

No. 2002-147

AN ACT

SB 1416

Amending the act of May 17, 1921 (P.L.789, No.285), entitled, as amended, "An act relating to insurance; establishing an insurance department; and amending, revising, and consolidating the law relating to the licensing, qualification, regulation, examination, suspension, and dissolution of insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and certain societies and orders, the examination and regulation of fire insurance rating bureaus, and the licensing and regulation of insurance agents and brokers; the service of legal process upon foreign insurance companies, associations or exchanges; providing penalties, and repealing existing laws," providing for licensing and regulation of insurance producers, managers and exclusive general agents; conferring powers and imposing duties on the Insurance Commissioner and Insurance Department; permitting the payment of referral fees; imposing penalties; and making repeals.

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

Section 1. Article VI of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, is repealed.

Section 2. The act is amended by adding articles to read:

**ARTICLE VI-A
INSURANCE PRODUCERS**

**SUBARTICLE A
LICENSING**

**DIVISION 1
LICENSING OF INSURANCE PRODUCERS**

Section 601-A. Definitions.

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

"Applicant." *An individual who has passed or is exempt from taking the insurance producer licensing examination required by section 604-A.*

"Application." *A form approved by the Insurance Commissioner to be used to apply to the Insurance Department for an insurance producer license.*

"Appointment." *A written agreement between an insurance producer and an insurance entity under which the insurance producer may sell, solicit or negotiate contracts of insurance issued by the insurance entity for compensation.*

"Business entity." *A person which is not an individual.*

“Business entity application.” A form approved by the Insurance Commissioner to be used by a business entity to apply to the Insurance Department for an insurance producer license.

“Candidate.” An individual who has satisfactorily completed or is exempt from the preexamination educational requirements of section 604-A.

“Commissioner.” The Insurance Commissioner of the Commonwealth.

“Department.” The Insurance Department of the Commonwealth.

“Designated licensee.” An individual who is licensed by the Insurance Department as an insurance producer and who is designated by a business entity to be responsible for the business entity’s compliance with the insurance laws and regulations of this Commonwealth.

“Exclusive general agent.” A licensee:

(1) which has been granted sole authority to act directly or indirectly as an insurance producer for a domestic insurer with respect to a specific portion of the insurer’s business or within a specific territory;

(2) which has the authority to bind coverage on behalf of the insurer; and

(3) either separately or together with affiliates or subproducers directly or indirectly produces and underwrites in any one year an amount of gross direct written premium equal to or more than 25% of the surplus as regards policyholders as reported in the last annual statement of the insurer.

“Financial institution.” A Federal or State-chartered bank, bank and trust company, savings bank, savings and loan association, trust company or credit union.

“Home state.” The District of Columbia or a state or territory of the United States in which an insurance producer maintains the producer’s principal place of residence or principal place of business and is licensed to act as a resident insurance producer.

“Insurance entity.” A person doing business involving the insuring of risks. The term includes insurers.

“Insurance producer.” A person that sells, solicits or negotiates contracts of insurance.

“Insurer.” An insurance company, association, exchange, interinsurance exchange, health maintenance organization, preferred provider organization, professional health services plan corporation subject to 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations), a hospital plan corporation subject to 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations), fraternal benefits society, beneficial association, Lloyd’s insurer or health plan corporation.

“Licensee.” A person licensed by the Insurance Department as an insurance producer.

“Limited line credit insurance.” Includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation designated by the Insurance Commissioner as a form of limited line credit insurance.

“Limited line motor vehicle rental insurance.” Insurance offered in connection with and incidental to the rental of a rental vehicle, including personal accident, accidental death and dismemberment, personal effects, roadside assistance that may include towing of the rental vehicle, emergency sickness and excess liability.

“Line of authority.” The licensed ability to sell, solicit or negotiate particular classes or types of insurance, including the following:

(1) Life. Insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Accident and health or sickness. Insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

(3) Property. Insurance coverage for the direct or consequential loss or damage to property of every kind.

(4) Casualty. Insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

(5) Variable life and variable annuity products. Insurance coverage provided under variable life insurance contracts and variable annuities.

(6) Personal lines. Property and casualty insurance coverage sold to individuals and families primarily for noncommercial purposes.

(7) Credit. Limited line credit insurance.

(8) Motor vehicle rental. Limited line motor vehicle rental insurance.

(9) Limited line. Any other line of insurance as determined by the Insurance Commissioner.

“Manager.” A person that negotiates and binds ceding reinsurance contracts on behalf of a domestic insurer or manages all or part of the insurance business of an insurer and does not act as an agent for such insurer.

