

## No. 343

## AN ACT

## HB 2392

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," increasing certain fines and making violation of certain sections applicable to licensed or nonlicensed insurance agents, solicitors or brokers.

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

Section 1. Section 604, act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of one thousand nine hundred and twenty-one," reenacted August 21, 1961 (P.L.1018, No.457), is amended to read:

Section 604. Penalty for Acting as Agent Without License.—Any individual, copartnership, or corporation transacting business within this Commonwealth as the agent of an insurance company, association, or exchange, without a license as required by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding **[five hundred dollars] one thousand dollars**.

Section 2. Section 607 of the act is amended to read:

Section 607. Penalty for Soliciting for Fictitious or Dead Companies, Et Cetera.—Any individual, and the officers, managers, agents, owners, or representatives of and any corporation, partnership, or association, offering within this State, in person or by advertisement, poster, letter, circular, or otherwise to sell, procure, or obtain policies, certificates, agreements, binders, or applications for insurance, surety, or indemnity, for or on behalf of any spurious, fictitious, nonexistent, dissolved, inactive, liquidated or liquidating or bankrupt insurance company, association, exchange, society, or order, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to not more than one year or less than six months imprisonment, and, in addition, shall pay a fine not exceeding **[five hundred dollars] one thousand dollars [nor less than one hundred dollars] for each and every violation**.

Section 3. Section 634 of the act is amended to read:

Section 634. Penalties for Paying or Receiving Commission or Compensation for Insuring Lives of Attorneys, Partners, Clerks, Servants, or Employes.—It shall be unlawful for any person, copartnership, corporation, insurance agent, broker, solicitor, or

representative to pay or cause to be paid any commission or compensation whatsoever to any attorney, partner, clerk, servant, employe, or any other person, howsoever hired or employed by or with any insured or any beneficiary named in any policy of life insurance. It shall be unlawful for any attorney, partner, clerk, servant, employe, or any other person, howsoever hired or employed by or with any insured or any beneficiary named in any policy of life insurance, to receive, directly or indirectly, any commission, compensation, or other benefit because or by reason of any such life insurance being placed, sold, or solicited on the life or for the benefit of their respective clients, employers, or masters, or any of them. It shall be unlawful for any attorney, officer, clerk, servant, or employe of any corporation, partnership, association, or individual to receive, directly or indirectly, any commission, compensation, or benefit because or by reason of any life insurance being placed, sold, or solicited on the life or for the benefit of any attorney, officer, clerk, servant, or employe of the same corporation, copartnership, association, or individual, whether or not any such attorney, partner, officer, clerk, servant, or employe, or other person, hired or employed by or with the insured or of any beneficiary named in any policy of life insurance, is duly licensed by the proper authority in this Commonwealth to place, sell, or solicit life insurance.

Every such attorney, partner, officer, clerk, servant, or employe or other person, hired or employed or continuing to be hired or employed in the relation aforesaid, within ninety days before or after the placing, selling, or soliciting of life insurance on the life or for the benefit of their respective clients, partners, officers, employes, masters, or person in the relation aforesaid, or any of them, shall be subject to the provisions of this section; and every person, copartnership, or corporation participating in the payment or receipt of any compensation or benefit in violation of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not **[less than fifty dollars nor]** more than **[five hundred dollars] one thousand dollars**, payable to the Commonwealth, and imprisonment of not less than thirty days nor more than six months, at the discretion of the court.

Section 4. Section 639 of the act, amended July 25, 1961 (P.L.845, No.364), is amended to read:

Section 639. Revocation, Et Cetera, of License; Penalty.—Upon satisfactory evidence of the violation of any of the provisions of sections six hundred four, six hundred six, six hundred seven, six hundred twenty-three, six hundred thirty-one, six hundred thirty-two, six hundred thirty-three, six hundred thirty-three point one, six hundred thirty-four, six hundred thirty-five, six hundred thirty-six, six hundred thirty-seven, and six hundred thirty-eight of this act, by any agent or solicitor of any insurance company, association, or exchange, or by any insurance broker or excess insurance broker, or upon satisfactory

evidence of such conduct as would disqualify such agent or broker or excess broker from initial issuance of a license under sections six hundred three, six hundred twenty-two and six hundred twenty-four, the Insurance Commissioner may, in his discretion, pursue any one or more of the following courses of action *regardless of whether such agent, solicitor or broker was licensed or not licensed by the Insurance Commissioner*:

(1) Suspend or revoke or refuse to renew the license of such offending party or parties;

(2) Impose a *civil* penalty of not more than one thousand dollars for each and every act in violation of any of said sections by said party or parties.

Before the Insurance Commissioner shall take any action as above set forth, he shall give written notice to the person, company, association, or exchange, accused of violating the law, stating specifically the nature of such alleged violation and fixing a time and place, at least ten (10) days thereafter, when a hearing of the matter shall be held. After such hearing or upon failure of the accused to appear at such hearing, the Insurance Commissioner shall impose such of the above penalties as he deems advisable.

When the Insurance Commissioner shall take action in any or all of the three ways above recited, the party aggrieved may appeal from said action to the [court of common pleas of Dauphin County] *Commonwealth Court*. Any agent or solicitor of any insurance company, association, or exchange, or any insurance broker, or any person, copartnership, association, or corporation, violating the provisions of sections six hundred thirty-three point one, six hundred thirty-five, six hundred thirty-six, six hundred thirty-seven, and six hundred thirty-eight of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than [five hundred dollars (\$500.00)] *one thousand dollars (\$1,000.00)* for each and every violation, or, at the discretion of the court, to imprisonment in the county jail of the county in which the offense is committed for a period of not more than six months, or both.

Section 5. This act shall take effect immediately.

APPROVED—The 30th day of December, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 343.



*Secretary of the Commonwealth.*