

When effective.

Section 2. This act shall become effective immediately upon its final enactment.

APPROVED—The 1st day of July, A. D. 1937.

GEORGE H. EARLE

No. 470

AN ACT

To establish funds to provide security for the payment of benefits in event of the insolvency of an insurance carrier authorized to write workmen's compensation insurance in this Commonwealth; and to provide for the administration thereof.

Title.

Section 1. Be it enacted, &c., That this act shall be known, and may be cited, as the "Workmen's Compensation Security Fund Act."

Definitions.

Section 2. As hereafter used in this act, unless the context or subject matter otherwise require—

"Stock Fund" means the stock workmen's compensation security fund.

"Mutual Fund" means the mutual carrier and reciprocal exchange workmen's compensation security fund created by this act.

"Funds" means the stock workmen's compensation security fund and the mutual carrier and reciprocal exchange workmen's compensation security fund.

"Fund" means either the stock fund or the mutual carrier and reciprocal exchange fund, as the context may require.

"Fund year" means the calendar year.

"Stock Company" means any stock corporation authorized to transact the business of workmen's compensation insurance in this Commonwealth, except an insolvent stock company.

"Mutual carrier" means any corporation or association organized and operating on the mutual plan, including the State Workmen's Insurance Fund, authorized to transact the business of workmen's compensation insurance in this Commonwealth, except an insolvent mutual carrier.

"Reciprocal exchange" means any association or group of persons exchanging contracts of insurance or indemnity on the reciprocal or inter-insurance plan, authorized to transact the business of workmen's compensation insurance in this Commonwealth, except an insolvent reciprocal exchange.

"Carrier" means either a stock company, a mutual company, a reciprocal exchange, or the State Workmen's Insurance Fund, as the context may require.

“Insolvent stock company,” “insolvent mutual carrier,” or “insolvent reciprocal exchange” means a stock company, a mutual company, a reciprocal exchange, or the State Workmen’s Insurance Fund, as the case may be, which has been determined to be insolvent, or for which, or for the assets of which, a receiver or liquidator, howsoever entitled, has been appointed by a court or public officer of competent jurisdiction and authority, after the effective date of this act.

“Commissioner” means the Insurance Commissioner of this Commonwealth.

“Workmen’s Compensation Law” means the workmen’s Compensation Act of 1915 or any supplement and amendment thereto or revision thereof.

Section 3. There is hereby created a fund, to be known as “The Stock Workmen’s Compensation Security Fund,” for the purpose of assuring to persons entitled thereto the compensation provided by the workmen’s compensation law for employments insured in insolvent stock companies. Such fund shall be applicable to the payment of valid claims for compensation heretofore or hereafter made pursuant to the workmen’s compensation act and remaining unpaid, in whole or in part, by reason of the default, after the effective date of this act, of an insolvent stock company. Expenses of administration also shall be paid from the fund as herein provided. Such fund shall consist of all contributions received and paid into the fund by stock companies as herein defined, all property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys deposited or invested, as herein provided. The fund shall be administered by the commissioner in accordance with the provisions of this act.

Purpose.

Section 4. Every stock company shall, on or before the first day of September, one thousand nine hundred and thirty-eight, file with the Treasurer of the Commonwealth, and with the commissioner, identical returns under oath, on a form to be prescribed and furnished by the commissioner, stating the amount of net written premiums for the year’s period ending June thirtieth, one thousand nine hundred and thirty-eight, on policies issued, renewed, or extended by such company to insure payment of compensation pursuant to the Workmen’s Compensation Law. For the purposes of this act, “net written premiums” shall mean gross written premiums, less return premiums on policies returned not taken and on policies cancelled. Thereafter on or before the first day of September of each year, each such company shall file similar identical returns, stating the amount of such net written premiums for

Returns filed.

the year's period ending on the preceding June thirtieth on policies issued, renewed, or extended by such company.

Contributions to fund.

