No. 439

AN ACT

Amending the act of May 17, 1921 (P. L. 682), 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 the licensing, qualification, regulation, examination, suspension and dissolution of title insurance companies, the examination and regulation of rates and rating organizations for title insurance, the licensing and regulation of agents and applicants for title insurance, prescribing the terms and conditions upon which foreign title insurance companies may be admitted or may continue to do title insurance business within the Commonwealth, imposing penalties and repealing inconsistent laws.

The Insurance Company Law of 1921.

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

Section 685 to 697, act of May 17, 1921, P. L. 682, repealed.

Section 1. Sections 685 to 697, act of May 17, 1921 (P. L. 682), known as "The Insurance Company Law of 1921," are repealed.

Section 107; clause (1), subsection (c), section 202; sections 317.1, 607 and 1001 to 1011 of act, repealed as to title insurance business.

Section 2. Section 107, clause (1) of subsection (c) of section 202, sections 317.1, 607 and 1001 to 1011 of the act are repealed in so far as they apply to title insurance companies or the business of title insurance.

Act amended by adding a new Article VII.

Section 3. The act is amended by adding, after Article VI, a new article to read:

Article VII

Title Insurance Companies

Section 701. Definitions.—For the purpose of this article:

(1) "Title insurance" means insuring, guaranteeing or indemnifying against loss or damage suffered by owners of real property or by others interested therein by reason of liens, encumbrances upon, defects in or the unmarketability of the title to said real property; guaranteeing, warranting or otherwise insuring the correctness of searches relating to the title to real property; and doing any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of this article.

(2) The "business of title insurance" shall be deemed to be (i) the making as insurer, guarantor or surety, or proposing to make as insurer, guarantor or surety, of any contract or policy of title insurance; (ii) the trans-

acting, or proposing to transact, any phase of title insurance, including solicitation, negotiation preliminary to execution, execution of a contract of title insurance, insuring and transacting matters subsequent to the execution of the contract and arising out of it, including reinsurance; and (iii) the doing, or proposing to do, any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of this article.

*(3) "Title insurance company" means any domestic company organized under the provisions of this article for the purpose of insuring titles to real estate, a title insurance company organized under the laws of another state or foreign government and licensed to insure titles to real estate within this Commonwealth pursuant to section *722 of this article, domestic and foreign companies, including any domestic bank or trust company, having the power and authorized to insure titles to real estate within this Commonwealth as of the effective date of this amendment and which meet the requirements of section **710 of this article.*

(4) "Applicant for insurance" shall be deemed to include approved attorneys, real estate brokers, real estate salesmen, attorneys at law and all others who from time to time apply to a title insurance company or to an agent of a title insurance company, for title insurance, and who at the time of such application are not agents for a title insurance company.

(5) "Fee" for title insurance means and includes the premium, the examination and settlement or closing fees, and every other charge, whether denominated premium or otherwise, made by a title insurance company, agent of a title insurance company or an approved attorney of a title insurance company, or any of them, to an insured or to an applicant for insurance, for any policy or contract for the issuance of, or an application for any class or kind of, title insurance; but the term "fee" shall not include any charges paid by an insured or by an applicant for insurance, for any policy or contract, to an attorney at law acting as an independent contractor and retained by such attorney at law, whether or not he is acting as an agent of or an approved attorney of a title insurance company, or any charges made for special services not constituting title insurance, even though performed in connection with a title insurance policy or contract.

(6) "Commissioner" means the Insurance Commissioner of the Commonwealth of Pennsylvania.

* "725" in original.
** "712" in original.

(7) An "approved attorney" means an attorney at law in good standing upon whose examination of title and report of title thereon a title insurance company may issue a policy of title insurance.

Section 702. Application of Article.—The provisions of this article shall apply to all title insurance companies, title rating organizations, title insurance agents, applicants for title insurance, policyholders and to all persons and business entities engaged in the business of title insurance.

Section 703. Compliance with Article Required.—On and after the effective date of this amendment, only a title insurance company as defined in clause (3) of section 701, shall underwrite or issue a policy of title insurance; further, no person, firm, association, corporation, cooperative or joint-stock company shall engage in the business of title insurance in this Commonwealth unless authorized to transact such a business by the provisions of this article.

Section 704. Corporate Form Required.—A title insurance company shall be organized as a stock corporation as provided in sections 203 to 205, inclusive, and 207 to 214, inclusive, of this act, and certified in the manner prescribed in section 215, except as hereinafter prescribed, to do the kind of insurance business, with incidental powers, specified in this article.

Section 705. Financial Requirements.—Every title insurance company shall have a minimum capital, which shall be paid in and maintained, of not less than two hundred fifty thousand dollars ($250,000) and, in addition, paid-in initial surplus at least equal to fifty per cent of its capital.

Section 706. Procedure When Capital Impaired.—If for any reason the capital of a title insurance company becomes impaired, such title insurance company shall forthwith give written notice thereof to the commissioner and shall make no further policies or contracts or reinsurance agreements of title insurance while such impairment exists. Such title insurance company shall immediately call upon its stockholders for such amounts as will restore its capital to an amount prescribed by the commissioner. In case any stockholder neglects or refuses to pay the amount called for, after notice personally given or by advertisement, at such time and in such manner as the commissioner shall approve, the title insurance company shall require the return of the original certificate or certificates of stock held by such stockholder, and, in lieu thereof, issue new certificates in the proportion that the ascertained value of the assets

may, as determined by the commissioner, bear to the capital existing immediately prior to the impairment, the title insurance company paying for any fractional parts of shares. The directors of the title insurance company, with the prior consent and approval of the commissioner, may create new stock, and issue certificates therefor, and dispose of the same, at not less than par, for an amount sufficient to make up the original capital or the commissioner may, in his discretion, permit the company to reduce its capital and the par value of its shares in proportion to the extent of the impairment, but the capital shall at no time be reduced to an amount less than that required by law for the organization of any such company. In fixing such reduced capital, not more than fifty per cent of the original capital shall be deducted from the assets on hand to be retained as surplus funds, nor shall any part of assets be distributed to stockholders. When the amount of capital prescribed by the commissioner has been restored, the title insurance company shall so notify the commissioner who, upon being satisfied that the impairment no longer exists and is not likely to recur, shall give written approval authorizing the title insurance company to again issue such policies or contracts or reinsurance agreements of title insurance.

Section 707. Title Examination Required.—No policy of title insurance, excluding reinsurance, shall be written unless and until the title insurance company, either through its own employes, agents or approved attorneys, has conducted a reasonable examination of the record title or has caused a reasonable examination of title to be conducted. The abstract of title or the report of the examination thereof shall be in writing and shall be kept on file by the title insurance company or its agent or approved attorney for a period of not less than twenty years after the policy of title insurance has been issued. In lieu of retaining the original copy, the title insurance company or the agent of the title insurance company or the approved attorney of the title insurance company, may, in the regular course of business, establish a system whereby all or part of these writings are recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic or other process which accurately reproduces or forms a durable medium for reproducing the original.

Section 708. Power to Insure Titles to Real Estate. —Every title insurance company shall have the power to make insurance of every kind pertaining to or connected with titles to real estate, and to make, execute and perfect such and so many contracts, agreements, policies

*and other instruments as may be required therefor, such insurances to be made for the benefit of owners of real estate, *mortgagees and others interested in real estate, from loss by reason of defective titles, liens and encumbrances.*

Section 709. Prohibition upon Guaranteeing Mortgages.—A title insurance company shall not, in any manner whatsoever, guarantee the payment of the principal or the interest of bonds or other obligations secured by mortgages upon real property.

