

## No. 1982-84

## AN ACT

## SB 712

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," further regulating insurance companies, associations and exchanges and their policy provisions.

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

Section 1. Subsection (b), clause (2) of subsection (h) and subsection (k) of section 410, act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921," amended July 19, 1951 (P.L.1100, No.245), clause (2) of subsection (h) and subsection (k) amended July 1, 1980 (P.L.336, No.84), are amended to read:

Section 410. Uniform Policy Provisions.—No policy of life or endowment insurance, except policies of industrial insurance where the premiums are payable monthly or oftener, shall hereafter be delivered in this Commonwealth unless it contains, in substance, the following provisions or provisions which, in the opinion of the Insurance Commissioner, are more favorable to the policyholder:—

\* \* \*

(b) A provision that the insured is entitled to a grace, either of thirty days or one month, within which the payment of any premium after the first year may be made, subject, at the option of the company, to an interest charge not in excess of ~~[six]~~ *eight* per centum per annum for the number of days of grace elapsing before the payment of the premium, during which period of grace the policy shall continue in full force; but in case the policy becomes a claim during the said period of grace, before the overdue premium, or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, with interest on any overdue premiums, may be deducted in any settlement under the policy.

\* \* \*

(h) A provision for a loan value at any time after three full years' premiums have been paid and while no premium is in default beyond the grace period of payment.

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(2) In the case of any policy issued on or after the operative date of section four hundred and ten A of this act (the Standard **[Non-forfeiture]** *Nonforfeiture Law for Life Insurance*), the loan provision shall provide

that the company will advance, on proper assignment or pledge of the policy, and on the sole security thereof, at a specified rate of interest not exceeding eight per centum per annum *for policies issued prior to the effective date of section four hundred and ten F*, a sum equal to, or, at the option of the party entitled thereto, less than, the cash surrender value at the end of the current policy year as required by section four hundred and ten A of this act; and that the company may deduct from such loan value (in addition to any indebtedness deducted in determining such value) any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. The company shall reserve the right to defer such loan, except any made to pay premiums to the company, for six months after application therefor is made. This subsection (h) shall not apply to term insurance.

\* \* \*

(k) A provision that the holder of a policy shall be entitled to have the policy reinstated, upon written application therefor, at any time within three years from the date of default in premium payments, unless the policy has been duly surrendered or the extension period expired, upon the production of evidence of insurability satisfactory to the company, and the payment of all overdue premiums **[and any other indebtedness to the company upon said policy,]** with interest at **[the rate of]** *a rate to be specified in the policy but not exceeding eight per centum per annum, and the payment of any other indebtedness to the company upon said policy with interest at a rate or rates determined in accordance with section four hundred and ten F*, compounded annually.

\* \* \*

Section 2. Subsections (a) and (g) of section 410B of the act, added July 17, 1935 (P.L.1116, No.358), and amended July 19, 1951 (P.L.1100, No.245) and subsection (a) amended July 1, 1980 (P.L.336, No.84), are amended to read:

Section 410B. Uniform Provisions for Contracts of Annuities and Pure Endowment Contracts.—No annuity or pure endowment contract shall be delivered in this Commonwealth, except policies of industrial insurance where the premiums are payable monthly or oftener, and except in the case of a reversionary annuity, otherwise called a survivorship annuity, or an annuity contracted by an employer in behalf of his employes, unless it contains in substance the following provisions:

(a) A provision that there shall be a period of grace, either of thirty days or of one month, within which any stipulated payment to the company, falling due after the first year, may be made, subject, at the option of the company, to an interest charge thereon at a rate to be specified in the contract, but not exceeding eight per centum per annum, for the number of days of grace elapsing before such payment, during which period of grace the contract shall continue in full force, but in case a claim arises under the contract on account of death during the said period of grace before the overdue payment to the company or the de-

ferred payments of the current year, if any, are made, the amount of such payments, with interest on any overdue payments, may be deducted from any amount payable under the contract in settlement; if the contract contains a loan provision, the rate of interest *for contracts issued prior to the effective date of section four hundred and ten F* may not exceed eight per centum per annum;

\* \* \*

(g) A provision that the contract may be reinstated at any time within one year from the date of default in making stipulated payments to the company, provided that all overdue stipulated payments **[and any indebtedness to the company on the contract]** shall be made or paid with interest thereon at a rate to be specified in the contract, but not exceeding **[six] eight** per centum per annum, **[payable] and any indebtedness to the company on the contract shall be paid with interest at a rate or rates determined in accordance with section four hundred and ten F, compounded** annually. In cases where applicable, a company may also include a requirement of evidence of insurability satisfactory to the company.

No contract for a reversionary annuity shall be so issued or delivered unless it contains in substance the following provisions:

(1) Provisions (a), (b), (c), and (e) of this section, except that under provision (a) the company may, at its option, provide for an equitable reduction of the amount of the annuity payments in settlement, or an overdue or deferred payments in lieu of providing for a deduction of such payments from any amount payable upon a settlement under the contract.

(2) A provision that, if the age of any of the persons upon whose lives the contract is based, has been misstated, the amount payable under the contract shall be such as the stipulated payments to the company would have purchased at the correct ages.