Section 5. For the privilege of carrying on the business of workmen's compensation insurance in this Commonwealth, every stock company shall pay into the stock fund on the first day of September, one thousand nine hundred and thirty-eight, a sum equal to one per centum of its net written premiums as shown by the return hereinbefore prescribed for the period ending June thirtieth, one thousand nine hundred and thirty-eight, and thereafter each such stock company upon filing each annual return shall pay a sum equal to one per centum of its net written premiums for the period covered by such return. When the aggregate amount of all such payments into the stock fund, together with accumulated interest thereon, less all its expenditures and known liabilities, becomes equal to five per centum of the loss reserves of all stock companies for the payment of benefits under the Workmen's Compensation Act as of June thirtieth next preceding, no further contributions to said fund shall be required to be made: Provided, however, That whenever thereafter the amount of said fund shall be reduced below five per centum of such loss reserves as of said date, by reason of payments from and known liabilities of said stock fund or by reasons of an increase of the loss reserves of all stock companies, then such contribution to said fund shall be resumed from such date as the commissioner shall prescribe, and shall continue until such fund, over and above its known liabilities, shall be equal to five per centum of such reserves.

When contributions cease.

Contributions resumed.

"The Mutual Carrier and Reciprocal Exchange Workmen's Compensation Security Fund."

Section 6. There is hereby created a fund to be known as "The Mutual Carrier and Reciprocal Exchange Workmen's Compensation Security Fund," for the purpose of assuring to persons entitled thereto the compensation provided by the Workmen's Compensation Law for employments insured in insolvent mutual carriers or insolvent reciprocal exchanges. Such fund shall be applicable to the payment of valid claims for compensation heretofore or hereafter made pursuant to law and remaining unpaid in whole or in part by reason of the default, after the effective date of this act, of an insolvent mutual carrier or of an insolvent reciprocal exchange. Expenses of administration also shall be paid from the fund as herein provided. Such fund shall consist of all contributions received and paid into the fund by mutual carriers and reciprocal exchanges as herein defined, all property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys deposited or invested as herein provided. The fund shall be administered by

Contributions.

the commissioner in accordance with the provisions of this act.

Section 7. Every mutual carrier and reciprocal exchange shall, on or before the first day of September, one thousand nine hundred and thirty-eight, file with the Treasurer of the Commonwealth and with the commissioner, identical returns, under oath, on a form to be prescribed and furnished by the commissioner, stating the amount of net written premiums for the year's period ending June thirtieth, one thousand nine hundred and thirty-eight on policies issued, renewed or extended by such carrier and such reciprocal exchange to insure payment of compensation pursuant to the Workmen's Compensation Law during said period. For the purposes of this act, "net written premiums" shall mean gross written premiums less return premiums on policies returned not taken and on policies cancelled. Thereafter, on or before the first day of September of each year, each such carrier and each such reciprocal exchange shall file similar identical returns stating the amount of such net written premiums for the year's period ending on the preceding June thirtieth, on such policies issued, renewed, or extended by such carrier and by such reciprocal exchange.

File first return  
on or before  
Sept. 1, 1938.

Thereafter file  
return annually,  
on or before  
Sept. 1.

Section 8. For the privilege of carrying on the business of workmen's compensation insurance in this Commonwealth, every mutual carrier and reciprocal exchange shall pay into the mutual fund on the first day of September, one thousand nine hundred and thirty-eight, a sum equal to one per centum of its net written premiums as shown by the return hereinbefore prescribed for the period ending June thirtieth, one thousand nine hundred and thirty-eight; and thereafter each such mutual carrier and each such reciprocal exchange, upon filing each annual return, shall pay a sum equal to one per centum of its net written premiums as shown for the period covered by such return. When the aggregate amount of all such payments into the mutual fund together with accumulated interest thereon, less all its expenditures and known liabilities, becomes equal to five per centum of the loss reserves of all mutual carriers and reciprocal exchanges for the payment of benefits under the Workmen's Compensation Act as of June thirtieth next preceding, no further contributions to said fund shall be required to be made: Provided, however, That whenever thereafter the amount of said fund shall be reduced below five per centum of such loss reserves as of said date by reason of payments from, and known liabilities of, said mutual fund, or by reason of an increase of the loss reserves of all mutual carriers and reciprocal exchanges, then such contributions to said fund shall be resumed from such date as the com-

First payment  
to fund.

