

No. 1980-218

AN ACT

SB 1406

Limiting the liability of insurers providing consultation services.

The General Assembly finds that it is in the public interest to encourage insurers to provide consultation services with the goal of reducing injury, death or loss and to limit the civil liability of insurers for such activity.

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

Section 1. Short title.

This act shall be known and may be cited as the "Insurance Consultation Services Exemption Act."

Section 2. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Insurance consultation service." Any survey, consultation, inspection, advisory or related services performed by an insurer, its agents, employees or service contractors incident to an application for insurance, a new policy of insurance, or an existing policy of insurance for a purpose of reducing the likelihood of injury, death or loss.

"Insurer." Any property or casualty insurance company authorized to transact insurance business in the Commonwealth.

Section 3. Exemption from civil liability.

(a) Exemption.—The furnishing of, or failure to furnish, insurance consultation services related to, in connection with or incidental to a policy of insurance shall not subject the insurer, its agents, employees or service contractors to liability for damages from injury, death or loss occurring as a result of any act or omission by any person in the course of such services.

(b) Application of section.—This section shall not apply:

(1) If the injury, loss or death occurred during the actual performance of consultation services and was caused by the negligence of the insurer, its agent, employees or service contractors which was a proximate cause of the injury, death or loss.

(2) To any consultation services required to be performed under the provisions of a written service contract not incidental to a policy of insurance.

(3) In any action against any insurer, its agents, employees or service contractors for damages caused by the act or omission of said insurer, its agents, employees or service contractors in which it

is judicially determined that such act or omission constituted a crime, actual malice or gross negligence.

(c) Notice.—The provisions of subsection (a) shall not be effective and applicable unless the insurer furnishes the insured with written notice of the provisions of this act. Such notice shall be provided the insured by the insurer at the time the policy is issued or written and at each subsequent renewal thereof. The manner in which the notice shall be given and its specific contents shall be approved by the Insurance Commissioner.

Section 4. Construction of act.

(a) General application.—This act shall apply to all insurance consultation services rendered incident to policies of property or casualty insurance.

(b) Workmen's compensation.—Nothing in this act shall be deemed or construed to apply to the immunities and protections provided by section 305, act of June 2, 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's Compensation Act."

Section 5. Effective date.

This act shall take effect January 1, 1981.

APPROVED—The 12th day of December, A. D. 1980.

DICK THORNBURGH