*Section 710. Power to Insure Titles to Real Estate; Loss of Power.—(a) Every title insurance company which upon the effective date of this amendment shall lawfully possess and which has within one year prior to such date lawfully exercised in this Commonwealth the power to insure owners of real property, mortgagees, and **others interested in real property, and others from loss by reason of defective titles, liens and encumbrances, shall, subject to the conditions herein prescribed, continue to possess such power.*

(b) Every title insurance company which does not hereafter exercise for any period of twelve months the power to insure owners of real property, mortgagees and others interested in real property, from loss by reason of defective titles, liens and encumbrances shall be forever barred from the exercise of such power.

Section 711. Power to Accept Deposits; Loss of Title Insurance Powers.—Any title insurance company which shall possess the further powers to receive deposits or otherwise to engage in a banking business, and shall not have exercised, within one year preceding the effective date of this amendment, any of such further powers, and shall again exercise such further powers to receive deposits or otherwise engage in a banking business, shall make no further contracts or issue any policies of title insurance. Any title insurance company possessing such further powers and shall not hereafter exercise any of such further powers for any consecutive period of one year, upon exercising again such further powers to receive deposits or otherwise engage in a banking business, shall make no further contracts or issue any policies of title insurance.

Section 712. Power to Act as a Fiduciary; Loss of Title Insurance Powers.—Any title insurance company which shall possess the further powers to act as trustee, guardian, executor, administrator, or in any other similar fiduciary capacity, and shall not have exercised, within

* "mortgage" in original.
** "other" in original.

one year preceding the effective date of this amendment, any of such further powers, and again shall exercise any of such further powers, shall make no further contracts or issue any policies of title insurance. Any such title insurance company possessing such further powers and which shall not hereafter exercise any of such further powers for any consecutive period of one year, upon exercising again any of such further powers shall make no further contracts or issue any policies of title insurance.

Section 713. Power of Title Insurance Company; Prohibition Against Transacting Other Kinds of Insurance; Prohibition Against Other Kinds of Insurance Companies Transacting Title Insurance.—A title insurance company shall not transact, underwrite or issue any kind of insurance other than title insurance; nor shall title insurance be transacted, underwritten or issued by any company transacting any other kinds of insurance.

Section 714. Unearned Premium Reserve.—(a) Every title insurance company shall, in addition to other reserves, establish and maintain a reserve to be known as the "unearned premium reserve" for title insurance, which shall, at all times for all purposes, be deemed and shall constitute the unearned portions of premiums due or received and shall be charged as a reserve liability of such title insurance company in determining its financial condition.

(b) The unearned premium reserve shall be retained and held by such title insurance company for the protection of the policyholders' interest in policies which have not expired. Except as provided in section 717 of this act, assets equal to the amount of such reserve shall not be subject to distribution among depositors or other creditors or stockholders of such title insurance company until all claims of policyholders or holders of other title insurance contracts or agreements of such title insurance company have been paid in full and all liability on the policies or other title insurance contracts or agreements, whether contingent or actual, has been discharged or lawfully reinsured. Income from the investment of the amount of such reserve shall be the unrestricted property of the title insurance company.

Section 715. Amount of Unearned Premium Reserve; Release Thereof.—(a) The unearned premium reserve of every title insurance company shall consist of:

(1) The amount of the unearned premium reserve held as of the effective date of this amendment, pursuant to or under permission granted by any prior act of Assembly; and

(2) The amount of all additions required to be made to such reserve by this section, less the withdrawals therefrom as permitted by this section.

(b) Except as otherwise provided in this subsection, every title insurance company shall add to its unearned premium reserve, in respect to each policy or contract or reinsurance agreement issued by it, a sum of money out of the fees due or received for such title insurance made by it, a sum equal to one dollar ($1) for each such policy or contract or agreement, plus ten cents (10¢) for each one thousand dollars ($1000) face amount of net retained liability, and shall each year separately report the amounts so set aside in respect to policies, contracts or agreements written in such year. If substantially the entire outstanding liability of any such title insurance company shall be reinsured, the unearned premium reserve of the reinsurer shall be equal in amount to the reserve of the ceding title insurance company in respect to such outstanding liability so reinsured.

(c) The amounts set aside as additions to the unearned premium reserve shall be deducted in determining net profits of any title insurance company.

(d) For the purposes of determining the amounts of the unearned premium reserve that may be withdrawn, and the interest of the policyholders therein under section 717 of this act, all policies, contracts or reinsurance agreements of title insurance shall be considered as dated on July 1 in the year of issue.

(e) Additions to the unearned premium reserve which shall have been held for a period of twenty years shall be released, shall no longer constitute a part of the unearned premium reserve, shall constitute a part of net profit for the year in which the release is made and may be used for any corporate purposes, including the payment of dividends.

(f) Additions to the unearned premium reserve made since the establishment of the unearned premium reserve by sections 690 to 694 shall continue to be released in the manner prescribed in subsection (e) of this section.

(g) That part of the unearned premium reserve created by sections 690 to 694, consisting of the aggregation of the reinsurance reserve fund, title reserve fund and title reserve, held as of February 1, 1956, shall continue to be released as provided in subsection (e) of this section: Provided, That the aggregated reserve created by those sections shall continue to be presumed to have been established out of income in twenty equal annual additions over the twenty years preceding February 1, 1956, whether or not such title insurance company had been in existence for that period.

Section 716. Investment and Maintenance of the Unearned Premium Reserve.—The amount of the unearned premium reserve shall be invested by each such title insurance company according to the investment schedule provided in section 734 of this act. If by reason of depreciation in the market value of investments or other cause, the amount of the assets eligible for investment of the unearned premium reserve should on any date be less than the amount required to be maintained by law in such reserve, and the deficiency shall not be promptly cured, such title insurance company shall forthwith give written notice thereof to the Insurance Commissioner and shall make no further policies or contracts or reinsurance agreements of title insurance until the amounts of such eligible investments shall have been restored and until it shall have received written approval from the Insurance Commissioner authorizing it to again issue such policies or contracts or agreements.

Section 717. Use of the Unearned Premium Reserve. —(a) If a title insurance company becomes insolvent, or is in the process of liquidation or dissolution, or in the possession of the Insurance Commissioner:

(1) Such amount of the assets of such title insurance company equal to the unearned premium reserve as is necessary, shall be used, with the written approval of the commissioner, to pay for reinsurance of the outstanding liability of such title insurance company upon all inforce policies or contracts or reinsurance agreements of title insurance, as to which claims for losses by the holders are not then pending, the balance, if any, of the unearned premium reserve fund then to be transferred to the general assets of the title insurance company;

(2) The assets other than the unearned premium reserve shall be available to pay claims for losses sustained by holders of policies then pending or arising up to the time reinsurance is affected. In the event that claims for losses are in excess of such assets of the title insurance company, claims shall be paid out of the assets attributable to the unearned premium reserve.

(b) In the event that reinsurance is unavailable, the unearned premium reserve and assets constituting minimum capital, or so much as remains thereof after outstanding claims have been paid, shall constitute a trust fund to be held by the commissioner for twenty years, out of which claims of policyholders shall be paid as they arise. The balance, if any, of such fund shall, at expiration of twenty years, revert to the general assets of the title insurance company, after reasonable charges for administration of the fund have been charged against the balance by the commissioner.

(c) The commissioner shall also have the authority to enter into a contract with one or more title insurance companies to reinsure all the obligations under outstanding policies of such title insurance company in accordance with their terms, covenants and conditions, the cost of said reinsurance to be paid out of the assets of such title insurance company.

Section 718. Reserve for Unpaid Losses and Loss Expense.—(a) Each title insurance company shall at all times establish and maintain, in addition to other reserves, a reserve against unpaid losses, and against loss expense, and shall calculate such reserves by making a careful estimate in each case of the loss and loss expense likely to be incurred, by reason of every claim presented or that may be presented, pursuant to notice from or on behalf of the insured, of a title defect in or lien or adverse claim against the title insured, that may result in a loss or cause expense to be incurred for the proper disposition of the claim. The sums of the items so estimated shall be the total amounts of the reserves against unpaid losses and loss expenses of such title insurance company.