“NAIC.” The National Association of Insurance Commissioners, its subsidiaries and affiliates.

“Negotiate.” To confer directly with or to offer advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning the substantive benefits, terms or conditions of the contract,

provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

“Nonresident insurance producer.” An insurance producer whose home state is a state or territory other than this Commonwealth.

“Rental agreement.” Any written agreement setting forth the terms and conditions governing the use of a vehicle provided by the rental company for rental or lease.

“Rental company.” A person or entity in the business of providing primarily private passenger vehicles to the public under a rental agreement for a period not to exceed 90 days.

“Renter.” Any person and other authorized drivers obtaining use of a vehicle from a rental company under the terms of a rental agreement for a period not to exceed 90 days.

“Sell.” To exchange a contract of insurance by any means for money or its equivalent on behalf of an insurance entity.

“Solicit.” To attempt to sell insurance or ask or urge a person to apply for a particular kind of insurance from a particular insurance entity.

“Vehicle” or “rental vehicle.” A motor vehicle of the private passenger type, including passenger vans, minivans and sport utility vehicles, and of the cargo type, including cargo vans, pickup trucks and trucks with gross vehicle weight of less than 26,000 pounds and which do not require the operator to possess a commercial driver’s license.

Section 602-A. Powers and duties of department.

(a) Responsibilities.—The commissioner shall do all of the following:

(1) License insurance producers in accordance with this act.

(2) Approve and administer or contract for the overall administration of the preexamination program, preexamination courses of study, insurance producer licensing examinations and continuing education programs. A preexamination education program approved by the department shall include no less than three credit hours on ethics.

(b) Authorizations.—The commissioner may do all of the following:

(1) Secure or require any documents or information, including fingerprints, reasonably necessary to verify the accuracy of information provided on an application.

(2) Participate with the NAIC in a centralized insurance producer license registry for purposes of submitting or obtaining information on insurance producers, including licensing history, lines of authority and regulatory action.

(3) Approve forms to be used by individuals and business entities to apply to the department for an insurance producer license.

(4) Approve additional limited lines of authority.

Section 603-A. License required.

(a) General rule.—Except as provided in subsection (b), a person shall not sell, solicit or negotiate a contract of insurance in this Commonwealth

unless the person is licensed as an insurance producer for the line of authority under which the contract is issued.

(b) Exceptions.—*The following persons shall not be insurance producers for purposes of this act:*

(1) An insurer. *For purposes of this exemption the term does not include an insurer's officers, directors or employees.*

(2) An employee of an insurer or a rating organization employed by an insurer:

(i) who is not engaged in the sale, solicitation or negotiation of insurance contracts; and

(ii) who:

(A) inspects, rates or classifies risks; or

(B) supervises the training of insurance producers.

(3) An officer, director or employee of an insurer or of an insurance producer if the officer, director or employee does not receive a commission on policies written or sold to insure risks residing, located or to be performed in this Commonwealth and:

(i) the officer, director or employee's activities are executive, administrative, managerial, clerical or a combination of these and are only indirectly related to the sale, solicitation or negotiation of insurance. These activities may include discussing and informing on insurance inquiries and matters, so long as no recommendation is made with respect to specific coverages, products or rates; receiving requests for coverage for transmittal to a licensee or insurance entity; assisting with the completion of applications at the licensee's or insurance entity's place of business; passing on to the licensee inquiries of a particular nature; receiving premium payments delivered to the licensee or insurance entity for coverage and issuing receipts on behalf of the licensee or insurance entity; and collecting expiration date information from clients or potential clients;

(ii) the officer, director or employee's function relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance; or

(iii) the officer, director or employee is acting in the capacity of assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance.

(4) A person that does any of the following, provided no commission is paid for the services:

(i) Secures and furnishes written information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance.

(ii) Performs administrative services related to the enrollment of individuals under plans.

(iii) Issues certificates under plans or otherwise assists in administering plans.

(iv) Performs administrative services related to mass marketed property and casualty insurance.

(v) Provides risk management services to a business entity.

(vi) Performs administrative functions, provides clerical support or enrolls renters on behalf of the rental company which offers insurance coverages in connection with and incidental to the rental of motor vehicles.

(5) An employer, including an association, or the trustees of an employee trust plan and their officers, directors and employees if:

(i) the employer, trustees, officers, directors or employees are engaged in the administration or operation of an employee benefits program;

(ii) the employee benefits program includes insurance issued by an insurer for the benefit of the employer's employees or the employees of its subsidiaries or affiliates; and

(iii) the employer, trustees, officers, directors or employees are not compensated, directly or indirectly, by the insurer issuing the policy of insurance.

