

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1181 Session of 2010

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

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, SEPTEMBER 20, 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; and making a related repeal.

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 absence
19 of fraud or bad faith, no ~~individual~~ 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



1 acts or persons suspected of engaging in such acts furnished by
2 them to or received from Federal, State or local law enforcement
3 officials, their agents and employes and designees.

4 (2) Information relating to suspected fraudulent insurance
5 acts or persons suspected of engaging in such acts furnished by
6 them to or received from other persons subject to the provisions
7 of this act.

8 (3) Information furnished by them [in reports to the
9 Insurance Department,] or received from a Federal, State or
10 local agency, the National Association of Insurance
11 Commissioners or another organization established to detect and
12 prevent fraudulent insurance acts, their agents, employes or
13 designees or a recognized comprehensive database system approved
14 by the Insurance Department.

15 (a.1) In the absence of fraud or bad faith, the immunity
16 granted in subsection (a) shall also apply to persons identified
17 as designated employes of insurers, self-insurers or insurance
18 licensees whose responsibilities include the investigation and
19 disposition of claims relating to suspected fraudulent insurance
20 acts when sharing information on such acts or persons suspected
21 of engaging in such acts with other designated employes of the
22 same or other insurers, self-insurers or insurance licensees
23 whose responsibilities include the investigation or disposition
24 of claims relating to suspected fraudulent insurance acts.

25 (b) [The Insurance Commissioner and employes of the
26 Insurance Department] State agencies and their employes and
27 designees, in the absence of fraud or bad faith, shall not be
28 subject to civil liability for sharing information identified in
29 subsection (a). No civil cause of action shall arise against any
30 of them by virtue of the publication of a report or bulletin

1 related to the official activities of the [Insurance Department]
2 State agency.

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

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

8 "Absence of bad faith" means without serious doubt that the
9 information furnished or received, or the report or bulletin
10 published, is not true.

11 "Absence of fraud" means without knowledge that the
12 information furnished or received, or the report or bulletin
13 published, is not true.

14 "Fraudulent insurance act" means an act committed by a person
15 who, knowingly and with intent to defraud, presents, causes to
16 be presented or prepares with knowledge or belief that it will
17 be presented to or by an insurer, purported insurer or broker,
18 or an agent of an insurer, purported insurer or broker, [a
19 written statement] information as part or in support of an
20 application for the issuance or rating of an insurance policy
21 for commercial or personal insurance, or a claim for payment or
22 other benefit pursuant to an insurance policy for commercial or
23 personal insurance which he knows to contain materially false
24 information concerning a fact material to the statement or claim
25 or to conceal, for the purpose of misleading, information
26 concerning a fact material to the statement or claim.

27 "INSURER" MEANS AN INSURANCE COMPANY, ASSOCIATION, EXCHANGE, ←
28 INTERINSURANCE EXCHANGE, HEALTH MAINTENANCE ORGANIZATION,
29 PREFERRED PROVIDER ORGANIZATION, PROFESSIONAL HEALTH SERVICES
30 PLAN CORPORATION SUBJECT TO 40 PA.C.S. CH. 63 (RELATING TO

1 PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS), A HOSPITAL PLAN
2 CORPORATION SUBJECT TO 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL
3 PLAN CORPORATIONS), FRATERNAL BENEFIT SOCIETY, BENEFICIAL
4 ASSOCIATION, LLOYD'S INSURER OR HEALTH PLAN CORPORATION.

5 Section 2. Repeals are as follows:

6 (1) The General Assembly declares that the repeal under
7 paragraph (2) is necessary to effectuate the provisions of
8 this act.

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

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