(b) The amounts so estimated shall from time to time be revised as circumstances warrant.

(c) The amounts set aside in such reserves in any year shall be deducted in determining the net profits for such year of any title insurance company.

Section 719. Primary Retained Liability.—(a) No title insurance company shall issue a policy of title insurance for a single transaction, the net primary retained liability under which shall exceed an amount which is equal to its assets, not including agency and escrow funds, less an amount equal to the sum of the minimum capital required by this article for a title insurance company, unearned premium reserve and the value of title plant, but nothing herein contained shall prevent any one or more of such title insurance companies from assuming the liability on a single policy jointly with another such title insurance company or title insurance companies in excess of this amount: Provided, That the total amount of such insurance shall not exceed the aggregate maximum net primary retentions of all title insurance companies liable under such insurance; and provided none of the title insurance companies exceeds the limit of its net primary retention for a single transaction.

(b) No title insurance company shall issue a policy of title insurance for a single transaction under which its primary liability as coinsurer shall exceed the limit of net primary retention prescribed in subsection (a) of this section.

(c) No title insurance company shall issue a policy of title insurance for a single transaction under which its secondary liability as reinsurer shall exceed the limit of net primary retention prescribed in subsection (a) of this section: Provided, That if the ceding company or companies retain primary liability at least equal to ten per cent of the total amount at risk, a title insurance company may issue a policy of reinsurance for a single transaction under which its secondary liability exceeds the limit of net primary retention prescribed in subsection (a): Provided, That the total amount of its secondary liability for a single transaction shall not exceed an amount which is equal to its assets, not including agency or escrow funds, less an amount equal to the sum of the unearned premium reserve and the value of title plant. Nothing herein contained shall prevent any one or more title insurance companies from assuming the liability on a single policy jointly with another title insurance company or other title insurance companies in excess of this amount: Provided, That the total amount of such insurance shall not exceed the aggregate maximum net retentions of all such title insurance companies liable under such insurance; and provided none of the title insurance companies exceeds the limit of its net retention for a single transaction.

*Section 720. Power to Reinsure.—Any title insurance company authorized to insure titles to real estate in this Commonwealth, may reinsure all or any part of its liability under one or more of its policy contracts with any title insurance company authorized to insure titles to real estate in this Commonwealth or a title insurance company authorized to insure titles to real estate in any of the United States, if such reinsuring company is, or reinsuring companies are, and remains of the same standard of solvency and complies with all other requirements fixed by the laws of this Commonwealth for title insurance companies authorized to insure titles to real estate within this Commonwealth. Any domestic title insurance company or foreign title insurance company authorized to transact business in this Commonwealth shall pay to this Commonwealth taxes required on all business taxable within this Commonwealth and reinsured, as provided in this section, with any foreign company not authorized to do business within this *Commonwealth.*

Section 721. Special Reinsurance.—In the event that the risk of a single transaction involving a parcel of real estate situated within this Commonwealth exceeds the total net retention, both primary and secondary, per-

* "Comonwealth" in original.

mitted by this article for all title insurance companies authorized to transact business within this Commonwealth, and the total reinsurance available from companies authorized to reinsure risks by section 720 of this act, reinsurance may be obtained from companies not authorized to reinsure risks within this Commonwealth with the prior approval in writing of the commissioner.

Section 722. Licensure.—Any title insurance company organized under the laws of another State or foreign government shall be licensed to transact a title insurance business within this Commonwealth only if such company is and remains of the same standard of solvency and complies with other requirements fixed by the laws of this Commonwealth for title insurance companies organized and authorized to transact the business of title insurance pursuant to the laws of this Commonwealth. No such company shall be licensed to transact any business within the Commonwealth until it complies with the requisites for doing business as provided in section 301.

Section 723. Foreign Insurers; Resident Agent Required.—A foreign company, licensed to do a title insurance business within this Commonwealth, shall transact such business only through resident agents in the manner prescribed in section 610 of this act.

Section 724. Agents; Defined.—An agent is a person, firm, association, corporation, cooperative or joint-stock company, authorized in writing by a title insurance company directly or indirectly:

(1) To solicit risks and collect premiums, and to issue or countersign policies in its behalf; or

(2) To solicit risks and collect premiums in its behalf.

*No bank, trust company, bank and trust company or other lending institution, mortgage service, mortgage brokerage or mortgage guaranty company or any officer or employe of any of the foregoing shall be permitted to act as an agent for a title insurance company. The word "agent" shall not include approved attorneys, nor shall it include officers and salaried employes of any title insurance *company authorized to do a title insurance business within this Commonwealth.*

Section 725. Agents; Names to be Certified to Commissioner.—Every title insurance company authorized to transact business within this Commonwealth shall, from time to time, certify to the commissioner the names of all agents appointed by it in this Commonwealth.

* "compaany" in original.

Section 726. Agents; To be Licensed.—Agents for a title insurance company shall be licensed in the manner provided for agents of insurance companies in section 603 of the act of May 17, 1921 (P. L. 789), known as "The Insurance Department Act of 1921": Provided, however, That in the event that an applicant for an agent's license is presently an agent of a title insurer or a licensed insurance broker or an attorney at law, the applicant shall not be required to take an examination to qualify for such license. Licenses of title insurance agents shall expire annually at midnight of June 30, unless sooner terminated as the result of severance of business relations between the company and the agent, or unless revoked by the commissioner for cause.

*Section 727. Agents; Books, Records, etc.—Every agent of a title insurance company shall keep his, her or its books, records, accounts and vouchers pertaining to the business of title insurance, in such manner that the commissioner or his authorized representatives may readily ascertain from time to time, whether or not the agent has *complied with all of the applicable provisions of this act. Failure to comply with this section shall be a ground for revocation of the agent's license.*

Section 728. Agents; Replies to Inquiries by Commissioner.—Every agent of a title insurance company shall reply, in writing, promptly to any inquiry of the commissioner relative to the agent's conduct of the business of title insurance, and failure to reply shall be a ground for revocation of the agent's license.

Section 729. Agents; Certain Names Prohibited.—After the effective date of this amendment no agent for a title insurance company shall adopt a firm name containing the words "title," "title company," "title insurance company," "guaranty," "guarantee," "guaranty company," or "guarantee company" or similar combination thereof.

Section 730. Commissions; Right to Pay.—(a) A title insurance company or an agent of a title insurance company may pay a cash commission to an attorney at law in good standing, or a real estate broker licensed in the Commonwealth of Pennsylvania for procuring a title insurance for a client in a real estate transaction; further, an attorney at law or a licensed real estate broker may credit his commission to the account of the client for whom the policy of title insurance was obtained without violating any of the rebate provisions of this article. In no event shall the cash commission paid by a title insurance company or an agent of a title insur-

* "compiled" in original.

ance company exceed the amount set forth in the Schedule of Commissions filed with the commissioner by the said title insurance company.

(b) No commission may be paid to an attorney at law in any transaction in which he acts as an approved attorney.

(c) Nothing herein contained shall prohibit the payment of a commission to a duly licensed agent.

Section 731. Commissions; Other Considerations Prohibited.—No title insurance company or agent or approved attorney of a title insurance company shall pay, give or award to an applicant for title insurance any compensation, consideration, benefit or remuneration, directly or indirectly, except as provided in section 730.

Section 732. Capital.—The capital of a title insurance company shall be invested in the following classes of investment:

(1) Government Obligations. Bonds, notes or obligations issued, assumed or guaranteed by the United States or the Dominion of Canada, or by any state, district or territory of the United States.