(6) A person engaged in the advertising of insurance in this Commonwealth if:

(i) the person does not sell, solicit or negotiate insurance for risks residing, located or to be performed in this Commonwealth; and

(ii) the advertising is distributed to persons residing both within and outside this Commonwealth through the use of printed publications or other forms of electronic mass media.

(7) A person who:

(i) Is not a resident of this Commonwealth.

(ii) Sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state under that contract.

(iii) Is licensed as an insurance producer to sell, solicit or negotiate that line of authority in the state where the insured maintains its principal place of business.

(iv) The contract of insurance insures risks located in the state where the insured maintains its principal place of business.

(8) A salaried full-time employee who:

(i) counsels or advises the employee's employer on the employer's insurance issues; and

(ii) does not sell or solicit insurance or receive a commission.

Section 604-A. License prerequisites.

(a) General rule.—Prior to applying to the department for an insurance producer license, an individual shall do the following:

- (1)** satisfactorily complete the preexamination education requirements of subsection (b); and
- (2)** pass an insurance producer licensing examination required for the lines of authority for which a candidate desires a license.

(b) Preexamination education requirements.—Prior to making an application for the insurance producer licensing examination, an individual who desires to be licensed as an insurance producer shall complete a minimum of 24 credit hours of approved preexamination courses. Upon satisfactory completion of an approved preexamination course of study, the individual shall be issued proof of completion by the provider.

(c) Insurance producer licensing examination.—Except as provided in subsection (d), upon satisfactory completion of an approved preexamination course of study a candidate may apply to take an insurance producer licensing examination. A candidate shall remit a completed application for examination indicating the lines of authority for which the candidate desires to be licensed, a copy of the candidate's approved preexamination study certificate and the nonrefundable examination fee established by the department prior to taking an insurance producer licensing examination.

(d) Exceptions.—The examination or preexamination education requirements of this act shall not be required if the person is:

- (1)** A business entity.
- (2)** A person who possesses the professional designation of Chartered Life Underwriter (CLU) and is applying for life or accident and health line of authority.
- (3)** A person who possesses the professional designation of Chartered Property and Casualty Underwriter (CPCU) and is applying for property, casualty or accident and health line of authority.
- (4)** A person who possesses the professional designation of Certified Insurance Counselor (CIC) and is applying for life, accident and health or property and casualty line of authority.
- (5)** A person who possesses any other professional designation for which the requirements are waived by the commissioner.
- (6)** A person who is licensed in another state as an insurance producer for the lines of authority for which the person desires to be licensed under section 606-A or 610-A.
- (7)** A person who has a line of authority limited to limited line credit insurance.
- (8)** A person who has a line of authority limited to a limited line.
- (9)** An individual whose line of authority will be restricted to domestic mutual fire insurance and will be with an insurer writing

only coverage other than insurance upon automobiles as authorized by section 202(b)(1) through (3) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(10) The individual whose line of authority will be restricted fraternal pursuant to section 609 of the act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code.

Section 605-A. Application for insurance producer license.

(a) Individual application.—An applicant with a principal place of residence or business within this Commonwealth may apply to the department for a resident insurance producer license. An applicant with a principal place of residence or business outside this Commonwealth may apply for a nonresident insurance producer license. An applicant shall submit to the department:

(1) a completed application indicating the lines of authority for which the applicant desires to be licensed;

(2) the applicant's fingerprints, in order for the department to receive national criminal history records information from the Federal Bureau of Investigation Criminal Justice Information Services Division;

(3) documentation verifying that the applicant passed or is exempt from the insurance producer licensing examination on the lines of authority for which the applicant desires a license; and

(4) the required license fee and fees for obtaining national criminal history records information.

(b) Business entity application.—Upon designating one or more individuals licensed under this act to be responsible for the business entity's compliance with the insurance laws and regulations of the Commonwealth, a business entity may apply to the department for an insurance producer license for the same lines of authority held by the designated licensees. A business entity with an office in this Commonwealth shall apply for a resident insurance producer license. A business entity that does not have an office in this Commonwealth shall apply for a nonresident insurance producer license. The designated licensees of the business entity shall submit to the department:

(1) a completed application indicating the lines of authority for which the business entity desires to be licensed;

(2) proof of the licenses held by the designated licensees; and

(3) the required license fee.

(c) License fee.—

(1) Residents. A nonrefundable \$55 fee shall accompany an application for a resident insurance producer license until modified by the department by regulation.

(2) Nonresidents. A nonrefundable \$110 fee shall accompany an application for a nonresident insurance producer license until modified by the department by regulation.