(3) A provision that the contract may be reinstated at any time within three years from the date of default in making stipulated payments to the company upon production of evidence of insurability satisfactory to the company, provided that all overdue payments **[and any indebtedness to the company on the contract]** shall be made or paid with interest thereon at a rate to be specified in the contract, but not exceeding **[six] eight** per centum per annum, **[payable] any indebtedness to the company shall be paid with interest thereon at a rate or rates determined in accordance with section four hundred and ten F, compounded** annually.

Any of the foregoing provisions, or portions thereof, not applicable to nonparticipating contracts nor to contracts for which a single stipulated payment to the company is made, shall to that extent not be incorporated therein, and any such contract may be delivered in this Commonwealth, which, in the opinion of the Insurance Commissioner, contains provisions, on any one or more of the several foregoing requirements, more favorable to the holder of the contract than hereinbefore required.

Nothing herein contained shall be construed to prevent a life insurance corporation, which issues life insurance on a participating basis, from issuing annuities, reversionary annuities, or pure endowments on a non-participating basis.

Any such contract or any application, endorsement or rider form used in connection therewith, issued in violation of this section shall, nevertheless, be held valid, but shall be construed as provided in this section, and when any provision in such contract, application, endorsement, or rider is in conflict with any provision of this section or with any other statutory provision, the rights, duties, and obligations of the company, of the holder of the contract, and of the beneficiary or annuity thereunder shall be governed by the provisions of this section. The provisions of this section shall not apply to contracts of reinsurance, nor to contracts for deferred annuities or reversionary annuities included in life insurance policies.

Section 3. The act is amended by adding a section to read:

**Section 410F. Policy Loan Interest Rate Law.**—(a) *The purpose of this section is to permit and set guidelines for companies to include in life insurance policies and annuity contracts, if such contracts contain a loan provision, issued after the effective date of this act a provision for periodic adjustment of policy loan interest rates.*

(b) *For purposes of this section, the “Published Monthly Average” means:*

(1) *Moody’s Corporate Bond Yield Average - Monthly Average Corporates as published by Moody’s Investors Service, Inc. or any successor thereto; or*

(2) *In the event that Moody’s Corporate Bond Yield Average - Monthly Average Corporates is no longer published, a substantially similar average, established by regulation issued by the Insurance Commissioner.*

(c) (1) *Policies issued on or after the effective date of this act shall provide for policy loan interest rates as follows:*

(i) *a provision permitting a maximum interest rate of not more than eight per centum per annum; or*

(ii) *a provision permitting an adjustable maximum interest rate established from time to time by the company as permitted by law.*

(2) *The rate of interest charged on a policy loan made under subsection (c)(1)(ii) shall not exceed the higher of the following:*

(i) *the Published Monthly Average for the calendar month ending two months before the date on which the rate is determined; or*

(ii) *the rate used to compute the cash surrender values under the policy during the applicable period plus one per centum per annum.*

(3) *If the maximum rate of interest is determined pursuant to subsection (c)(1)(ii), the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.*

(4) *The maximum rate for each policy must be determined at regular intervals at least once every twelve months, but not more frequently than once in any three-month period. At the intervals specified in the policy:*

(i) *The rate being charged may be increased whenever such increase as determined under subsection (c)(2) would increase that rate by one-half per centum or more per annum.*

(ii) *The rate being charged must be reduced whenever such reduction as determined under subsection (c)(2) would decrease that rate by one-half per centum or more per annum.*

(5) *The company shall:*

(i) *notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;*

(ii) *notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in subsection (c)(5)(iii) below;*

(iii) *send to policyholders with loans reasonable advance notice of any increase in the rate; and*

(iv) *include in the notices required above the substance of the pertinent provisions of subsections (c)(1) and (3).*

(6) *The loan value of the policy shall be determined in accordance with subsection (h) of section four hundred and ten but no policy shall terminate in a policy year as the sole result of change in the interest rate during that policy year, and the company shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.*

(7) *The substance of the pertinent provisions of subsection (c)(1) and (3) shall be set forth in the policies to which they apply.*

(8) *For purposes of this section:*

(i) *The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of ~~policy loans~~ for the period during and after any lapse of a policy.*

(ii) *The term "policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the company as they fell due.*

(iii) *The term "policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the company.*

(iv) *The term "policy" include certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.*

(9) *No other provision of law shall apply to policy loan interest rates unless made specifically applicable to such rates.*

(d) *The provisions of this section shall not apply to any insurance contract issued before the effective date of this act unless the policyholder agrees in writing to the applicability of such provisions.*

Section 4. Subsection (h) of section 420C of the act, amended July 19, 1951 (P.L.1100, No.245), is amended to read:

Section 420C. Uniform Industrial Policy Provisions.—No policy of industrial insurance shall be delivered in this Commonwealth, unless the same shall contain in substance the following provisions:

\* \* \*

(h) A provision that the policy, if not surrendered for its cash value or if the period of extended insurance has not expired, may be reinstated, upon written application therefor, within one year from the date of default in payment of premiums, upon payment of all overdue premiums *and, at the option of the company, interest thereon at a rate not to exceed eight per centum per annum* and the payment or reinstatement of any other indebtedness to the company upon said policy, and, at the option of the company, interest thereon at a rate [not to exceed six per centum per annum] *or rates determined in accordance with section four hundred and ten F*, compounded annually, and upon the presentation of evidence satisfactory to the company of the insurability of the insured.

Section 5. This act shall take effect immediately.

APPROVED—The 8th day of April, A. D. 1982.

DICK THORNBURGH