(2) Governmental Subdivision or Public Instrumentality Obligations. Valid and legally authorized bonds, notes or obligations issued, assumed or guaranteed by:

(i) any city, town, county, borough, township, municipality, school district, poor district, water, sewer, drainage, road or other governmental district or division located in the United States or any state, district or territory thereof; or by

(ii) any public instrumentality other than a municipal authority of one or more of the foregoing, if, by statutory or other legal requirements applicable thereto, such bonds or other evidences of indebtedness of such instrumentality are payable, as to principal and interest, from taxes levied or by law required to be levied, upon all taxable property or all taxable income within the jurisdiction of the governmental unit or units of which it is an instrumentality, or from revenues pledged or otherwise appropriated or by law required to be provided for the purpose of such payment;

(iii) any municipal authority issued pursuant to the laws of the Commonwealth relating to the creation or operation of municipal authorities, if the obligations are not in default as to principal or interest and if the project for which the obligations were issued is under lease to a school district or school districts or if the obligations are not in default as to principal or interest and if the project for which the obligations were issued

is under lease to a municipality or municipalities or subject to a service contract with a municipality or municipalities, pursuant to which the municipal authority will receive lease rentals or service charges available for fixed charges on the obligations, which will average not less than one and one-fifth times the average annual fixed charges of such obligations over the life thereof, or if the obligations are not in default as to principal or interest and if for the period of five fiscal years next preceding the date of acquisition, the income of such authority available for fixed charges has averaged not less than one and one-fifth times its average annual fixed charges of such obligations over the life of such obligations. As used in this subclause the term "income available for fixed charges" shall mean income after deducting operating and maintenance expenses, and, unless the obligations are payable in serial, annual maturities, or are supported by annual sinking fund payments, depreciation, but excluding extraordinary nonrecurring items of income or expenses; and the term "fixed charges" shall include principal, both maturity and sinking fund, and interest on bonded debt. In computing such income available for fixed charges for the purposes of this section, the income so available of any corporation acquired by any municipal authority may be included, such income to be calculated as though such corporation had been operated by a municipal authority and an equivalent amount of bonded debt were outstanding. The eligibility for investment purposes of obligations of each project of a municipal authority shall be separately considered hereunder.

(3) Public Utility Obligations. Bonds, notes or obligations issued, assumed or guaranteed by any solvent public utility corporation or public utility business trust, incorporated or existing under the laws of the United States or of any state, district or territory thereof.

(4) Other Corporate Obligations. Bonds, notes or obligations issued, assumed or guaranteed by any other corporation, including railroads, or business trust, incorporated or existing under the laws of the United States or of any state, district or territory thereof, whose income available for fixed charges for the period of five fiscal years next preceding the date of investment shall have averaged not less than one and one-half times its average annual fixed charges applicable to such period. As used in this clause, the term "income available for fixed charges" shall mean income, after deducting operating and maintenance expenses, depreciation and depletion, and taxes other than Federal or State income taxes, but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial

statements of the corporation or business trust, and the term "fixed charges" shall include interest on funded and unfunded debt and amortization of debt discount and expense. If income is determined in reliance upon consolidated income statements of parent and subsidiary corporations or business trusts, such income shall be determined after provision for Federal and State income taxes of subsidiaries, and after proper allowance for minority stock interest, if any, and the required coverage of fixed charges, shall be computed on a basis including fixed charges and preferred dividends of subsidiaries, other than those payable by subsidiaries to the parent corporation or business trust, or to any other such subsidiaries.

In applying an income test under this clause to any issuing, assuming or guaranteeing corporation or business trust, whether or not in legal existence during the whole of the five-year period next preceding the date of investment, which has at any time or times after the beginning of such period acquired the assets or the outstanding shares of capital stock of any other corporation or business trust by purchase, merger, consolidation or otherwise, substantially as an entirety, or has been reorganized pursuant to the bankruptcy law, the income of such other predecessor or constituent corporation or business trust or of the corporation or business trust so reorganized, available for interest and dividends for such portion of such period as shall have preceded acquisition or reorganization may be included in the income of such issuing, assuming or guaranteeing corporation or business trust for such portion of such period as may be determined in accordance with adjusted or pro forma consolidated income statements covering such portion of such period, and giving effect to all stock or shares outstanding and all fixed charges existing immediately after acquisition or reorganization.

(5) Trustees', Receivers' or Equipment Trust Obligations.

(i) Certificates, notes or obligations issued by trustees or receivers of any corporation or business trust created or existing under the laws of the United States or of any state, district or territory thereof which or the assets of which, are being administered under the direction of any court having jurisdiction, if such obligation is adequately secured as to principal and interest.

(ii) Equipment trust obligations or certificates, which are adequately secured, or other adequately secured instruments, evidencing an interest in transportation equipment, wholly or in part within the United States, and a right to receive determined portions of rental,

purchase or other fixed obligatory payments for the use or purchase of such transportation equipment.

(6) Acceptances and Bills of Exchange. Bank and bankers' acceptances, and other bills of exchange of the kind and maturities made eligible pursuant to law for purchase in the open market by Federal Reserve Banks.

*(7) Real Estate Loans. Ground rents and bonds, notes or other evidences of indebtedness, secured by mortgages or trust deeds upon unencumbered real property located in any state, district or territory of the United States, and in investments in the equity of the seller under contracts for deeds covering the entire balance due on bona fide sales of such real property: Provided, That a loan guaranteed or insured in full by the Administrator of Veterans' Affairs pursuant to the provisions of the Federal Servicemen's Readjustment Act of 1944, as heretofore or hereafter amended, may be subject to a prior encumbrance. Real property shall not be considered to be encumbered within the meaning of this clause by reason of the existence of instruments reserving mineral, oil, water or timber rights, rights of way, sewer rights, rights in walls or driveways, by reason of liens inferior to the lien securing the loan of the *title insurance company, or liens for taxes or assessments not yet delinquent, or by reason of building restrictions or other restrictive covenants or by reason of any lease under which rents or profits are reserved to the owner, if, in any event, the security for such loan is a first lien upon such real property, and if there is no condition or right of re-entry or forfeiture under which such lien can be cut off, subordinated or otherwise disturbed. No mortgage or trust deed, loan or investment in a seller's equity under a contract for deed made or acquired by the *title insurance company on any one property shall at the date of investment exceed two-thirds of the value of the real property securing the loan, or subject to such contract: Provided, That such limitation in respect to value shall not apply to a loan which is:*

(i) insured by, or for which a commitment to insure has been made by, the Federal Housing Administrator or Commissioner, pursuant to the provisions of the Federal National Housing Act, as heretofore or hereafter amended;

(ii) guaranteed by the Administrator of Veterans' Affairs pursuant to the provisions of the Federal Servicemen's Readjustment Act of 1944, as heretofore or hereafter amended, except, that if only a portion of a loan

* "title" not in original.

is so guaranteed, such limitation shall apply to the portion not so guaranteed;

(iii) insured by the administrator pursuant to the provisions of the Federal Servicemen's Readjustment Act of 1944, as heretofore or hereafter amended;

(iv) upon real estate under lease to a corporation or business trust, incorporated or existing under the laws of the United States or any state, district or territory thereof, whose income available for fixed charges for the period of five fiscal years next preceding the date of investment, shall have averaged not less than one and one-half times its average annual fixed charges applicable to such period, if there is pledged and assigned, as additional security for the loan, and for application thereon, sufficient of the rentals payable under the lease to provide for repayment of the loan within the unexpired term of the lease;

(v) upon such terms that the principal thereof will be amortized by repayments of principal at least once in each year in amounts sufficient to repay the loan within a period of not more than thirty years, and such loan is upon improved real estate, and at the date of investment does not exceed three-fourths of the value of the real estate securing the loan.

(8) Purchase Money Securities. Purchase money mortgages or like securities received by it upon the sale or exchange of real property, acquired pursuant to clause (20) of this section.

