

No. 420

AN ACT

To further amend the act approved the seventeenth day of May, one thousand nine hundred twenty-one (Pamphlet Laws 789), 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," by changing provisions relating to certain legal proceedings.

Insurance.

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

Section 501, act of May 17, 1921, P. L. 789, amended June 22, 1931, P. L. 616, further amended.

Section 1. Section five hundred one of the act, approved the seventeenth day of May, one thousand nine hundred twenty-one (Pamphlet Laws 789), 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; and service of legal process upon foreign insurance companies, associations, or exchanges; providing penalties; and repealing existing laws," as amended by the act, approved the twenty-second day of June, one thousand nine hundred thirty-one (Pamphlet Laws 616), is hereby further amended to read as follows:

Section 501. Suspension of Business of Insurance Companies of *Other States and Foreign Government*, Et Cetera, by Insurance Commissioner.—The Insurance Commissioner shall suspend the entire business [of any domestic insurance company, association, or exchange, fraternal benefit society or beneficial society, and the business] within this Commonwealth of any insurance company, association, or exchange, or fraternal benefit society or beneficial society of another State or foreign government, during its non-compliance with any provision of law obligatory upon it, or whenever he shall find that its assets are insufficient to justify its continuance in business, by suspending or revoking its certificate of authority granted by him. If such insurance company, association, or exchange, fraternal benefit society or

beneficial society was incorporated, organized, or is operating without authority of law, the commissioner shall have equal authority to suspend [or dissolve] as if a certificate of authority had been granted by law. If upon examination or other evidence exhibited to him, the Insurance Commissioner is of opinion that any *such* insurance company, association, or exchange, or fraternal benefit society or beneficial society, or an officer or agent thereof, has violated any provision of the insurance laws, he shall report the facts to the Attorney General, who [, under the direction of the Insurance Commissioner,] shall take such legal action as the case may require.

Section 2. Section five hundred two of said act as amended by the act, approved the twelfth day of July, one thousand nine hundred thirty-five (Pamphlet Laws 958), is hereby further amended to read as follows:

Section 502, act of May 17, 1921, P. L. 789, amended July 12, 1935, P. L. 958, further amended.

Section 502. *Suspension of and Applications to Court to Take Over Business of Domestic Companies, Et Cetera, for Protection of Policyholders, Creditors, Et Cetera.*—Whenever any domestic insurance company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order, including all corporations, associations, societies, and orders which are subject to examination by the Insurance Commissioner or which are doing, or attempting to do, or representing that they are doing, the business of insurance in this Commonwealth, or which are in process of organization intending to do such business therein—(a) is insolvent; or (b) has refused to submit its books, papers, accounts, or affairs to the reasonable inspection of the Insurance Commissioner or his deputy or examiner; or (c) has neglected or refused to observe an order of the Insurance Commissioner to make good within the time prescribed by law any deficiency, whenever its capital, if it be a stock company, or its reserves, if it be a mutual company, an association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order, shall have become impaired; or (d) has, by contract of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order, without having first obtained the written approval of the Insurance Commissioner; or (e) is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to the public; or (f) has wilfully violated its charter or any law of the Com-

monwealth; or (g) whenever any officer thereof has refused to be examined under oath touching its affairs; or (h) was incorporated, organized, or is operating without authority of law, the Insurance Commissioner, after examination, shall suspend the entire business of any such domestic insurance company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order, if it be found by him to be insolvent or in such condition that its further transaction of business will be hazardous to its policyholders or to its creditors or to the public, and may suspend any such organization if it be found by him to have violated any of the provisions of (b), (c), (d), (f), (g) or (h) of this section. Any such suspension shall prohibit issuance of policies, transfers of property, and payments of moneys, without prior written approval of the Insurance Commissioner. Notice of such suspension shall be given, by first class mail within fifteen days thereof, by the suspended organization to those who were creditors, policyholders, members and certificate holders at the date of suspension. Notice of such suspension shall be given, within fifteen days thereof, by the Insurance Commissioner to creditors, policyholders, members and certificate holders by advertising the same by one publication in a newspaper of general circulation in the county where the suspended organization has its principal office. From the date of such suspension on the ground that the suspended organization is insolvent, or is in such condition that its further transaction of business will be hazardous to its policyholders or to its creditors or to the public, no action at law or equity shall be commenced or prosecuted nor shall any judgment be entered against nor shall any execution or attachment be issued or prosecuted against the suspended company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order, or against its property, in any court of this Commonwealth: Provided, That if such suspension order be vacated by the court of common pleas of Dauphin County for the reason that the suspended organization is no longer insolvent, or in such condition that its further transaction of business will be hazardous to its policyholders or to its creditors or to the public, these restraints upon legal process regarding that organization shall thereafter cease to be operative. Upon suspension of any such organization by the Insurance Commissioner upon any of the grounds set forth in any one of provisions (a) to (h) inclusive of this section, he shall after approval of the Attorney General [shall communicate the facts to the Attorney General who shall after hearing] apply to the court of common pleas of Dauphin County,

