

in the law to serve as additional law judge of the court of common pleas of the third judicial district from the first Monday in January, 1970, for a term of ten years. Vacancies in the office hereby created whether caused by death, resignation, expiration of term or otherwise shall be filled in the same manner as is required by law in case of a similar vacancy in the office of president judge of the court.

Section 3. The Governor may appoint a competent person, learned in the law, as additional law judge of the court of common pleas of the third judicial district to serve until the first Monday of January, 1970.

Section 4. This act shall take effect immediately.

APPROVED—The 25th day of November, A. D. 1968.

RAYMOND P. SHAFER.

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No. 337

AN ACT

SB 1726

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," requiring the filing of information with the Insurance Commissioner and his approval in connection with certain acquisitions of or offers to acquire outstanding capital stock of any Pennsylvania insurance company or of certain other corporations which beneficially own outstanding capital stock of any Pennsylvania insurance company, prohibiting certain activities in connection with such acquisitions and offers, and providing penalties.

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

Section 1. The act of May 17, 1921 (P. L. 682), known as "The Insurance Company Law of 1921," is amended by adding, after section 337.5, a new section to read:

Section 337.6. Approval of the Insurance Commissioner Required in Connection with Certain Acquisitions of or Offers to Acquire the Capital Stock of Certain Corporations.—(a) The following words or phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this subsection:

(1) "Acquire," as applied to insurance stock and insurance holding company stock, means effecting an acquisition of such stock, whether such acquisition is made directly or indirectly through any intermediary or otherwise.

(2) "Associate" of a person means (i) any corporation or other organization of which such person is an officer, director or partner, or of which such person is, directly or indirectly, the beneficial owner of ten per centum (10%) or more of any class of its capital stock, (ii) any person who is, directly or indirectly, the beneficial owner of ten per centum (10%) or more of any class of capital stock of such person, (iii) any trust or other estate in which such person serves as trustee or in a similar fiduciary capacity, and (iv) any relative or spouse of such person or any relative of such spouse, who has the same home as such person.

(3) "Beneficial ownership" of capital stock by a person shall include beneficial ownership of such person and of each associate of such person, and shares of capital stock as to which such person or any associate of such person has the right of acquisition shall be deemed beneficially owned by such person. A person who has beneficial ownership of convertible securities shall also be deemed to be the beneficial owner of any shares of capital stock into which such securities are convertible.

(4) "Insurance holding company" means any corporation which owns beneficially sixty-six and two-thirds per centum (66 $\frac{2}{3}$ %) or more of any class of the outstanding capital stock of any insurance company organized under the laws of this Commonwealth.

(5) "Insurance holding company stock" means any capital stock of an insurance holding company.

(6) "Insurance stock" means any capital stock of any insurance company organized under the laws of this Commonwealth.

(7) "Offer to acquire" includes every attempt or offer to acquire, or solicitation of an offer to dispose of insurance stock or insurance

holding company stock of any class, or any interest therein, for value, whether such attempt, offer or solicitation is made directly or indirectly through any intermediary or otherwise.

(8) "Outstanding capital stock," "outstanding insurance stock," and "outstanding insurance holding company stock" do not include capital stock of an issuer beneficially owned by such issuer.

(9) "Person" includes an individual, a corporation, a partnership, an association, a joint-stock company, a trust, or an unincorporated organization, and such term shall also include any group or combination thereof (whether or not such group or combination is a single legal entity) which, directly or indirectly, through any intermediary or otherwise, (i) acts together or in concert for the purpose of acquiring insurance stock or insurance holding company stock or (ii) has the purpose of exercising together or in concert voting rights attaching to insurance stock or insurance holding company stock.