(9) Federal Housing Administrators Debentures. Debentures issued by the Federal Housing Administrator or Commissioner in settlement of claims pursuant to the Federal National Housing Act, as heretofore or hereafter amended.

(10) National Mortgage Association Securities. Securities of national mortgage associations or similar national mortgage credit institutions organized under the Federal National Housing Act, as heretofore or hereafter amended.

(11) Federal Land Bank, Federal Intermediate Credit Bank and Bank for Cooperatives Securities. Bonds, debentures and other obligations of Federal Land Banks or Federal Intermediate Credit Banks issued pursuant to the Federal Farm Loan Act, as heretofore or hereafter amended, or of Banks for Cooperatives issued pursuant to the Farm Credit Act of 1933, as heretofore or hereafter amended.

(12) Loans upon Leaseholds. Loans upon leasehold estates or unencumbered real estate located in any state, district or territory of the United States: Provided, That

no such loan shall exceed two-thirds of the value of the leasehold at the date of investment, unless:

(i) such loan is guaranteed or insured by, or for which a commitment to guarantee or insure such loan has been made by, the Federal Housing Administrator or Commissioner, pursuant to the provisions of the Federal National Housing Act, as heretofore or hereafter amended;

(ii) such leasehold is of improved real estate and such loan provides for amortization by repayments of principal at least once in each year in amounts sufficient to repay the loan within a period of four-fifths of the unexpired term of the leasehold, but within a period of not more than thirty years, and does not exceed three-fourths of the value of the leasehold at the date of investment;

(iii) such real estate is under lease to a corporation or business trust, incorporated or existing under the laws of the United States or any state, district or territory thereof, whose income available for fixed charges for the period of five fiscal years next preceding the date of investment shall have averaged not less than one and one-half times its average annual fixed charges applicable to such period, if there is pledged and assigned as additional security for the loan and for application thereon sufficient of the rentals payable under such lease to provide for repayment of the loan within the unexpired term of the lease.

Provided further, That the terms of any such loan shall require repayments of principal at least once in each year in amounts sufficient to repay the loan within the term of the leasehold, unexpired at the date of investment, unless a shorter period is required under subclause (ii).

(13) Savings and Loan Shares. Shares of any Federal savings and loan association, or of any building and loan or savings and loan association, to the extent that the withdrawal or repurchasable value of such shares is insured by the Federal Savings and Loan Insurance Corporation under the Federal National Housing Act, as heretofore or hereafter amended.

(14) Federal Savings and Loan Insurance Corporation Obligations. Bonds, notes or obligations issued, assumed or guaranteed by the Federal Savings and Loan Insurance Corporation, under the provisions of the Federal National Housing Act, as heretofore or hereafter amended.

(15) Federal Home Loan Bank Obligations. Bonds, notes or obligations issued, assumed or guaranteed by the Federal Home Loan Bank, or issued, assumed or guaranteed by the Federal Home Loan Bank Board under

the provisions of the Federal Home Loan Bank Act, as heretofore or hereafter amended.

(16) International Bank Obligations. * *Bonds, notes or obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development.*

(17) Business Development Credit Corporation Shares. Shares of State and regional business development credit corporations formed under the laws of this Commonwealth.

(18) Pennsylvania Housing Agency Bonds and Notes. Bonds and notes of the Pennsylvania Housing Agency created by the "Housing Agency Law."

(19) Inter-American Development Bank Obligations. * *Bonds, notes* ***or obligations issued, assumed or guaranteed by the Inter-American Development Bank.*

(20) Real Estate; Right to Acquire. It shall be lawful for any title insurance company organized under the laws of this Commonwealth to purchase, receive, hold and convey real estate or any interest therein:

(i) required for its convenient accommodation in the transaction of its business with reasonable regard to future needs;

(ii) acquired in connection with a claim under a policy of title insurance;

(iii) acquired in satisfaction or on account of loans, mortgages, liens, judgments or decrees, previously owing to it in the course of its business;

(iv) acquired in part payment of the consideration of the sale of real property owned by it if the transaction shall result in a net reduction in the company's investment in real estate;

(v) reasonably necessary for the purpose of maintaining or enhancing the sale value of real property previously acquired or held by it under subclauses (i), (ii), (iii) or (iv) of this clause: Provided, however, That no title insurance company shall continue to hold any real estate acquired by it under subclauses (ii), (iii) or (iv) for more than five years from the date of acquisition thereof, unless it shall obtain the written approval of the commissioner to hold such real estate for a longer period of time.

(21) Title Plant. Provided it shall at all times keep at least two hundred fifty thousand dollars ($250,000), invested in the classes of securities authorized for the investment of capital other than title plant and real estate, a title insurance company may invest in a title plant. The title plant shall be considered an admitted

* "In" in original.
** "and" in original.

asset at the fair value thereof. In determining the fair value of a title plant, no value shall be attributed to furniture and fixtures, and the real estate in which the title plant is housed shall be carried as real estate. The value of title abstracts, title briefs, copies of conveyances or other documents, indices and other records comprising the title plant, shall be determined by considering the expenses incurred in obtaining them, the age thereof, the cost of replacements less depreciation, and all other relevant factors. Once the value of a title plant shall have been determined hereunder, such value may be increased only by the acquisition of another title plant by purchase, consolidation or merger; in no event shall the value of the title plant be increased by additions made thereto as part of the normal course of abstracting and insuring titles to real estate. Subject to the above limitations and with the approval of the commissioner, a title insurance company may enter into agreements with one or more other title insurance companies authorized to do business in this Commonwealth, whereby such companies shall participate in the ownership, management and control of a title plant to service the needs of all such companies or such companies may hold stock of a corporation owning and operating a title plant for such purposes: Provided, That each of the companies participating in the ownership, management and control of such jointly owned title plant shall keep the sum of two hundred fifty thousand dollars ($250,000) invested as above set forth.

Section 733. Surplus.—Money over and above capital, other than the unearned premium reserve, may be invested in the following classes of investments:

(1) Any of the classes of investment authorized in section 732 of this article.

(2) Corporate Stock or Shares. Stock or shares of any solvent corporation, incorporated under the laws of the United States or any state, district or territory thereof, the Commonwealth of Puerto Rico, or of the Dominion of Canada or any province thereof, including the stock of another title insurance company.

(3) Corporate Obligations. Bonds, notes or obligations issued, assumed or guaranteed by any solvent corporation or business trust, incorporated or existing under the laws of the United States or any state, district or territory thereof, the Commonwealth of Puerto Rico, or of the Dominion of Canada or any province thereof.

(4) Canadian Governmental Subdivision Obligations. Valid and legally authorized bonds, notes or obligations issued, assumed or guaranteed by any province, county, city, town, village, municipality or political subdivision of the Dominion of Canada.

(5) Other Loans or Investments. Loans or investments not qualifying or permitted under the preceding subsections of this section, to an amount not exceeding five per cent of such company's admitted assets.

Section 734. Unearned Premium Reserve.—The unearned premium reserve of a title insurance company shall be invested in the same classes of investments, other than title plant and real estate, authorized for the investment of capital, except that one-fourth of such reserve may be invested in preferred or guaranteed stocks or shares of any solvent corporation or business trust, incorporated or existing under the laws of the United States or of any state, district or territory thereof, whose net earnings available for its fixed charges, during either of the two years preceding the date of such investment have been, and during each of the five years preceding such date, have averaged not less than one and one-half times the sum of its average annual fixed charges, as referred to in clause (4) of section 732, if any, and its average annual preferred dividend requirements. For the purposes of this section, such computation shall refer to the fiscal year immediately preceding the date of acquisition of an investment by the insurer, and the term "preferred dividend requirement," shall include cumulative or noncumulative dividends, whether paid, earned or not.

Section 735. Other Reserves.—Reserves other than the unearned premium reserve may be invested in any of the classes of investments authorized in clauses (1), (2), (3), (4) and (5) of section 733 of this article.