Thereafter with  
annual return.

When contribu-  
tions not re-  
quired

Proviso.

missioner shall prescribe, and shall continue until such fund, over and above its known liabilities, shall be equal to five per centum of such reserves.

Rules and regulations.

Section 9. The commissioner may adopt, amend, and enforce rules and regulations necessary for the proper administration of such funds. In the event any carrier shall fail to file any return, or make any payment required by this act, or in case the commissioner shall have cause to believe that any return or other statement filed is false or inaccurate in any particular, or that any payment made is incorrect, he shall have full authority to examine all the books and records of the carrier for the purpose of ascertaining the facts, and shall determine the correct amount to be paid, and may proceed in any court of competent jurisdiction to recover for the benefit of the funds any sums shown to be due upon such examination and determination. Any carrier which fails to make any statement as required by this act, or to pay any contribution when due, shall thereby forfeit to the fund entitled to its contribution a penalty of five per centum of the amount of unpaid contribution determined to be due, as provided by this act, plus one per centum of such amount for each month of delay or fraction thereof after the expiration of the first month of such delay. The commissioner shall revoke the certificate of authority to do business in this Commonwealth of any carrier which shall fail to comply with the provisions of this act or to pay any penalty imposed in accordance with this act.

Failure to file return or make payment.

Penalty.

Revocation of certificate of authority.

Each fund kept separate.

Investments of moneys in the funds.

Company ceasing to transact business.

Section 10. Each fund created by this act shall be separate and apart from any other fund so created, and from all other Commonwealth moneys. The State Treasurer shall be the custodian of said funds, and all disbursements from said funds shall be made by the State Treasurer upon vouchers signed by the commissioner, as hereinafter provided. The moneys of said funds may be invested by the State Treasurer and commissioner only in bonds and securities which are the direct obligations of, or which are guaranteed as to principal and interest by, the United States or of this Commonwealth. The State Treasurer and commissioner may sell any of the securities in which said funds are invested, if advisable for their proper administration or in the best interest of such funds, and all earnings from the investment of such funds shall be credited to such funds. If at any time any contributing stock or mutual carrier, as herein defined, shall, upon due notice to the Insurance Commissioner, cease to transact the business of workmen's compensation insurance, the contributions of such carrier, at the time such carrier ceases to transact the business of workmen's compensation insurance, shall be refunded, provided that all its out-

standing liability on workmen's compensation insurance shall have terminated.

Section 11. A valid claim for compensation or installments thereof, heretofore or hereafter made pursuant to the Workmen's Compensation Law, which has remained or shall remain due and unpaid for sixty days by reason of default, after the effective date of this act, by an insolvent carrier, shall be paid from the proper fund in the manner provided in this act. Any person in interest may file with the commissioner an application for payment of compensation from the proper fund on a form to be prescribed and furnished by the commissioner. A certified copy of the award must accompany the application. The commissioner shall thereupon certify to the State Treasurer such award for payment according to the terms of the same, whereupon payment shall be made by the State Treasurer, on warrant of the Auditor General and on requisition of the commissioner.

Valid claims against insolvent carriers paid from proper fund.

The commissioner shall be entitled to recover the sum of all liabilities of such insolvent carrier assumed by such stock or mutual fund from such carrier, its receiver, liquidator, rehabilitator, conservator or trustee in bankruptcy, employer, and all others liable under any of the terms of the Workmen's Compensation Law, and may prosecute an action or other proceedings therefor. All moneys, recovered in any such action or proceedings, shall forthwith be placed to the credit of the stock or mutual fund which has assumed such liability by the State Treasurer, to reimburse the stock or mutual fund which has assumed such liability, to the extent of the moneys so recovered and paid. If and when all liabilities of all stock or of all mutual carriers for workmen's compensation losses in this Commonwealth shall have been fully liquidated, distribution shall be made to all contributing stock companies or to all contributing mutual carriers of the remaining balance of such funds in the proportion in which each carrier made contribution to its respective fund: Provided, however, That an insolvent carrier shall be entitled to share in the said distribution of its respective fund only to the extent that its distributive share of said fund is in excess of any losses paid out of said fund for its account by the treasurer, in accordance with the terms of this act.

