

No. 1978-143

AN ACT

SB 1200

Establishing certain procedures relating to the termination of insurance agency contracts or accounts and providing penalties.

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

Section 1. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Agent.” An insurance agent authorized to transact and transacting the business of automobile insurance in the Commonwealth.

“Insurer.” An insurance company, association or exchange authorized to transact and transacting the business of automobile insurance in the Commonwealth.

Section 2. Cancellation of contract.

(a) Notice.—After an agency contract has been in effect for a period of five years, no insurer shall terminate its contract with an agent without first providing such agent and the Insurance Commissioner with written notification at least 90 days prior to the date of termination.

(b) Reason for action.—Such notification shall set forth the insurer’s reason for the action.

(c) Privileged information.—Any information, document, record or statement so furnished or disclosed to the department shall be absolutely privileged and shall not be admissible as evidence in or as basis for any action against the appointing insurer or against any representative of the foregoing.

(d) Administrative review.—Any agent may within 30 days of receipt of notice of termination, request in writing to the Insurance Commissioner that he review the action of the insurer for the purpose of determining that said termination was in compliance with the provisions of this section.

(e) Restriction on termination.—No insurer shall terminate its contract with an agent due to the adverse experience of a single year. Prior to such termination it shall be the obligation of the insurer to demonstrate that it has made a reasonable attempt to rehabilitate such agent.

Section 3. Continuation of business.

(a) Policies.—Where an insurer notifies an agent that its contract shall be terminated, the insurer shall offer to continue such agent’s policies and any amendments thereto, through such agent for a period of 12 months from the effective date of termination, subject to the insurer’s current underwriting standards.

(b) Commissions.—The terminated agent shall be entitled to receive commissions on account of all business continued or written pursuant to this subsection at the insurer's prevailing commission rate for such business.

(c) Application of section.—The provisions of the section do not apply to business owned by the insurer and not by the agent, provided such insurer offers to continue such policies through another of its agents.

Section 4. Certain agreements permitted.

(a) Construction of act.—Nothing contained in this act shall be deemed or construed to prohibit an amendment or addendum subsequent to the inception date of the original agency agreement providing in such subsequent amendment or addendum that the original agency agreement may be terminated at a sooner time than is required by this act provided the agent agrees in writing to such sooner termination.

(b) Certain terminations excepted.—This act shall not apply to:

(1) an agent whose license has been revoked by the Insurance Commissioner or whose contract has been terminated for insolvency abandonment, gross and willful misconduct or failure to pay over to the insurer moneys due to the insurer after his receipt of a written demand thereof; or

(2) an agent who has demonstrated gross incompetence which would normally be cause for agency contract termination.

Section 5. Penalties.

(a) Summary offense.—Any person, agent or insurer who willfully violates any provision of this act shall, upon conviction thereof, at a summary proceeding, be sentenced to pay a fine not exceeding \$500, plus costs. Conviction under this subsection shall not bar administrative action by the Insurance Commissioner under this section.

(b) Administrative action.—Upon satisfactory evidence of a violation of this act by any person, agent or insurer, the Insurance Commissioner may, in his discretion, pursue any one or more of the following courses of action:

(1) Suspend or revoke the license of such offending person, agent or insurer.

(2) Refuse, for a period not to exceed one year thereafter, to issue a new license to or to renew a license of, such person, agent or insurer.

(3) Impose a civil penalty of not more than \$500 for each and every act in violation of this act.

(c) Review and appeal.—Any adjudication of the Insurance Commissioner under subsection (b) shall be subject to review and appeal in accordance with the act of June 4, 1945 (P.L. 1388, No. 442), known as the "Administrative Agency Law."

Section 6. Rules and regulations.

The Insurance Commissioner shall promulgate rules and regulations necessary for the administration of this act.

Section 7. Effective date.

This act shall take effect immediately.

APPROVED—The 22nd day of September, A. D. 1978.

MILTON J. SHAPP