Section 736. Investments Acquired before Effective Date.—Any investment of a title insurance company lawfully acquired before the effective date of this amendment and which but for this section would be considered ineligible as an investment on such effective date, shall be disposed of within three years from such effective date. The commissioner, upon application and proof that forced sale of any such investment would be contrary to the best interests of the title insurance company and its policyholders, may extend the period for sale or disposal of such investment for a further reasonable time, in no event to exceed three years.

Section 737. Rate Filing.—(a) Every title insurance company shall file with the commissioner every manual of classifications, rules, plans, schedules of fees, commissions payable to applicants for title insurance and every modification of any of the foregoing relating to the rates which it proposes to use. Every such filing

shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated.

(b) A title insurance company may satisfy its obligations to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf.

(c) The commissioner shall make such review of the filings as may be necessary to carry out the provisions of this article.

(d) Subject to the provisions of subsections (f) and (g) of this section, each filing shall be on file for a period of thirty days before it becomes effective. The commissioner may, upon written notice given within such period to the person making the filing, extend such waiting period for an additional period, not to exceed thirty days to enable him to complete the review of the filing. Further extensions of such waiting period may also be made with the consent of the title insurance company or rating organization making the filing. Upon written application by the title insurance company or rating organization making the filing, the commissioner may authorize a filing or any part thereof which he has reviewed, to become effective before the expiration of the waiting period or any extension thereof.

(e) Except in the case of rates filed under subsections (f) and (g) of this section, a filing which has become effective shall be deemed to meet the requirements of this article.

(f) When the commissioner finds that any rate for a particular kind or class of risk cannot practicably be filed before it is used, or any contract or kind of title insurance, by reason of rarity or peculiar circumstances, does not lend itself to advance determination and filing of rates, he may, under such rules and regulations as he may prescribe, permit such rates to be used without a previous filing and waiting period.

(g) Upon the written consent of the insured stating his reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing which might otherwise be deemed applicable may be used on any specific risk. The rate shall become effective when such consent is filed.

(h) Beginning ninety days after the effective date of this amendment, no title insurance company or agent of a title insurance company shall charge any fee for any policy or contract of title insurance except in accordance with filings or rates which are in effect for said title insurance company or such agent of a title

insurance company as provided in this article, or in accordance with subsections (f) and (g) of this section.

Section 738. Justification for Rates.—A rate filing shall be accompanied by a statement of the title insurance company or rating organization making the filing, setting forth the basis upon which the rate was fixed and the fees are to be computed. Any filing may be justified by:

(1) The experience or judgment of the title insurance company or rating organization making the filing; or

(2) The experience of other title insurance companies or rating organizations; or

(3) Any other factors which the title insurance company or rating organization deems relevant.

The statement and justification shall be open to public inspection after the rate to which it applies becomes effective.

Section 739. Making of Rates.—(a) In making rates, due consideration shall be given to past and prospective loss experience, to exposure to loss to underwriting practice and judgment, to the extent appropriate to past and prospective expenses, including commissions paid to agents and applicants for title insurance, the expenses incurred by title insurance companies, to a reasonable margin for profit and contingencies, and to all other relevant factors both within and outside of this Commonwealth.

(b) Rates shall not be inadequate or unfairly discriminatory, nor shall rates be excessive; that is, such as to permit title insurance companies to earn a greater profit, after payment of all taxes upon all income, than is necessary to enable them to earn over the years sufficient amounts to pay their actual expenses and losses arising in the conduct of their title insurance business, including commissions paid and the actual costs of maintaining a title plant, plus a reasonable profit.

(c) In ascertaining the estimated future earnings of title insurance companies, the commissioner shall utilize a properly weighted cross section of title insurance companies operating in this Commonwealth representative of the average of normally efficiently operated title insurance companies including on a weighted basis, both title insurance companies having their own title plants, and those not operating upon the title plant system. In ascertaining what is a reasonable profit after payment of all taxes on such income, the commissioner shall give due consideration to the following matters:

(1) The average rates of profit after payment of taxes on all income earned by other industry generally;

(2) The desirability for stability of rate structure;

(3) The necessity of insuring through growth in assets in times of high business activity, the financial solvency of title insurance companies in times of economic depression; and

(4) The necessity for earning sufficient dividends on the stock of title insurance companies to induce capital to be invested in title insurance companies.

(d) The systems of expense provisions and the amount of expense charged against each class of contract or policy may vary between title insurance companies. Rates may, in the discretion of any title insurance company, be less than the cost of performing the work in the case of smaller insurances, and the excess may be charged against the larger insurances without rendering the rates unfairly discriminatory.

Section 740. Disapproval of Filings.—(a) Upon the review at any time by the commissioner of a filing, he shall, before issuing an order of disapproval, hold a hearing upon not less than ten days written notice, specifying in reasonable detail the matters to be considered at such hearing, to every title insurance company and rating organization which made such filing, and if, after such hearing, he finds that such filing or a part thereof does not meet the requirements of this article, he shall issue an order specifying in what respects he finds that it so fails, and stating when, within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective if the filing or a part thereof has become effective under the provisions of section 737: Provided, however, That a title insurance company or rating organization shall have the right at any time to withdraw a filing or a part thereof, subject to the provisions of section 742 in the case of a deviation filing. Copies of said order shall be sent to every such title insurance company and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(b) Any person or organization aggrieved with respect to any filing which is in effect, may make written application to the commissioner for a hearing hereon: Provided, however, That the title insurance company or rating organization that made the filing shall not be authorized to proceed under this subsection. Such application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the commissioner shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify

holding such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days written notice to the applicant and to every title insurance company and rating organization which made such a filing. If, after such hearing, the commissioner finds that the filing or a part thereof does not meet the requirements of this article, he shall issue an order specifying in what respects he finds that such filing or a part thereof fails to meet the requirements, stating when within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective. Copies of said order shall be sent to the applicant and to every such title insurance company and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(c) No filing nor any modification thereof shall be disapproved if the rates in connection therewith meet the requirements of this article.

Section 741. Rating Organizations.—(a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this Commonwealth, may make application to the commissioner for license as a rating organization for title insurance companies, and shall file therewith:

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business;

(2) A list of its members and subscribers;

(3) The name and address of a resident of this Commonwealth upon whom notices or orders of the commissioner or process affecting such rating organization may be served; and

*(4) A statement of its qualifications as a rating organization. If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as *a rating organization, and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conforms to the requirements of law, he shall issue a license authorizing the applicant to act as a rating organization for title insurance. Every such application shall be granted or denied in whole or in part by the commissioner within sixty days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner or withdrawn by the licensee. The fee for*

* "a" not in original.

said license shall be twenty-five dollars ($25). Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the commissioner promptly of every change in:

(i) Its constitution, its articles of agreement or association or its certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business;

(ii) Its list of members and subscribers; and

(iii) The name and address of the resident of this Commonwealth designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

(b) Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any title insurance company not a member to be a subscriber to its rating services. Notices of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit a title insurance company as a subscriber, shall, at the request of any subscriber or any such title insurance company, be reviewed by the commissioner at a hearing held upon at least ten days written notice to such rating organization and to such subscriber or title insurance company. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an application of a title insurance company for subscribership within thirty days after it was made, the title insurance company may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the title insurance company has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the title insurance company as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(c) Cooperation among rating organizations, or among rating organizations and title insurance companies, and concert of action among title insurance companies under the same general management and control in rate making or in other matters within the scope of this article is

hereby authorized, provided the filings resulting therefrom are subject to all the provisions of this article which are applicable to filings generally. The commissioner may review such activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article and requiring the discontinuance of such activity or practice.