Section 606-A. Licensing.

(a) Applicants.—The department shall review each application and may conduct an investigation of each applicant who applies for a license in accordance with this act. The department shall issue a resident or nonresident insurance producer license, as appropriate, to the applicant when the department determines that all of the following criteria have been met:

- (1) The applicant has reached 18 years of age.**
- (2) The applicant has not committed any act which is prohibited under this act.**
- (3) The applicant has satisfied the preexamination education requirements of this act.**
- (4) The applicant has passed or is exempt from the insurance producer licensing examination on the lines of authority for which the applicant has applied for licensing.**
- (5) The applicant has paid all applicable fees established pursuant to this act.**
- (6) The applicant possesses the general fitness, competence and reliability sufficient to satisfy the department that the applicant is worthy of licensure.**

(b) Business entities.—The department shall review each application and may conduct an investigation of each business entity seeking licensure and its designated licensees. The department shall issue a resident or nonresident insurance producer license, as appropriate, to the business entity when the department determines that all of the following criteria have been met:

- (1) The business entity has one or more designated licensees.**
- (2) The business entity's designated licensees are licensees in good standing with the department.**
- (3) The business entity is applying for licensure for the same lines of authority held by the designated licensees.**
- (4) The business entity or its designated licensees have not committed any act which is prohibited under this act.**
- (5) The business entity is owned, operated and managed by persons possessing the general fitness, competence and reliability sufficient to satisfy the department that the business entity is worthy of licensure.**
- (6) The business entity has paid all applicable fees.**
- (7) Such other criteria as the department may establish.**

Section 606.1-A. Change of home state.

(a) General rule.—Upon establishing a principal place of residence or business within this Commonwealth, an individual who is licensed as a resident insurance producer in another state or territory may apply to the department to become licensed in this Commonwealth as a resident insurance producer for the equivalent lines of authority for which the individual is licensed in the individual's former home state. Within 90

days of establishing a principal place of residence or business in this Commonwealth, the individual shall submit to the department a completed application indicating the lines of authority for which the individual desires to be licensed and for which the individual is licensed in the individual's former home state, proof of the individual's former home state license or a letter of clearance from the insurance commissioner of the individual's former home state and the required license fee. If the individual desires a resident insurance producer license for a line of authority for which the individual is not licensed in the individual's former home state, the individual shall comply with the requirements of this act prior to making applications to the department.

(b) Review of applications.—The department shall review each application and may conduct an investigation of each individual who applies for a license in accordance with this section. The department shall issue a resident insurance producer license to the individual when the department determines that all of the following criteria have been met:

(1) The individual holds a current insurance producer license in the individual's former home state or made application to the department within 90 days of the cancellation of the individual's license in the individual's former home state.

(2) The individual is applying for licensure in the equivalent lines of authority for which the individual was licensed in the individual's former home state.

(3) The individual has not committed any act which is prohibited under this act.

(4) The individual has paid all applicable fees.

(5) The individual:

(i) was issued a letter of clearance from the insurance commissioner of the individual's former home state;

(ii) was licensed in good standing in the individual's former home state at the time of cancellation; or

(iii) is recorded as being licensed for the lines of authority and is in good standing in the individual's former home state's insurance producer records or records maintained by the NAIC.

(6) Such other criteria as the department may establish.

Section 607-A. Issuance and term of license.

An insurance producer license issued by the department shall be:

(1) Issued only in the name of the applicant or business entity. If a licensee is doing business under a fictitious name other than the name appearing on the producer license, the licensee is required to notify the commissioner in writing prior to use of the fictitious name.

(2) Issued in paper or electronic form.

(3) Nontransferable.

(4) Issued in one or more lines of authority.

(5) Issued for a period not to exceed two years.

Section 608-A. License renewals.

(a) General rule.—A licensee may request renewal of the license. The licensee shall remit to the department a completed renewal form, the required fee and verification that the licensee has completed the continuing education required by this act. A resident licensee that has not previously submitted fingerprints to the department shall also submit the licensee's fingerprints and the fee in order to permit the department to receive national criminal history records information from the Federal Bureau of Investigation Criminal Justice Information Services Division. Upon receipt and review, the department shall renew the license unless it determines that the licensee is not in compliance with this act.

(b) Continuing education.—A licensee shall successfully complete 24 credit hours of approved continuing education for each two-year license period as a condition for license renewal unless modified by the department by regulation. A licensee may carry forward excess continuing education credit hours up to a maximum of 24 credit hours from one licensing period to the next licensing period.

