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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1335 Session of  
2017

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INTRODUCED BY PICKETT, DeLUCA, GODSHALL, GROVE, MASSER, MENTZER,  
MILLARD, RYAN, SIMMONS, WARD, WHEELAND AND MOUL, MAY 5, 2017

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REFERRED TO COMMITTEE ON INSURANCE, MAY 5, 2017

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AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated  
2 Statutes, in preliminary provisions, providing for Insurance  
3 Regulation and Oversight Fund; and making a related repeal.

4 The General Assembly of the Commonwealth of Pennsylvania

5 hereby enacts as follows:

6 Section 1. Part I of Title 40 of the Pennsylvania

7 Consolidated Statutes is amended by adding a chapter to read:

8 CHAPTER 3

9 INSURANCE REGULATION AND OVERSIGHT FUND

10 Sec.

11 301. Scope of chapter.

12 302. Definitions.

13 303. Purpose and use of fund.

14 304. Deposit of money to fund and appropriation and expenditure  
15 of fund.

16 305. Retention.

17 306. Annual report to General Assembly.

18 § 301. Scope of chapter.

1 This chapter relates to the Insurance Regulation and  
2 Oversight Fund.

3 § 302. Definitions.

4 The following words and phrases when used in this chapter  
5 shall have the meanings given to them in this section unless the  
6 context clearly indicates otherwise:

7 "Commissioner." The Insurance Commissioner of the  
8 Commonwealth or a duly authorized representative of the  
9 Insurance Commission of the Commonwealth.

10 "Fund." The Insurance Regulation and Oversight Fund  
11 established under this chapter.

12 "Insurance Company Law." The act of May 17, 1921 (P.L.682,  
13 No.284), known as The Insurance Company Law of 1921.

14 "Insurance Department Act." The act of May 17, 1921  
15 (P.L.789, No.285), known as The Insurance Department Act of  
16 1921.

17 § 303. Purpose and use of fund.

18 (a) Creation and purpose of fund.--To provide for the  
19 department's regulation, management, development and oversight  
20 of the Commonwealth's insurance industry, beginning July 1,  
21 2013, and every fiscal year thereafter, the department's  
22 operating costs and expenses shall be paid from a special fund  
23 called the Insurance Regulation and Oversight Fund, which is  
24 created in the State Treasury.

25 (b) Limitations on use.--Money in the fund shall not be used  
26 to pay the department's operating costs or expenditures when  
27 those costs and expenditures arise from actions, duties or  
28 functions that are payable from other dedicated sources of  
29 funding, including, but not limited to, the following:

30 (1) The rehabilitation and liquidation of insurance

1 companies under Article V of the Insurance Department Act.

2 (2) The Catastrophic Loss Benefits Continuation Fund  
3 under 75 Pa.C.S. § 1798.4 (relating to Catastrophic Loss  
4 Benefits Continuation Fund).

5 (3) The Underground Storage Tank Indemnification Fund  
6 under the act of July 6, 1989 (P.L.169, No.32), known as the  
7 Storage Tank and Spill Prevention Act.

8 (4) The Workers' Compensation Security Fund under the  
9 act of July 1, 1937 (P.L.2532, No.470), known as the Workers'  
10 Compensation Security Fund Act.

11 (5) The Medical Care Availability and Reduction of Error  
12 Fund under the act of March 20, 2002 (P.L.154, No.13), known  
13 as the Medical Care Availability and Reduction of Error  
14 (Mcare) Act.

15 (6) The Children's Health Insurance Program under the  
16 Insurance Company Law.

17 § 304. Deposit of money to fund and appropriation and  
18 expenditure of fund.

19 (a) Deposits.--The following amounts shall be deposited into  
20 the fund:

21 (1) Fifty percent of all licenses and fees collected,  
22 received or derived by the department each month.

23 (2) All funds and money collected, received or derived  
24 from all penalties, fines or settlements received by the  
25 department in fiscal year 2013-2014.

26 (3) All augmentations and reimbursements made to the  
27 department by regulated entities as a result of financial and  
28 market regulation activities for which regulated entities are  
29 responsible for payment.

30 (b) Exclusion from deposit.--Money collected under 75

1 Pa.C.S. § 6506 (relating to surcharge) and deposited into the  
2 General Fund under section 1798-E of the act of April 9, 1929  
3 (P.L.343, No.176), known as The Fiscal Code, shall not be  
4 deposited into the fund.

5 (c) Annual appropriation.--The General Assembly shall  
6 annually appropriate money from the fund to the department, and  
7 the department may expend the appropriated money only for the  
8 purposes authorized under this chapter. The department shall  
9 annually submit a proposal for its expenditure of fund money for  
10 the succeeding fiscal year to the Secretary of the Budget at the  
11 time or times required by and in accordance with the act of  
12 April 9, 1929 (P.L.177, No.175), known as The Administrative  
13 Code of 1929.

14 (d) Fiscal year 2013-2014.--

15 (1) If during the Commonwealth's fiscal year 2013-2014  
16 the commissioner and the Secretary of the Budget determine  
17 that the cash balance and the current estimated receipts of  
18 the fund are insufficient at any time during that fiscal year  
19 to promptly meet the department's expenses payable from the  
20 fund, the State Treasurer is authorized and directed to  
21 transfer from the General Fund, Workers' Compensation  
22 Security Fund or Underground Storage Tank Indemnification  
23 Fund to the fund such money as the Governor shall from time  
24 to time direct.