(b) Without first complying with all applicable provisions of this section:

(1) No person shall, directly or indirectly through an intermediary or otherwise, acquire or offer to acquire beneficial ownership of insurance stock or insurance holding company stock if such acquisition (together with any past or proposed acquisitions from others) would cause such person to have beneficial ownership of more than ten per centum (10%) of the outstanding insurance stock or insurance holding company stock of any class of any issuer,

(2) No person who beneficially owns ten per centum (10%) or more of the outstanding insurance stock or insurance holding company stock of any class of any issuer shall, directly or indirectly through an intermediary or otherwise, increase or attempt to increase such person's beneficial ownership of stock of such class by acquisition of additional stock of such class, and

(3) No person shall, directly or indirectly through an intermediary or otherwise, acquire or offer to acquire beneficial ownership of in-

surance stock or insurance holding company stock pursuant to a plan whereby such person would become the beneficial owner of more than ten per centum (10%) of the outstanding insurance stock or insurance holding company stock of any class of any issuer: Provided, That, in a case where it is proposed to acquire or offer to acquire beneficial ownership of insurance holding company stock and such insurance holding company is not incorporated under the laws of this Commonwealth, the restrictions set forth in this subsection shall apply only if those to whom an offer to acquire the insurance holding company stock is to be made include one or more residents of this Commonwealth.

(c) There shall be filed with the Insurance Commissioner a statement, signed by the person proposing to make the acquisition, and verified by oath or affirmation, which shall contain the information specified in this subsection, and copies of all material proposed to be used in connection with the offer or acquisition (which shall set forth the information contained in the statement filed with the Insurance Commissioner), copies of which statement and material and all amendments thereto, shall simultaneously with such filing, also be sent by registered or certified mail to the issuer of the insurance stock or insurance holding company stock proposed to be acquired. The statement filed with the Insurance Commissioner shall be filed on such form or forms, if any, as the Insurance Commissioner shall prescribe, and shall contain the following information and such additional information as the Insurance Commissioner shall by regulation prescribe as appropriate to enable him to make a determination under subsection (d) of this section:

(1) The name and address of each person who proposes to acquire or offer to acquire insurance stock or insurance holding company stock, and (i) if such person is an individual, his principal occupation during the past five (5) years, or (ii) if such person is not an individual, an informative description of the business done and intended

to be done by such person and such person's subsidiaries and the general development of such business during the past five (5) years.

(2) If such person is not an individual, a list of all persons who are directors or executive officers of such person, or who perform similar functions, and all persons who have been chosen to become directors or executive officers or to perform similar functions, but who have not yet assumed their positions. The list shall include all positions and offices held by the persons named in the particular organization and their principal occupations during the past five (5) years.

(3) The terms and conditions of any proposed offer and acquisition and the manner in which such offer and acquisition are to be made.

(4) The source of the funds to be used in the proposed acquisition, and, if the funds are to be borrowed, the name or names of the lender or lenders and a summary of the terms and conditions of the loan transactions.

(5) Such plans, arrangements, understandings and intentions as such person may have for the future business and management of the issuer whose capital stock is to be acquired and, if such issuer is an insurance holding company, of the insurance company sixty-six and two-thirds per centum (66 $\frac{2}{3}$ %) or more of whose capital stock of any class is beneficially owned by such insurance holding company, including any plans, arrangements, understandings or intentions with respect to total or partial liquidation, sale of assets, merger, material change in business, corporate structure, management or composition of the board of directors.

(6) The number of shares of each class of insurance stock or insurance holding company stock proposed to be acquired which are beneficially owned by the person proposing to acquire or offer to acquire insurance stock or insurance holding company stock, as the case may be, or which are subject to rights of acquisition by such person, the dates of any sales and purchases of such stock by such

person and each associate of such person within the past two years, and the prices received or paid in connection with such sales and purchases.

(7) Information as to any contracts, arrangements or understandings with any person with respect to any securities of the insurance company or insurance holding company whose capital stock is to be acquired, including but not limited to contracts, arrangements or understandings with respect to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

(8) A consent to service of process if required by subsection (e) of this section.