Reimbursement.

Proviso.

Section 12. After the effective date of this act, upon any carrier becoming an insolvent stock company, an insolvent mutual carrier, or an insolvent reciprocal exchange, as the case may be, the commissioner shall so notify the Workmen's Compensation Board, which shall immediately advise the commissioner—(a) of all claims for compensation pending or thereafter made against

Workmen's Compensation Board.

every employer insured by such insolvent carrier, or against such insolvent carrier; (b) of all unpaid or continuing awards made upon claims for compensation prior to or after the date of such notice from the commissioner; and (c) of all appeals from or applications for modification, rescision or review of such awards.

Actions.

Section 13. The commissioner, or a representative committee of interested carriers which the commissioner may from time to time appoint, or both, may investigate and defend before the Workmen's Compensation Board or any court, any and all claims for compensation against an employer insured by an insolvent carrier, or against an insolvent carrier, and may prosecute any pending appeal from, or may appeal from, or make application for modification, rescision or review of any agreement, award or decision against any such employer or carrier. Until all such claims for compensation are closed and all awards are paid, the commissioner, as administrator of the funds, shall be a party in interest in respect to all such claims, agreements and awards. For the purposes of this section, the commissioner shall have exclusive power to select and employ such clerks and assistants as may be deemed necessary, and to fix and determine their powers and duties.

Expenses of administering fund.

Section 14. The expenses of administering each fund shall be paid out of such fund. The commissioner shall serve as administrator of each fund without additional remuneration, but may be allowed and paid, from either of the funds, expenses incurred in the performance of his duties in connection with each fund. The compensation of persons employed by the commissioner, for the purposes of this act, in connection with either of the funds shall be deemed administration expenses payable out of each such fund, in the manner provided in section ten of this act. The commissioner shall include in his regular report to the Governor a statement of the expenses of administering each of such funds during the period covered by such report.

Section 15. Other than the obligation to contribute to a fund as provided in this act, no deposit, bond or other security shall be required of any carrier as a condition to authorization to transact the business of workmen's compensation insurance in this Commonwealth.

Contributions to the funds created by this act, at the rates fixed by this act, shall be allowed in full as expenses of the business of workmen's compensation insurance by the commissioner in fixing and approving rates for such insurance.

Constitutional provisions.

Section 16. If any part of this act be adjudged unconstitutional, it shall not invalidate the remainder of the act.

All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Inconsistent acts repealed.

Section 17. This act shall take effect on the first day of June, one thousand nine hundred and thirty-seven.

When effective.

APPROVED—The 1st day of July, A. D. 1937.

GEORGE H. EARLE

No. 471

AN ACT

To amend section two hundred seventeen of the act, approved the seventeenth day of May, one thousand nine hundred and twenty-one (Pamphlet Laws, seven hundred eighty-nine), 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," prescribing certain penalties.

Section 1. Be it enacted, &c., That section two hundred seventeen of the act, approved the seventeenth day of May, one thousand nine hundred and twenty-one (Pamphlet Laws, seven hundred eighty-nine), 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," is hereby amended to read as follows:

Section 217, act of May 17, 1921 (P. L. 789), amended.

Section 217. Information from Fire Rating Bureaus; *Penalty*.—The Insurance Commissioner may address inquiries to any individual, association, or bureau which is or has been engaged in making rates or estimates for rates for fire insurance upon property in this Commonwealth, in relation to the organization, maintenance, or operation, or any other matter connected with its transactions, and may require the filing of schedules, rates, forms, rules, regulations, and such other information as may be required. Every such individual, association, or bureau, or some officer thereof, shall promptly make