Section 742. Deviations.—Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization, except that any title insurance company which is a member of or subscriber to a rating organization may file with the commissioner a uniform percentage of decrease or increase to be applied to any or all elements of the fees produced by the rating system so filed for a class of title insurance which is found by the commissioner to be a proper rating unit for the application of such uniform decrease or increase, or to be applied to the rates for a particular area, or with respect to the amount of commissions to be paid. Such deviation filing shall specify the basis for the modification and shall be accompanied by the data or historical pattern upon which the applicant relies. A copy of the filing and data shall be sent simultaneously to such rating organization. Any such deviation filing shall be on file for a waiting period of thirty days before it becomes effective. Extension of such waiting period may be made in the same manner that such period is extended in the case of rate filings. Upon written application of the person making the filing, the commissioner may authorize a deviation filing or any part thereof to become effective before the expiration of the waiting period or any extension thereof. Deviation filings shall be subject to the provisions of section 740. Each deviation shall be effective for at least one year from the date such deviation is filed unless terminated sooner with the approval of the commissioner, or in accordance with the provisions of section 740.

Section 743. Appeal by Minority.—(a) Any member of or subscriber to a rating organization may appeal to the commissioner from any action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization, and the commissioner shall, after a hearing held upon not less than ten days written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such

proposal and to take action or make a decision upon it within thirty days, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order: Provided, however, if the appeal is from the action of the rating organization with regard to a rate or a proposed change in or addition to its filings relating to the character and extent of coverage, he shall approve the rate applied by the rating organization or such rate as may be suggested by the appellant, if either rate be in accordance with this article.

(b) The failure of a rating organization to take action or make a decision within thirty days after submission to it of a proposal under this section shall constitute a rejection of such proposal within the meaning of this section.

*(c) If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in subsection (d) of section 739 from the *system of expense provisions included in a filing made by the rating organization, the commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal, the commissioner shall apply the standards set forth in section 739.*

*Section 744. Information to be Furnished Insureds; Hearings and Appeals of Insureds.—(a) Every rating organization and every title insurance company which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such **reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.*

*(b) Every rating organization and every title insurance company which makes its own rates shall ***provide, within this Commonwealth, reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied*

* "sytem" in original.
** "reasonble" in original.
*** "provde" in original.

in connection with the insurance afforded him. If the rating organization or title insurance company fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such title insurance company on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than ten days written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

Section 745. Examinations of Rating Organizations.—The commissioner shall, at least once in five years, make or cause to be made an examination of such rating organization licensed under this article in this Commonwealth. The reasonable costs of any such examination shall be paid by the rating organization examined upon presentation to it of a detailed account of such costs. The officer, manager, agents and employes of such rating organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents or agreements governing its method of operation. The commissioner shall furnish two copies of the examination report to the organization examined and shall notify such organization that it may, within twenty days thereafter, request a hearing on said report or on any facts or recommendations therein. Before filing any such report for public inspection, the commissioner shall grant a hearing to the organization examined. The report of any such examination, when filed for public inspection, shall be admissible in evidence in any action or proceeding brought by the commissioner against the organization examined, or its officers or agents, and shall be prima facie evidence of facts stated therein. The commissioner may withhold the report of any such examination from public inspection for such time as he may deem proper. In lieu of any such examination, the commissioner may accept the report of an examination made by the insurance supervisory official of another state pursuant to the laws of such state.

Section 746. Rate Administration; Authority and Duties of Commissioner; Rules and Regulations.—(a) The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time, and which shall be used thereafter by each title insurance company, in the recording and reporting of the composition of its business, its loss and countrywide expense experience and those of its title insurance underwriters in order that the experience of all title

insurance companies may be made available, at least annually, in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in this article. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this Commonwealth and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file with him, and in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. Such rules and plans shall not place an unreasonable burden of expense on any title insurance company. No title insurance company shall be required to record or report its expense and loss experience on a classification basis that is inconsistent with the rating system filed by it, nor shall any title insurance company be required to report its experience to any agency of which it is not a member or subscriber. The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to title insurance companies and rating organizations.

(b) Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

(c) In order to further uniform administration of rate regulatory laws, the commissioner and every title insurance company and rating organization may exchange information and experience data with insurance supervisory officials, title insurance companies and rating organizations in other states, and may consult with them with respect to rate making and the application of rating systems.

(d) In addition to any powers hereinbefore expressly enumerated in this act, the commissioner shall have full power and authority, and it shall be his duty, to enforce and carry out by regulations, orders or otherwise, all and singular the provisions of this article and the full intent thereof. The commissioner may make such reasonable rules and regulations not inconsistent with this article, as may be necessary or proper in the exercise of his powers or for the performance of his duties under this article.

Section 747. False or Misleading Information.—No person or organization shall wilfully withhold informa-

tion from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, any rating organization, or any title insurance company, which will affect the rates or fees chargeable under this article.

Section 748. Penalties.—(a) The commissioner may, if he finds that any person or organization has violated any provision of this article, impose a penalty of not more than fifty dollars ($50) for each such violation, but if he finds such violation to be wilful, he may impose a penalty of not more than five hundred dollars ($500) for each such violation. Such penalties may be in addition to any other penalty provided by law.

(b) The commissioner may suspend the license of any rating organization or title insurance company which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or title insurance company for failure to comply with an order until the time prescribed for an appeal therefrom has expired, or, if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective, and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

(c) No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the commissioner, stating his findings, made after a hearing held upon not less than ten days written notice to such person or organization, specifying the alleged violation.

Section 749. Hearing Procedure and Judicial Review.—(a) Any title insurance company, rating organization or person aggrieved by any action of the commissioner, except disapproval of a filing or a part thereof, or by any rule or regulation adopted and promulgated by the commissioner, shall have the right to file a complaint with the commissioner and to have a hearing thereon before the commissioner. Pending such hearing and the decision thereon, the commissioner may suspend or postpone the effective date of his previous action, rule or regulation.

(b) All hearings provided for in this article shall be conducted, and the decision of the commissioner on the issue or filing involved shall be rendered, in accordance with the provisions of the act of June 4, 1945 (P. L.

1388), known as the "Administrative Agency Law," relating to adjudication procedure.

(c) Any title insurance company, rating organization or person aggrieved by any adjudication, including a disapproval of a filing or portion thereof, shall have a right to appeal therefrom to the Court of Common Pleas of Dauphin County and have a judicial review of such adjudication within the time and in the manner and with the same effect as is provided by the Administrative Agency Law, and the rules of civil procedure promulgated by the Supreme Court of Pennsylvania, or any amendment thereof, having to do with judicial review of adjudications of agencies of the Commonwealth.

Section 750. Existing Filings and Hearings Continued.—All title insurance manuals of classifications, rules and rates, rating plans and modifications thereof filed under any repealed act shall be deemed to have been filed under this article, and all title insurance rating organizations licensed under such repealed act shall be deemed to have been licensed under this article. All hearings and investigations pending under such repealed act shall be deemed to have been initiated under and shall be continued under this article.

Section 751. Mergers and Consolidations of Title Insurance Companies.—(a) A domestic title insurance company may merge or consolidate with one or more domestic or foreign title insurance companies authorized to transact title insurance in this State, by complying with Article IX., act of May 5, 1933 (P. L. 364), known as the "Business Corporation Law," governing the merger or consolidation of stock corporations formed for profit but subject to the following:

(1) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the commissioner. The commissioner shall examine the terms and conditions of such merger or consolidation, and of any exchange of shares or securities pursuant thereto, after holding a hearing at which all persons or parties to whom it is proposed to issue shares or securities in such exchange shall have the right to appear. After such hearing, the commissioner shall either approve or disapprove the fairness of such terms and conditions of exchange. The commissioner shall give such approval within a reasonable time after filing of a plan or agreement unless he finds such plan or agreement:

(i) is contrary to law; or

(ii) inequitable to the stockholders of any title insurance company; or

(iii) would substantially reduce the security of and services to be rendered to policyholders of the domestic title insurance company in this State or elsewhere.

