

No. 2000-49

## AN ACT

HB 1370

Amending the act of July 1, 1937 (P.L.2532, No.470), entitled "An act to establish funds to provide security for the payment of benefits in event of the insolvency of an insurance carrier authorized to write workmen's compensation insurance in this Commonwealth; and to provide for the administration thereof," further providing for contributions, for regulations and for custody and management of fund.

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

Section 1. Sections 5, 9 and 10 of the act of July 1, 1937 (P.L.2532, No.470), known as the Workers' Compensation Security Fund Act, amended October 18, 1975 (P.L.419, No.117), are amended to read:

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

Section 9. [The commissioner may adopt, amend, and enforce rules and regulations necessary for the proper administration of such fund.]  
*(1) The Insurance Department shall adopt regulations as necessary to administer the fund, including regulations to establish contributions to be*

*paid to the fund. Contributions shall be established on an actuarial basis to provide an amount sufficient to pay outstanding and anticipated claims in a timely manner, to meet the costs of the Insurance Department to administer the fund and to maintain a minimum balance in the fund of \$500,000,000. Nothing in this section shall prevent the department from using money in the fund to pay liabilities and claims. If, due to the payment of liabilities or claims, the balance of the fund is reduced below \$500,000,000, the department shall require contributions to maintain the actuarial soundness of the fund and to restore, in a timely manner, the balance of the fund to a level at or above \$500,000,000.*

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

Section 10. (1) The fund created by this act shall be separate and apart from all other Commonwealth moneys. The State Treasurer shall be the custodian of said fund, and all disbursements from said fund shall be made by the State Treasurer upon vouchers signed by the commissioner[, as hereinafter provided. The moneys of said fund may be invested by the State Treasurer and commissioner only in bonds and securities which are the direct obligations of, or which are guaranteed as to principal and interest by, the United States or of this Commonwealth. The State Treasurer and commissioner may sell any of the securities in which said fund is invested, if advisable for its proper administration or in the best interest of such fund, and all earnings from the investment of such fund shall be credited to such fund].

(2) *The Insurance Commissioner and the State Treasurer jointly shall have full and exclusive power to invest moneys of the fund with that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence, who are familiar with such matters, exercise in the management of their own affairs, not related to speculation, but to the permanent disposition of the*

*funds, considering the probable income to be derived and the probable safety of their capital. Investments shall be made in accordance with a written investment policy approved by the commissioner and the State Treasurer. The investment policy shall address liquidity, diversification, safety of principal, yield, maturity and quality and the capability of investment management with primary emphasis on safety and liquidity. The commissioner and the State Treasurer shall have the power to hold, purchase, sell, lend, assign, transfer or dispose of any: securities and investments in which moneys from the fund have been invested; proceeds from investments, including commissions which have accrued to the benefit of the fund as a result of investments; and any other assets belonging to the fund, subject to the standard of prudence established under this section.*

(3) If at any time any contributing carrier, as herein defined, shall, upon due notice to the [Insurance Commissioner] *commissioner*, cease to transact the business of workmen's compensation insurance, the contributions of such carrier, at the time such carrier ceases to transact the business of workmen's compensation insurance, shall be refunded, provided that all its outstanding liability on workmen's compensation insurance shall have terminated.

Section 2. This act shall take effect as follows:

(1) The amendment of sections 5 and 10 of the act shall take effect on the effective date of the regulations promulgated under section 9(1) of the act.

(2) The remainder of this act shall take effect immediately.

APPROVED—The 22nd day of June, A.D. 2000.

THOMAS J. RIDGE