

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1181 Session of
2010

INTRODUCED BY WARD, D. WHITE, VANCE, TARTAGLIONE, WAUGH, ORIE,
PICCOLA, BROWNE, STACK, EARL AND MENSCH, JANUARY 8, 2010

REFERRED TO BANKING AND INSURANCE, JANUARY 8, 2010

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 immunity from
12 liability.

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

15 Section 1. Section 349.1 of the act of May 17, 1921
16 (P.L.682, No.284), known as The Insurance Company Law of 1921,
17 added June 11, 1986 (P.L.226, No.64) is amended to read:

18 Section 349.1. Immunity from Liability.--[(a) In the
19 absence of fraud or bad faith, no person or his employes or
20 agents shall be subject to civil liability and no civil cause of
21 action shall arise against any of them for any of the following:

22 (1) Information relating to suspected fraudulent insurance
23 acts furnished by them to or received from law enforcement

1 officials, their agents and employes.

2 (2) Information relating to suspected fraudulent insurance
3 acts furnished by them to or received from other persons subject
4 to the provisions of this act.

5 (3) Information furnished by them in reports to the
6 Insurance Department, National Association of Insurance
7 Commissioners or another organization established to detect and
8 prevent fraudulent insurance acts, their agents, employes or
9 designees.

10 (b) The Insurance Commissioner and employes of the Insurance
11 Department, in the absence of fraud or bad faith, shall not be
12 subject to civil liability. No civil cause of action shall arise
13 against any of them by virtue of the publication of a report or
14 bulletin related to the official activities of the Insurance
15 Department.

16 (c) Nothing in this section is intended to abrogate or
17 modify a common law or statutory immunity heretofore enjoyed by
18 any person.

19 (d) As used in this section the following words and phrases
20 shall have the meanings given to them in this subsection:

21 "Absence of bad faith" means without serious doubt that the
22 information furnished or received, or the report or bulletin
23 published, is not true.

24 "Absence of fraud" means without knowledge that the
25 information furnished or received, or the report or bulletin
26 published, is not true.

27 "Fraudulent insurance act" means an act committed by a person
28 who, knowingly and with intent to defraud, presents, causes to
29 be presented or prepares with knowledge or belief that it will
30 be presented to or by an insurer, purported insurer or broker,

1 or an agent of an insurer, purported insurer or broker, a
2 written statement as part or in support of an application for
3 the issuance or rating of an insurance policy for commercial
4 insurance, or a claim for payment or other benefit pursuant to
5 an insurance policy for commercial or personal insurance which
6 he knows to contain materially false information concerning a
7 fact material to the statement or claim or to conceal, for the
8 purpose of misleading, information concerning a fact material to
9 the statement or claim.]

10 (a) In the absence of actual malice, a person is not subject
11 to civil liability for libel, slander, bad faith or any other
12 civil cause of action, and no civil cause of action of any
13 nature shall arise against the person:

14 (1) For any information furnished to or received from
15 Federal, State or local law enforcement officials, their agents
16 or employes relating to suspected fraudulent insurance acts or
17 persons suspected of engaging in such acts.

18 (2) For any information furnished to or received from the
19 Insurance Department, the Department of Health, the Department
20 of Labor and Industry, the Insurance Fraud Prevention Authority,
21 the Automobile Theft Prevention Authority, the National
22 Insurance Crime Bureau, the National Association of Insurance
23 Commissioners or a recognized comprehensive database system
24 relating to suspected fraudulent insurance acts or persons
25 suspected of engaging in such acts.

26 (3) For other actions taken in cooperation with any of the
27 agencies or individuals identified in this subsection in the
28 lawful investigation of suspected fraudulent insurance acts.

29 (b) (1) In addition to the immunity granted in subsection
30 (a), persons identified as designated employes of insurers,

1 self-insurers or insurance licensees whose responsibilities
2 include the investigation and disposition of claims relating to
3 suspected fraudulent insurance acts may share information on
4 such acts and persons suspected of engaging in them with other
5 designated employes employed by the same or other insurers,
6 self-insurers or insurance licensees whose responsibilities
7 include the investigation and disposition of claims relating to
8 suspected fraudulent insurance acts. Unless such persons act
9 with actual malice or in reckless disregard for the rights of
10 any insured, the insurers, self-insurers or insurance licensees
11 and their employes shall not be subject to libel, slander, bad
12 faith or any other civil cause of action, and such causes of
13 action shall not arise against them.

14 (2) Notwithstanding the provisions of this subsection, the
15 qualified immunity against civil liability conferred under this
16 subsection shall be forfeited with respect to the exchange or
17 publication of any defamatory information with third persons not
18 expressly authorized by this subsection to share in the
19 information.

20 (c) The Insurance commissioner and employes of the Insurance
21 Department when acting without malice and in the absence of
22 fraud or bad faith are not subject to civil liability for libel,
23 slander or any other relevant tort, and no civil cause of action
24 of any nature exists against such person by virtue of the
25 execution of official activities or duties of the Insurance
26 Department under this act or by virtue of the publication of any
27 report or bulletin related to the official activities or duties
28 of the Insurance Department under this act.

29 (d) Nothing in this section is intended to abrogate or
30 modify a common law or statutory immunity enjoyed by any person

1 prior to the effective date of this subsection or to prohibit a
2 bad faith or any other civil action based upon actions other
3 than those described in this section.

4 Section 2. Repeals are as follows:

5 (1) The General Assembly declares that the repeals under
6 paragraph (2) are necessary to effectuate the provisions of
7 this act.

8 (2) (i) The provisions of 75 Pa.C.S. § 1795(b) and
9 (c) are repealed.

10 (ii) Section 3(c) of the act of July 2, 1980
11 (P.L.340, No.85), known as the Arson Reporting Immunity
12 Act, is repealed.

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