25 (2) Money transferred from the General Fund, Workers'  
26 Compensation Security Fund or Underground Storage Tank  
27 Indemnification Fund to the fund shall be available during  
28 fiscal year 2013-2014 to be used for the purposes of the fund  
29 under this chapter upon their receipt in the fund.

30 (3) The fund shall reimburse the General Fund, Workers'

1 Compensation Security Fund or Underground Storage Tank  
2 Indemnification Fund for any money transferred to the fund  
3 under this subsection by transferring to the General Fund,  
4 Workers' Compensation Security Fund or Underground Storage  
5 Tank Indemnification Fund an amount equal to that transferred  
6 from the General Fund, Workers' Compensation Security Fund or  
7 Underground Storage Tank Indemnification Fund during fiscal  
8 year 2013-2014 as the Governor shall from time to time  
9 direct, but full reimbursement shall be made from the fund to  
10 the General Fund, Workers' Compensation Security Fund or  
11 Underground Storage Tank Indemnification Fund before June 15,  
12 2014.

13 (4) The Secretary of the Budget shall notify the  
14 chairperson and minority chairperson of the Appropriations  
15 Committee of the Senate and the chairperson and minority  
16 chairperson of the Appropriations Committee of the House of  
17 Representatives of any transfers and reimbursements made  
18 under this subsection in writing within 15 days of the date  
19 on which they are made.

20 § 305. Retention.

21 At the end of the fiscal year, the fund shall retain an  
22 amount equal to not more than 100% of the total expenditures and  
23 commitments by the department from the fund in the immediately  
24 preceding fiscal year. If the balance in the fund at the end of  
25 the fiscal year exceeds this retention amount, then that amount  
26 of the fund which exceeds the retention amount shall be lapsed  
27 and deposited in the General Fund within 30 days of the end of  
28 the fiscal year.

29 § 306. Annual report to General Assembly.

30 (a) Transmittal.--Within 30 days of the end of each fiscal

1 year, the department shall provide a report to the General  
2 Assembly and post the report on the department's publicly  
3 accessible Internet website.

4 (b) Contents.--The annual report under this section shall  
5 set forth the following for the immediately prior fiscal year:

6 (1) The total amount of deposits into the fund, by  
7 deposit type, that derived from all fees, fines, penalties,  
8 administrative charges, augmentations and reimbursements made  
9 to the department by regulated entities as a result of  
10 financial and market regulation oversight activities for  
11 which the regulated entities are responsible for payment.

12 (2) The total amount of money paid by regulated entities  
13 directly to third-party consultants selected by the  
14 department to assist the department in the performance of  
15 each of the following four categories of financial and market  
16 regulation oversight activities:

17 (i) Financial examinations under the authority set  
18 forth in:

19 (A) section 904 of the Insurance Department Act;

20 or

21 (B) section 1406 of the Insurance Company Law.

22 (ii) Market conduct examinations under the authority  
23 set forth in section 904 of the Insurance Department Act.

24 (iii) The review of transactions required to be  
25 filed by regulated entities with the department under the  
26 authority set forth in section 803-A, 807-A, 1402 or 1405  
27 of the Insurance Company Law.

28 (iv) Solvency monitoring of regulated entities under  
29 the authority set forth in:

30 (A) section 507-A of the Insurance Department

1           Act;  
2           (B) section 2607 of the Insurance Company Law;  
3           or  
4           (C) another current or future law regarding any  
5           of the categories of financial and market regulation  
6           oversight activities set forth under this paragraph.

7           (3) The identity of each third-party consultant and  
8           amount of money paid to each third-party consultant under  
9           each of the four categories of financial and market  
10           regulation oversight activities set forth under paragraph  
11           (2).

12       Section 2. Repeals are as follows:

13           (1) The General Assembly declares that the repeal under  
14       paragraph (2) is necessary to effectuate the addition of 40  
15       Pa.C.S. Ch. 3.

16           (2) The act of July 2, 2013 (P.L.255, No.46), known as  
17       the Insurance Regulation and Oversight Fund Act, is repealed.

18       Section 3. The addition of 40 Pa.C.S. Ch. 3 is a  
19       continuation of the act of July 2, 2013 (P.L.255, No.46), known  
20       as the Insurance Regulation and Oversight Fund Act. The  
21       following apply:

22           (1) Except as otherwise provided in 40 Pa.C.S. Ch. 3,  
23       all activities initiated under the Insurance Regulation and  
24       Oversight Fund Act shall continue and remain in full force  
25       and effect and may be completed under 40 Pa.C.S. Ch. 3.  
26       Orders, regulations, rules and decisions which were made  
27       under the Insurance Regulation and Oversight Fund Act and  
28       which are in effect on the effective date of 40 Pa.C.S. Ch. 3  
29       shall remain in full force and effect until revoked, vacated  
30       or modified under 40 Pa.C.S. Ch. 3. Contracts, obligations

1 and collective bargaining agreements entered into under the  
2 Insurance Regulation and Oversight Fund Act are not affected  
3 nor impaired by the repeal of the Insurance Regulation and  
4 Oversight Fund Act.

5 (2) Except as set forth in paragraph (3), any difference  
6 in language between 40 Pa.C.S. Ch. 3 and the Insurance  
7 Regulation and Oversight Fund Act is intended only to conform  
8 to the style of the Pennsylvania Consolidated Statutes and is  
9 not intended to change or affect the legislative intent,  
10 judicial construction or administration and implementation of  
11 the Insurance Regulation and Oversight Fund Act.

12 (3) Paragraph (2) does not apply to the addition of 40  
13 Pa.C.S. § 306.  
14 Section 4. This act shall take effect immediately.