(b) No director, officer, agent or employe of any title insurance company party to such merger or consolidation shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in such plan or agreement.

(c) If the commissioner does not approve any such plan or agreement, he shall so notify the title insurance company in writing, specifying in detail his reasons therefor.

Section 752. Corporate Acquisitions Other Than by Merger or Consolidation.—(a) A domestic title insurance company may issue stock in exchange for all or substantially all the assets or stock of a domestic or foreign title insurance or abstract company if, in advance thereof, a plan or agreement of acquisition shall have been filed with the commissioner. The commissioner shall examine the terms and conditions of such plan or agreement of acquisition, and of any exchange of shares or securities pursuant thereto, after holding a hearing at which all persons or parties to whom it is proposed to issue shares or securities in such exchange shall have the right to appear. After such hearing, the commissioner shall either approve or disapprove the fairness of such terms and conditions or exchange. The commissioner shall give such approval within a reasonable time after filing of a plan or agreement unless he finds such plan or agreement:

(1) Is contrary to law; or

(2) Inequitable to the stockholders of any title insurance or abstract company involved; or

(3) Would substantially reduce the security of and service to be rendered to policyholders of the domestic title insurance company in this State or elsewhere.

(b) No director, officer, agent or employe of any title insurance company or abstract company party to such acquisition shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in such plan or agreement.

(c) If the commissioner does not approve any such plan or agreement, he shall notify the title insurance company in writing specifying in detail his reasons therefor.

Section 753. Acquisition of Controlling Stock.—(a) In event any person or persons propose to purchase or acquire the controlling capital stock of any domestic

title insurance company and thereby to change the control of such title insurance company, such person or persons shall first make application to the commissioner for approval of such proposed change of control. The application shall contain the name and address of the proposed new owner or owners of the controlling stock, and the commissioner shall approve the proposed change of control only after he has become satisfied that the proposed new owner or owners of the controlling stock are qualified by character, experience and financial responsibility to control and operate the title insurance company in a lawful and proper manner; and that the interest of the title insurance company stockholders and policyholders and the interest of the public generally will not be jeopardized by the proposed change in ownership and management. If the commissioner does not, by affirmative action, approve or disapprove the proposed change within thirty days after the date such application was so filed with him, the proposed change shall be deemed to be approved at the expiration of such thirty-day period.

*(b) No such change in the control of a domestic title insurance company shall be *effectuated unless approved as provided in subsection (a) above.*

(c) In event he disapproves the proposed change in control, the commissioner shall give written notice thereof to the person or persons so applying for approval, setting forth in detail the reasons for disapproval.

Section 754. Other Sections Applicable.—In addition to the provisions of this article, only the following provisions of the laws governing insurance companies as presently enacted and hereinafter amended, except as they are inconsistent with the provisions of this article, shall apply to the business of title insurance and to title insurance companies, which shall be considered as within the class of insurance companies regulated by such provisions solely for the limited purpose of being subject to such provisions:

(1) Sections 1, 101 to 106, 201, 202, 205 to 214, 216, 218, 219, 221, 401, 404, 501, 502, 504 to 511, 602 to 607, 631, 632, 633, 635 to 640 of the act of May 17, 1921 (P. L. 789), known as "The Insurance Department Act of one thousand nine hundred and twenty-one."

(2) Sections 101 to 109, 203, 204, 205, 207, 208, 209, 210 to 215, 300 to 331, 337.1 to 355, 605, 606, 610 of this act.

(3) Sections 1 to 10 of the act of July 11, 1917 (P. L. 804), entitled "An act relating to domestic and foreign insurance companies and corporations holding and deal-

* "affectuated" in original.

ing in insurance stock and certificates; regulating the sale of stock and evidences of indebtedness of such companies and corporations, and of subscriptions and applications therefor; and prescribing penalties."

(4) Section 1 of the act of July 12, 1935 (P. L. 969), entitled "An act providing for the valuation of bonds and other evidences of debt held by domestic insurance corporations and by foreign insurance corporations authorized to do business in this State."

(5) Sections 1, 2 and 3 of the act of March 4, 1850 (P. L. 126), entitled "An act to supply lost policies of insurance."

(6) Sections 1 and 2 of the act of May 5, 1921 (P. L. 350), entitled "An act making it unlawful to give or offer money to secure proxies for use at meetings of insurance companies."

(7) Section 1 of the act of June 22, 1931 (P. L. 622), entitled "An act to prevent fraudulent procedure in obtaining licenses or certificates from the Insurance Department, or altering licenses or certificates issued by the Insurance Department; and providing penalties."

(8) Sections 1 to 4 of the act of May 22, 1945 (P. L. 828), entitled "An act to enable domestic stock and mutual insurance companies to comply with the taxing statutes, and to relieve officers, directors and trustees of domestic stock and mutual insurance companies of personal liability by reason of the payment or determination not to contest payment of any license, excise, privilege, premium, occupation, or other fee, or tax, imposed by any State or political subdivision thereof."

(9) Sections 1 to 6 of the act of May 20, 1949 (P. L. 1491), known as the "Unauthorized Insurers Process Act."

(10) Sections 1 to 12 of the act of June 5, 1947 (P. L. 445), known as "The Insurance Unfair Practices Act."

(11) Sections 1 to 10 of the act of February 21, 1961 (P. L. 33), entitled "An act imposing a State tax on gross premiums, premium deposits, and assessments received from business transacted within this Commonwealth by certain insurance companies, associations, and exchanges; requiring the filing of annual and tentative reports and the computation and payment of tax; providing for the rights, powers and duties of the Department of Revenue, the taxpayers and officers thereof; and providing penalties."

Limited repeal.

Section 4. The following acts and parts of acts are repealed to the extent specified. The repeal of the first section of an act shall not repeal the enacting clause.

(1) Sections 601, 621 to 626, act of May 17, 1921 (P. L. 789), known as "The Insurance Department Act

of one thousand nine hundred and twenty-one," in so far as they apply to title insurance agents and brokers or the business of title insurance.

(2) Act of May 21, 1943 (P. L. 602), entitled "An act relating to the administration, liquidation and distribution of title insurance reserve funds in the possession of the Secretary of Banking as receiver, and providing for the rights and powers of corporations, in respect to the writing of policies of reinsurance, in connection therewith," absolutely.

(3) Act of August 21, 1953 (P. L. 1312), known as "The Title Insurance Rate Regulatory Act of 1953," absolutely.

Section 5. This act shall take effect on the first day of the calendar month next following the date of approval. **Effective date.**

APPROVED—The 14th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 440

AN ACT

Amending the act of June 3, 1911 (P. L. 639), entitled, as amended, "An act relating to the right to practice medicine and surgery in the Commonwealth of Pennsylvania; and providing a Bureau of Medical Education and Licensure as a bureau of the Department of Public Instruction, and means and methods whereby the right to practice medicine and surgery and any of its branches may be obtained, and exemptions therefrom; and providing for an appropriation to carry out the provisions of said act, and providing for revocation and suspension of licenses by said bureau; and providing penalties for violation thereof, and repealing all acts or parts of acts inconsistent therewith," defining certain terms, clarifying and changing certain requirements for licensure, further providing for examinations and revocation of licenses, changing fees, making editorial changes, removing obsolete provisions, and repealing certain inconsistent acts.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: **Medical Practice Act.**

Section 1. The title, act of June 3, 1911 (P. L. 639), known as the "Medical Practice Act," amended July 25, 1913 (P. L. 1220), is amended to read: **Title, act of June 3, 1911, P. L. 639, amended July 25, 1913, P. L. 1220, further amended.**

AN ACT

Relating to the right to practice medicine and surgery in the Commonwealth of Pennsylvania; and providing a Bureau of Medical Education and Licensure as **New title.**