

No. 1989-37

AN ACT

SB 472

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," providing for requirements relating to minimum capital surplus for certain insurers; increasing capital requirements for certain insurance companies; authorizing stock insurers to establish more than one class or series of shares and to permit different voting rights according to the class of shares; and providing for insurance benefits for cancer chemotherapy and cancer hormone treatments and for mammographic examination.

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

Section 1. Section 206(c) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, amended July 9, 1976 (P.L.948, No.184), is amended to read:

Section 206. Minimum Capital Stock and Financial Requirements To Do Business.—* * *

(c) Stock casualty companies, organized under this act for any of the purposes of insurance mentioned in subdivision (c) of section two hundred and two (202) of this act, must have a paid up capital stock of not less than **[one hundred thousand dollars (\$100,000); except (i) companies organized for the purpose of credit insurance, which must have a paid up capital stock of not less than two hundred thousand dollars (\$200,000); (ii) companies organized for the purposes mentioned in clause (11) subdivision (c) of section two hundred and two (202) of this act, which must have a paid up capital stock of not less than five hundred thousand dollars (\$500,000); (iii) companies organized for the purpose of workmen's compensation insurance as provided for in clause (14) subdivision (c) of section two hundred and two (202) of the act, which must have a paid up capital stock of not less than seven hundred fifty thousand dollars (\$750,000); and (iv) companies organized to guarantee the fidelity of persons and contracts of suretyship, which must have a paid up capital stock of at least two hundred and fifty thousand dollars (\$250,000)] *seven hundred fifty thousand dollars (\$750,000)*. Stock casualty companies organized under this act may undertake two or more classes of insurance mentioned in subdivision (c) of section two hundred and two (202) of this act, by providing at least fifty thousand dollars (\$50,000) **[additional]** paid up capital stock for each **[additional]** class of insurance; except **[in case credit or fidelity and surety insurance is added to any other line or lines, in which case the additional]** *that the* paid up capital stock for**

credit insurance shall be one hundred thousand dollars (\$100,000), and the **[additional]** paid up capital stock for fidelity and surety insurance shall be two hundred thousand dollars (\$200,000); and except *that the paid up capital stock in the case of* insurance for the purposes mentioned in clause (11) subdivision (c) of section two hundred and two (202) of this act **[is added to any other line or lines, in which case the additional paid up capital stock]** shall be five hundred thousand dollars (\$500,000) and except *that the paid up capital stock in the case of* workmen's compensation insurance as provided for in clause (14) subdivision (c) of section two hundred and two (202) of the act **[is added to any other line or lines in which case the additional paid up capital stock]** shall be seven hundred fifty thousand dollars (\$750,000). Any **[such]** stock casualty company **[with a paid up capital stock of three hundred thousand dollars (\$300,000) may transact all of the]** *organized under this act to undertake two or more* classes of insurance mentioned in subdivision (c) of section two hundred and two (202) of this act, **[except credit, livestock, and fidelity and surety insurance, and except insurance for the purposes mentioned in clause (11) and except workmen's compensation insurance as provided for in clause (14) thereof;]** *must have a paid up capital stock equal to the greater of seven hundred fifty thousand dollars (\$750,000) or the sum total of the required capital paid up for each class of insurance for which the company is organized,* and a company with a paid up capital stock of one million nine hundred fifty thousand dollars (\$1,950,000) may transact all of the classes of insurance mentioned *in subdivision (c) of section two hundred and two (202) of this act.* Every such company shall, in addition thereto, have a surplus paid in at least equal to fifty per centum (50%) of the **[subscribed capital stock]** *required paid up capital.*

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Section 2. The act is amended by adding sections to read:

Section 206.1. Exclusion from Minimum Financial Requirements.—

(a) A fire or casualty company seeking a certificate of authority to do business in Pennsylvania shall satisfy and continue to comply with the minimum capital and surplus requirements imposed by this act.

(b) An existing fire or casualty company with capital and surplus that satisfies the requirements imposed by this act shall comply and continue to comply with the requirements of this act.

