

## No. 162

## AN ACT

## HB 652

Amending the act of May 17, 1921 (P.L.789, No.285), entitled, as amended, "An act relating to insurance; establishing an insurance department; and amending, revising, and consolidating the law relating to the licensing, qualification, regulation, examination, suspension, and dissolution of insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and certain societies and orders, the examination and regulation of fire insurance rating bureaus, and the licensing and regulation of insurance agents and brokers; the service of legal process upon foreign insurance companies, associations or exchanges; providing penalties, and repealing existing laws," further providing for the insolvency of or the impairment of the reserves of an assessable mutual insurance company.

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

Section 1. Section 502, act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of one thousand nine hundred and twenty-one," amended March 22, 1956 (P.L.1328, No.420), is amended to read:

Section 502. Suspension of and Applications to Court to Take Over Business of Domestic Companies, Et Cetera, for Protection of Policyholders, Creditors, Et Cetera.—Whenever any domestic insurance company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order, including all corporations, associations, societies, and orders which are subject to examination by the Insurance Commissioner or which are doing, or attempting to do, or representing that they are doing, the business of insurance in this Commonwealth, or which are in process of organization intending to do such business therein—(a) is insolvent ***and in determining insolvency of an assessable mutual insurance company contingent assessments receivable from such a company's members shall not be an admitted asset***; or (b) has refused to submit its books, papers, accounts, or affairs to the reasonable inspection of the Insurance Commissioner or his deputy or examiner; or (c) has neglected or refused to observe an order of the Insurance Commissioner to make good within the time prescribed by law any deficiency, whenever its capital, if it be a stock company, or its reserves, if it be a mutual company, an association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order, shall have become impaired ***and in determining the impairment of the reserves of an assessable mutual insurance company contingent assessments receivable from such a company's members shall not be an admitted asset***; or (d) has, by contract of reinsurance or otherwise, transferred or attempted to

transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order, without having first obtained the written approval of the Insurance Commissioner; or (e) is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to the public; or (f) has wilfully violated its charter or any law of the Commonwealth; or (g) whenever any officer thereof has refused to be examined under oath touching its affairs; or (h) was incorporated, organized, or is operating without authority of law, the Insurance Commissioner, after examination, shall suspend the entire business of any such domestic insurance company association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order, if it be found by him to be insolvent or in such condition that its further transaction of business will be hazardous to its policyholders or to its creditors or to the public, and may suspend any such organization if it be found by him to have violated any of the provisions of (b), (c), (d), (f), (g) or (h) of this section. Any such suspension shall prohibit issuance of policies, transfers of property, and payments of moneys, without prior written approval of the Insurance Commissioner. Notice of such suspension shall be given, by first class mail within fifteen days thereof, by the suspended organization to those who were creditors, policyholders, members and certificate holders at the date of suspension. Notice of such suspension shall be given, within fifteen days thereof, by the Insurance Commissioner to creditors, policyholders, members and certificate holders by advertising the same by one publication in a newspaper of general circulation in the county where the suspended organization has its principal office. From the date of such suspension on the ground that the suspended organization is insolvent, or is in such condition that its further transaction of business will be hazardous to its policyholders or to its creditors or to the public, no action at law or equity shall be commenced or prosecuted nor shall any judgment be entered against nor shall any execution or attachment be issued or prosecuted against the suspended company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order, or against its property, in any court of this Commonwealth: Provided, That if such suspension order be vacated by the court of common pleas of Dauphin County for the reason that the suspended organization is no longer insolvent, or in such condition that its further transaction of business will be hazardous to its policyholders or to its creditors or to the public, these restraints upon legal process regarding that organization shall thereafter cease to be operative. Upon suspension of any such organization by the Insurance Commissioner

upon any of the grounds set forth in any one of provisions (a) to (h) inclusive of this section, he shall after approval of the Attorney General apply to the **[court of common pleas of Dauphin County]** *Commonwealth Court*, or to the court *of common pleas* of any county in which the principal office of such company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order is located, for an order directing such company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order to show cause why its business should not be closed, and the Insurance Commissioner should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors, stockholders, or the public may require.

Section 2. This act shall take effect immediately.

APPROVED—The 19th day of December, A. D. 1975.

MILTON J. SHAPP