section 212.

12 (3) Assessments for health plan corporations and
13 professional health services plan corporations when added
14 together shall not be more than 10% of the total assessment
15 authorized by this subsection. If the total assessment for
16 these organizations is more than 10%, such organizations will
17 share the assessment up to the 10% limit among themselves in
18 the same proportion as they would otherwise have shared their
19 calculated assessment absent this limit. Any deficiency in
20 the total assessment caused by the application of this limit
21 will be shared by all other entities being assessed in the
22 same proportions as they are sharing the rest of the
23 assessment.

24 (d) Base amount.--In succeeding years the authority may vary
25 the base amount of \$8,000,000, provided, however, that any
26 increase which on an annual basis exceeds the increase in the
27 Consumer Price Index for this Commonwealth must be approved by
28 three of the four insurance representatives on the board.

29 (d.1) Forfeiture proceedings.--In addition to other sources
30 of moneys set forth in this section, the fund shall receive the

proceeds derived from forfeiture proceedings relating to
insurance fraud.

(e) Expenditures.--Moneys in the fund may be expended by the authority for the following purposes:

(1) Effectuate the powers, duties and responsibilities of the authority as set forth in this article.

(2) Pay the costs of administration and operation of the Section of Insurance Fraud and the unit for insurance fraud in the Philadelphia District Attorney's Office.

(3) Provide financial support to law enforcement, correctional agencies and county district attorneys' offices for programs designed to reduce insurance fraud and to improve the administration of insurance fraud laws.

(4) Provide financial support for other governmental agencies, community, consumer and business organizations for programs designed to reduce insurance fraud and to improve the administration of insurance fraud laws.

(5) Provide financial support to programs designed to inform insurance consumers about the costs of insurance fraud to individuals and to society and to suggest methods for preventing insurance fraud.

(6) Provide financial support for reward programs leading to the arrest and conviction of persons and organizations engaged in insurance fraud.

(7) Provide financial support for other plans, programs and strategies consistent with the purposes of this article.

(f) Multiyear grants.--In funding the Section of Insurance Fraud, the Unit for Insurance Fraud in the Philadelphia District Attorney's Office and in funding grant requests, the authority may consider and approve requests for multiyear grants of not

1 more than four years in length, although extensions of such
2 multiyear commitments may be renewed from year to year. No
3 funding reduction under subsection (d) can be imposed by the
4 authority in any given year which would operate to reduce
5 funding for any multiyear approved program for which persons
6 have been hired for full-time positions to a funding level where
7 such positions must be terminated unless the organization
8 employing such persons certifies either that other equivalent
9 positions are available or that such positions with the
10 antifraud program can be funded from other sources.

11 (g) Dissolution.--In the event that the trust fund is
12 discontinued or the authority is dissolved by operation of law,
13 any balance remaining in the fund, after deducting
14 administrative costs for liquidation, shall be returned to
15 insurers in proportion to their financial contributions to the
16 fund in the preceding calendar year.

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