

of this act during the fiscal year beginning July 1, 1965 are hereby specifically appropriated to the Department of State for the use of the board in carrying out the provisions of this act.

Section 14. Saving Provision.—This act shall not be deemed to repeal, suspend, modify or revoke any of the provisions of “The Vehicle Code” or the “Motor Vehicle Sales Finance Act.”

Section 15. Severability.—The provisions of this act are severable and, if any provision or part hereof shall be held invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of the act. It is hereby declared to be the legislative intent that this act would have been adopted if such invalid, unconstitutional or inapplicable provisions had not been included therein.

Section 16. Effective Date.—This act shall take effect immediately.

APPROVED—The 9th day of September, A. D. 1965.

WILLIAM W. SCRANTON

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No. 255

AN ACT

SB 102

Amending the act of July 17, 1957 (P. L. 984), entitled “An act requiring that notice of any prior or contemporaneous severance of coal or the right of surface support from the surface be set forth in a certain manner in every deed, agreement of sale, title insurance policy, or other instrument in writing, which sells, conveys, transfers, releases, quitclaims, or agrees to sell, convey, transfer, release, or quitclaim, or insures or agrees to insure title to the surface of land, and providing for the effect upon the vendor, grantor, transferor, releasor or person who quitclaims or insures title or agrees to do any of the foregoing, for noncompliance therewith,” modifying the form of notice providing that the act does not apply to mortgage and quitclaim transactions and specifying the situations to which the act applies.

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

Section 1. Sections 1 and 2, act of July 17, 1957 (P. L. 984), entitled “An act requiring that notice of any prior or contemporaneous severance of coal or the right of surface support from the surface be set forth in a certain manner in every deed, agreement of sale, title insurance policy, or other instrument in writing, which sells, conveys, transfers, releases, quitclaims, or agrees to sell, convey, transfer, release, or quitclaim, or insures or agrees to insure title to the surface of land,

and providing for the effect upon the vendor, grantor, transferor, releasor or person who quitclaims or insures title or agrees to do any of the foregoing, for noncompliance therewith," are amended to read:

Section 1. (a) Every deed, agreement of sale, title insurance policy and other instrument in writing, except a mortgage, a quitclaim deed or an agreement to convey by quitclaim, hereafter executed and delivered with respect to the surface of land and for the purpose of selling, conveying, transferring, [releasing, quitclaiming,] agreeing to sell, convey, or transfer, [release or quitclaim,] or for insuring or agreeing to insure the title to said surface of land, shall, if [there is or has been a prior or contemporaneous severance either of any coal underneath any part of said surface or of any part of the right of surface support for said surface,] any of the conditions of subsection (b) of this section are present, include therein, set forth entirely either in capital letters or in type or writing distinctively different from the balance of the instrument or set apart from the balance of the instrument by underlining, a prominent notice either in the form of one of the following paragraphs or else in a form which is essentially the same as and which expresses precisely the same meaning and notice as one of said following paragraphs:

[(A)] (1) "This document may not sell, convey, transfer, include or insure the title to the coal and right of support underneath the surface land described or referred to herein, and the owner or owners of such coal may have the complete legal right to remove all of such coal and, in that connection, damage may result to the surface of the land and any house, building or other structure on or in such land. The inclusion of this notice does not enlarge, restrict or modify any legal rights or estates otherwise created, transferred, excepted or reserved by this instrument."

[(B)] (2) "This document does not sell, convey, transfer, include or insure the title to the coal and right of support underneath the surface land described or referred to herein, and the owner or owners of such coal have the complete legal right to remove all of such coal and, in that connection, damage may result to the surface of the land and any house, building or other structure on or in such land. The inclusion of this notice does not enlarge, restrict or modify any legal rights or estates otherwise created, transferred, excepted or reserved by this instrument."

(b) The notice prescribed by subsection (a) of this section must be included in each of the following cases:

(1) If there is, or has been, a prior severance of record either of any coal underneath any part of the surface referred to in subsection (a) of section 1 hereof, or of any part of the right of surface support derived from or in connection with any of the said coal; or

(2) If there is, or has been, a prior severance not of record either of any coal underneath any part of the surface referred to in subsection (a) of section 1 hereof, or of any part of the right of surface support derived from or in connection with any of said coal, and the person, firm or entity who, or which, sells, conveys, transfers, insures title or agrees to do any of those things has notice of, or reason to know of, such severance; or

(3) If there is a contemporaneous severance whether or not of record of any coal underneath any part of the surface referred to in subsection (a) of section 1 hereof, or of any part of the right of surface support derived from or in connection with any of said coal.

Section 2. [The] If subsection (a) of section 1 of this act is applicable, then the person, firm or entity who or which, alone or together with others, sells, conveys, transfers [releases or quitclaims] or insures the title to the surface of land by an instrument in writing, or agrees in writing, to do any of the foregoing, [or who insures or agrees to insure title to the surface of land in any instrument in writing which does not comply with the provisions of] without including the notice prescribed by subsection (a) of section 1 of this act, shall be liable in damages to the grantee, purchaser, insured or other party to the instrument in an action in assumpsit, based upon implied contract, to the same extent as if [he had expressly agreed, warranted and insured] there was expressly included in the instrument in writing an agreement and assurance that all coal underneath the surface described or referred to in such instrument in writing and the complete right to surface support [therefor] derived from or in connection with said coal were included in

the property sold, conveyed, transferred, [released, quitclaimed,] agreed to be sold, conveyed, or transferred, [released or quitclaimed, or the title to which] or to which the title was insured or agreed to be insured.

Failure to comply with the provisions of section 1 of this act shall not create, convey, transfer, enlarge, impair or otherwise affect any right to or waiver of surface support or any title to land or any other estate or interest in land, and shall not impair or otherwise affect any waiver or release of damages or any immunity from liability or damages other than by giving rise to a cause of action as hereinabove specifically provided.

Section 2. This act shall take effect in six months provided, however, that the forms of notice set forth herein may validly be used prior to said effective date.

APPROVED—The 10th day of September, A. D. 1965.

WILLIAM W. SCRANTON

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No. 256

AN ACT

SB 265

Amending the act of March 6, 1956 (P. L. 1228), entitled, as amended, "An act to provide revenue for purposes of public education by imposing a tax on the sale, use, storage, rental or consumption of personal property and certain services and upon the occupancy of hotel rooms; providing for certain exclusions; providing for licenses, reports and payment of tax, interest and penalties, assessments, collections, liens, reviews and appeals; prescribing crimes and offenses and penalties therefor; providing for the application of general laws in the administration and enforcement of this act; conferring powers and imposing duties upon the Department of Revenue, public officers, manufacturers, wholesalers, retailers, operators, corporations, partnerships, associations and individuals and making an appropriation," clarifying the exclusion from taxation of the service of printing or imprinting mail order catalogs and direct mail advertising materials.

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

Section 1. Clause (r) of section 203, act of March 6, 1956 (P. L. 1228), known as the "Tax Act of 1963 for Education," added May 29, 1963 (P. L. 49), is amended to read:

Section 203. Exclusions from Tax.—The tax imposed by section 201 shall not be imposed upon—

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(r) The sale at retail or use or the rendition of or the obtaining by a