(d) If the Insurance Commissioner shall determine:

(1) That the statement and other material filed pursuant to subsection (c) of this section comply with the requirements of subsection (c) of this section and any regulations promulgated thereunder, and

(2) That he has no reason to believe that after such acquisition the insurance company whose capital stock is to be acquired or sixty-six and two-thirds per centum <sup>1</sup>(66 $\frac{2}{3}$ %) or more of whose outstanding capital stock of any class is beneficially owned by the insurance holding company whose capital stock is to be acquired will not continue to comply in all respects with the laws and regulations of this Commonwealth governing insurance, he shall so notify the person filing the statement, the issuer whose stock is proposed to be acquired, and, if such issuer is an insurance holding company, the insurance company sixty-six and two-thirds per centum (66 $\frac{2}{3}$ %) or more of whose outstanding capital stock of any class is beneficially owned by such insurance holding company, and such a determination is here-

<sup>1</sup>“(6%)” in original.

after referred to as an approving determination. Notice shall also be given by the Insurance Commissioner of any determination which is not an approving determination. If an approving determination is made by the Insurance Commissioner, and not otherwise, the proposed offer and acquisition may thereafter be made and consummated on the terms and conditions and in the manner described in the statement, and subject to such conditions as may be prescribed by the Insurance Commissioner as hereinafter provided. An approving determination by the Insurance Commissioner shall be deemed to extend to offers or acquisitions made pursuant thereto within one (1) year following the date of determination. The Insurance Commissioner may, as a condition of his approving determination, require the inclusion in any offer of provisions requiring the offer to remain open a specified minimum length of time, permitting withdrawal of shares deposited prior to the time the offeror becomes bound to consummate the acquisition, and requiring pro rata acceptance of any shares deposited pursuant to the offer. The Insurance Commissioner shall hold a hearing before making the determination required by this subsection if, within ten (10) days following the filing with the Insurance Commissioner of the statement called for by subsection (c), written request for the holding of such hearing is made either by the person proposing to make the acquisition, by the issuer whose stock is proposed to be acquired, or, if such issuer is an insurance holding company, by the insurance company sixty-six and two-thirds per centum (66 $\frac{2}{3}$ %) or more of whose outstanding capital stock of any class is beneficially owned by such insurance holding company. Otherwise the Insurance Commissioner shall determine in his discretion whether such a hearing shall be held. Notice of any such hearing shall be given to the person proposing to make the acquisition, to the issuer whose stock is proposed to be acquired and, if such issuer is an insurance holding company, to the insurance company sixty-six and two-thirds per centum (66 $\frac{2}{3}$ %) or more of

whose outstanding capital stock of any class is beneficially owned by such insurance holding company. Notice of any such hearing shall also be given to such other persons, if any, as the Insurance Commissioner may determine.

(e) Every person who files a statement with the Insurance Commissioner under this section shall, unless exempted by the last sentence of this subsection, file with the statement an irrevocable written consent that actions against such person arising out of violations of this section may be commenced in the appropriate court of common pleas as provided by subsection (j) of this section. Such consent shall stipulate and agree that service of process and similar service of pleadings and notices in such actions shall be valid and binding as if due service had been made upon the person himself according to the laws of this or any other state, if copies thereof are served on the Insurance Commissioner and transmitted by registered or certified mail by the Insurance Commissioner to such person at his last address on file with the Insurance Commissioner. No such consent shall be required from a person or a corporation or insurance company organized under the laws of this Commonwealth or qualified to do business as a foreign corporation in this Commonwealth.

(f) Any hearing held pursuant to any provision of this section shall be conducted, and the determination of the Insurance Commissioner shall be rendered, in accordance with the provisions of the act of June 4, 1945 (P. L. 1388), as amended, known as the "Administrative Agency Law" relating to adjudication procedure.

(g) The Insurance Commissioner shall have the authority from time to time to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this section.

(h) No solicitation or recommendation for the acceptance of any offer made pursuant to this section shall be made in contravention of any rules and regulations which the Insurance Commissioner may adopt.



(i) No person who acquires or offers to acquire insurance stock or insurance holding company stock pursuant to this section shall make in connection therewith any false, deceptive or misleading statement, or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or engage in any act or practice which is fraudulent, deceptive or manipulative.