or to the court of any county in which the principal office of such company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order is located, for an order directing such company, association, exchange, title insurance company, fraternal benefit society, or beneficial society, or order to show cause why its business should not be closed, and the Insurance Commissioner should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors, stockholders, or the public may require.

Section 3. Section five hundred three of said act is hereby amended to read as follows:

Section 503, act of May 17, 1921, P. L. 789, amended.

Section 503. Nonpayment of Judgments by Mutual Companies; Assessment of Policyholders; Dissolution.—Whenever proof shall be submitted to the Insurance Commissioner showing that any execution against any mutual insurance company of this State, in pursuance of judgment obtained against said company in any court of record of this Commonwealth, has been returned nulla bona by the sheriff of the county in which said company is located, [it shall be his duty to notify the Attorney General, who thereupon shall] *he shall, after approval of the Attorney General*, apply to the court of common pleas of Dauphin County, or to a judge thereof in vacation, for an order upon such company to show cause why its business should not be closed. Upon the hearing of such rule or order, the court or judge aforesaid shall direct the officers of said company to assess and collect from the policyholders thereof *to the extent that such policyholders are liable to such assessment*, a sum sufficient to satisfy said judgment and execution and all other claims against said company, or make any other order or orders in the premises as may appear to said court or judge just and necessary. In case it shall finally appear to said court or judge that the company aforesaid cannot collect from its members sufficient funds to satisfy the claims against it, the said company shall be adjudged insolvent, and the court or judge aforesaid shall decree its dissolution, and appoint the Insurance Commissioner as receiver to take charge of its effects with like powers as hereinafter provided.

Section 4. Section five hundred five of said act is hereby amended to read as follows:

Section 505, act of May 17, 1921. P. L. 789, amended.

Section 505. Injunction; Return of Order to Show Cause and Decrees Thereon.—On such application, or at any time thereafter, such court may, in its discretion, issue an injunction restraining such company, association, exchange, society, or order from the transaction of

its business or disposition of its property until the further order of the court. On the return of such order to show cause, and after a full hearing before the court or before an examiner appointed by the court, the court shall either deny the application or direct the Insurance Commissioner forthwith to take possession of the property and conduct the business of such company, association, exchange, society, or order, and retain such possession and conduct such business until, on the application either of the commissioner, [through the Attorney General] or of such company, association, exchange, society, or order, it shall, after a like hearing, appear to the court that the ground for such order directing the Insurance Commissioner to take possession has been removed, and that the company, association, exchange, society, or order can properly resume possession of its property and the conduct of its business.

Section 511, act of May 17, 1921, P. L. 789, added May 17, 1933, P. L. 798, further amended.

Section 5. Section five hundred eleven of said act as added by the act, approved the seventeenth day of May, one thousand nine hundred thirty-three (Pamphlet Laws 798), is hereby amended to read as follows:

Section 511. Liquidation of Title Insurance Companies Partially Under Supervision of Department of Banking.—The Insurance Commissioner may be appointed, in accordance with the provisions of this article, as liquidator of the title insurance business of any company which also has the power to transact any class of business under the supervision of the Department of Banking. The Insurance Commissioner shall promptly notify the Department of Banking of his appointment as liquidator of any such company.

Upon receipt of notice from the Secretary of Banking that, as receiver, he has taken possession of any such company, [the Attorney General may procure the appointment of] the Insurance Commissioner *may be appointed* as liquidator of the title insurance business of such company in accordance with the provisions of this article.

Act effective immediately.

Section 6. The provisions of this act shall become effective immediately upon final enactment.

APPROVED—The 22nd day of March, A. D. 1956.

GEORGE M. LEADER