(c) An existing fire or casualty company that has capital and surplus less than the minimum requirements imposed by this act shall be required to continue to comply with the minimum capital and surplus requirements imposed by this act as of January 1, 1989, and shall not be required to meet the minimum requirements of this act. However, an existing fire and casualty company must comply with the minimum capital and surplus requirements imposed by this act, if any of the following occurs:

(1) any change in charter powers expanding the lines of insurance the company is authorized to write, except for the limited purpose of issuing policies covering homeowners multiple peril, farmowners multiple peril, mobile homeowners multiple peril, personal liability and farmers personal liability;

(2) *a merger or the acquisition of beneficial ownership of more than 10% of any class of such insurer's voting stock which requires a filing pursuant to section 337.6 of this act;*

(3) *a transaction under section 809 that results in a transfer of ownership, or acquisition of control of such insurer through purchase or assignment of a management contract; or*

(4) *a change in the majority of such insurer's board of directors as a result of a single event or series of related events.*

Section 301.2. Classes of Shares.—Every stock insurance company shall have power to create and issue one or more classes of shares or one or more series of shares within any class thereof, any or all of which classes or series may have full, limited, multiple or fractional or no voting rights, and such designations, preferences, qualifications, privileges, limitations, options, conversion rights and other special rights as shall be stated in the articles or in the resolution or resolutions providing for the issue of such shares adopted by the board of directors pursuant to authority expressly vested in it by the articles. Except as otherwise provided by the articles, each share shall be in all respects equal to every other share. Different series of the same class of shares shall not be construed to constitute different classes of shares for the purpose of voting by classes under this act. Unless the articles or by-laws otherwise provide, the board of directors shall have the power, by resolution duly adopted, to issue from time to time, in whole or in part, the classes or series of shares authorized in the articles. The power to increase or decrease or otherwise adjust the stated capital of a stock insurance company, as in this act elsewhere provided, shall apply to all or any such classes of shares authorized by this section.

Section 3. Section 309 of the act is amended to read:

Section 309. Voting by Stockholders and Members; Proxies; Record of Votes.—In the choice of directors or trustees, and at all meetings of the company, each share of stock *having voting rights* in a stock company, and each member in a mutual company, shall be entitled to [one] vote: Provided, however, That, in the case of mutual companies, other than mutual life companies, each member shall be entitled to one vote or to a number of votes based upon the insurance in force, the number of policies held, or the amount of premiums paid; *and in the case of mutual life companies, each member shall be entitled to one vote.* Proxies may be authorized by written power of attorney. The record of the votes made by the secretary, which shall show whether the same were cast in person or by proxy, shall be evidence of all such elections.

Section 4. The act is amended by adding sections to read:

Section 631. Reimbursement for Cancer Therapy.—(a) *Whenever any individual or group health, sickness or accident insurance policy or subscriber contract or certificate issued by any entity subject to 40 Pa. C.S. Chs. 61 (relating to hospital plan corporations) and 63 (relating to professional health services plan corporations), this act, or the act of July 29, 1977 (P.L.105, No.38), known as the "Fraternal Benefit Society Code," providing hospital or medical/surgical coverage includes within their coverage ben-*

efits for cancer chemotherapy and cancer hormone treatments and services which have been approved by the United States Food and Drug Administration for general use in treatment of cancer, the covered individual shall be entitled to benefits for cancer chemotherapy and cancer hormone treatments, whether performed in a physician's office, in an outpatient department of a hospital, in a hospital as a hospital inpatient or in any other medically appropriate treatment setting.

(b) Nothing in this section shall serve to diminish the benefits of any insured or subscriber in effect on the effective date of this act, nor prevent the offering or acceptance of benefits which exceed the minimum benefits required by this section.

(c) This section shall apply to those insurance policies, subscriber contracts or certificates issued or entered into on or after the effective date of this section.

Section 632. Coverage for Mammographic Examination.—All group health or sickness or accident insurance policies providing hospital or medical/surgical coverage and all group subscriber contracts or certificates issued by any entity subject to 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations), this act, the act of December 29, 1972 (P.L.1701, No.364), known as the "Health Maintenance Organization Act," or the act of July 29, 1977 (P.L.105, No.38), known as the "Fraternal Benefit Society Code," providing hospital or medical/surgical coverage shall also provide coverage for mammographic examination. The minimum coverage required shall include all costs associated with a mammogram every year for women 50 years of age or older and with any mammogram based on a physician's recommendation for women under 50 years of age. Nothing in this section shall be construed to require an insurer to cover the surgical procedure known as mastectomy or to prevent application of deductible or copayment provisions contained in the policy or plan.

Section 5. This act shall take effect as follows:

- (1) The amendments to sections 206(c) and 206.1 shall take effect in 60 days.
- (2) Section 631 shall take effect in 120 days.
- (3) The remainder of this act shall take effect immediately.

APPROVED—The 7th day of July, A. D. 1989.

ROBERT P. CASEY