(j) If any person shall acquire or offer to acquire insurance stock or insurance holding company stock in violation of any provision of this section, the issuer of the stock so acquired or proposed to be acquired, any stockholder of such issuer, and, if such issuer is an insurance holding company, the insurance company sixty-six and two-thirds per centum (66 $\frac{2}{3}$ %) or more of whose outstanding capital stock of any class is beneficially owned by such insurance holding company, any stockholder of such insurance company, or the Insurance Commissioner, may petition for a decree enjoining such acquisition or offer, and for such further relief as the court shall deem appropriate, from the court of common pleas in the county in this Commonwealth in which the registered office of such issuer is located. If such issuer does not have a registered office in this Commonwealth, such decree may be obtained from the Court of Common Pleas of Dauphin County.

(k) Any person who shall knowingly make or cause to be made any false statement in any statement or other document filed with the Insurance Commissioner under this section, or who shall violate any provision of subsection (b), (c), (d), (h), or (i) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than five thousand dollars (\$5,000) or imprisonment for not more than five (5) years, or both: Provided, however, That no broker-dealer whose participation in an offer or acquisition is limited to the performance of the customary broker's function in transactions effected on a stock exchange or in

the over-the-counter market, who receives no more than the customary broker's commission, who does not solicit or arrange for the solicitation of orders to sell shares of capital stock of the corporation whose shares are being purchased and who has no knowledge that his principal has solicited or arranged to solicit any such orders shall be deemed guilty of any violation of this section, but the aforesaid exemption of the broker-dealer shall not exempt his principal.

(1) The provisions of this section shall not apply to any of the following acquisitions of or offers to acquire insurance stock or insurance holding company stock:

(1) Any acquisition or offer by (i) the issuer of such stock, or (ii) a person who at the time owns beneficially at least two-thirds ( $\frac{2}{3}$ ) of the shares of each class proposed to be acquired.

(2) Any acquisition or offer to acquire insurance stock pursuant to section 337.5 of this act.

(3) Any acquisition or offer where the class of shares proposed to be acquired is not required to be registered under section 12 of the Securities Exchange Act of 1934, unless such registration would be required but for the provisions of section 12g (2) (G) thereof.

(4) An offer or acquisition which the Insurance Commissioner by order shall in a particular case exempt from the provisions of this section as not entered into for the purpose of, and not having the effect of, changing or influencing the control of an insurance company organized under the laws of this Commonwealth or an insurance holding company and as not requiring the following of the procedures described in this section for the protection of stockholders whose shares are to be acquired; Provided, That prior to the issuance of any such order, notice that he is considering the issuance of such an order, shall be given by the Insurance Commissioner to the person proposing to make the offer or acquisition, to the issuer whose stock is proposed to be acquired, and, if such issuer is an insurance holding company, to the insurance company sixty-six and two-thirds per

centum (66 $\frac{2}{3}$ %) or more of whose outstanding capital stock of any class is beneficially owned by such insurance holding company: And, provided further, That the Insurance Commissioner shall hold a hearing for the purpose of determining whether such an order should be granted if, within ten (10) days of the mailing of the aforesaid notice that he is considering the granting of such an order, written request for the holding of such a hearing is made to the Insurance Commissioner by the issuer whose stock is proposed to be acquired, or, if such issuer is an insurance holding company, by the insurance company sixty-six and two-thirds per centum (66 $\frac{2}{3}$ %) or more of whose outstanding capital stock of any class is beneficially owned by such insurance holding company.

Section 2. This act shall take effect immediately.

APPROVED—The 25th day of November, A. D. 1968.

RAYMOND P. SHAFER.

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No. 338

AN ACT

HB 2570

Authorizing the Department of Property and Supplies, with the approval of the Governor and the Secretary of Highways to convey 1.232 acres, more or less, of land situate in the Borough of Clarion, Clarion County to the Borough of Clarion.

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

Section 1. The Department of Property and Supplies with the approval of the Governor and the Secretary of Highways is hereby authorized in behalf of the Commonwealth of Pennsylvania to convey to the Borough of Clarion, Clarion County, for the consideration of one dollar (\$1) the following described tract of land situate in the Borough of Clarion, County of Clarion, Commonwealth of Pennsylvania:

Beginning at an iron pipe at the intersection of the south line of Clarion Borough and the east line of South Second Avenue, said point