(c) Continuing education exemptions.—The following licensees shall be exempt from the requirements of continuing education:

(1) A licensee who was licensed as an agent or broker for a line of authority prior to January 1, 1971, and who has been continuously licensed as an agent, broker or producer for the line of authority since that time.

(2) A licensee which is a business entity.

(3) A licensee who has only a limited line of authority.

(4) A licensee who has a line of authority limited to restricted fraternal.

(5) A licensee who has a line of authority limited to limited line credit insurance if the insurer provided a course of instruction to each individual whose duties will include selling, soliciting or negotiating the insurance.

(6) A nonresident licensee who has satisfied the continuing education requirements of the licensee's home state if that state recognizes the satisfaction of its continuing education requirements by a resident licensee satisfying the requirements of this act. If the licensee's home state has continuing education requirements and the nonresident licensee fails to satisfy the home state's continuing education requirements, the licensee shall be subject to continuing education requirements of this act.

(7) A licensee's line of authority is restricted to domestic mutual fire insurance and the licensee's appointment is with an insurer writing only coverage other than insurance upon automobiles as authorized by section 202(b)(1) through (3) of the act of May 17, 1921 (P.L.682, No.284), known as *The Insurance Company Law of 1921*.

(d) Lapses.—A licensee who allows his or her license to lapse by failing to timely renew the license, pay the fee required by this act or complete the continuing education required by this act may within one year of the license renewal date request the department to reinstate the license. Persons requesting reinstatement of a lapsed license shall submit a completed renewal form, the fee required by this act and verification that the person has completed all continuing education required by subsection (b) for the previously licensed and lapsed periods. The department shall reinstate the license retroactively, with the reinstatement effective on the date the license lapsed, if the department receives a request for reinstatement together with a completed renewal application, payment of the lapsed license fee and proof of continuing education compliance within 60 days after the license lapsed. The department shall reinstate the license prospectively, with reinstatement effective on the date that the license is reinstated, if the department receives a request for reinstatement of a lapsed license more than 60 days after the license lapsed. If a person applies for reinstatement more than one year after the lapse date, the person shall reapply for the license under this act.

(e) Extenuating circumstances.—A licensee who is unable to timely comply with the requirements of subsection (a) as a result of military service or other extenuating circumstance may request the department to waive the requirements of having to complete continuing education for the period in which the license had lapsed and payment of the lapsed license fee. The request shall include sufficient detail and supporting documentation to determine the necessity of the waiver. If the department determines that there is good cause for noncompliance, the department shall grant the waiver and permit the licensee to request renewal of the license in accordance with this act.

(f) Renewal fees.—The following nonrefundable fees shall accompany an application for renewal of an insurance producer license unless modified by the department by regulation:

- (1) Resident renewal fee - \$55.
- (2) Nonresident renewal fee - \$110.
- (3) Lapsed license renewal fee - \$165.

Section 609-A. Temporary licensing.

(a) General rule.—If the department determines that the issuance of a temporary insurance producer license is in the public interest and that the person requesting the license is worthy to receive a temporary license, the department may issue a temporary insurance producer license to the following persons:

- (1) The surviving spouse or court-appointed personal representative of a resident individual licensee who dies or becomes mentally or physically disabled. The temporary license shall be used by the spouse or representative to operate the insurance business owned by the licensee until:

- (i) the business is sold or transferred;*
- (ii) the licensee recovers and returns to the business; or*
- (iii) new personnel is trained and licensed to operate the licensee's business.*

(2) An owner, partner or employee of a business entity licensee upon the death or disability of the designated licensee. The temporary license shall be used by the owner, partner or employee to operate the business entity until:

- (i) the business is sold or transferred; or*
- (ii) new personnel is trained, licensed and designated as the designated licensee.*

(3) The designee of an individual licensee who enters active service in the armed forces of the United States.

(4) Any other person in an extenuating circumstance where the commissioner deems that the public interest will best be served by the issuance of a temporary license.

(b) Period of license.—The temporary license shall be for a period not to exceed 180 days and is not transferable.

(c) Other requirements.—The department may impose requirements upon a temporary licensee, including requiring a sponsoring insurer and limiting the lines of authority of a temporary licensee, as deemed necessary to protect insureds and the public.

(d) Revocation.—The department may immediately and without notice revoke a temporary license if it is deemed in the public interest.

Section 610-A. Reciprocal licensing.

(a) Nonresident individuals.—

(1) An individual who is currently licensed as a resident insurance producer in another state or territory may apply to the department for a nonresident insurance producer license for the equivalent lines of authority as the individual is licensed in the individual's home state. The individual shall submit to the department a completed application or an updated copy of the individual's home state application indicating the lines of authority for which the individual desires to be licensed, proof of the individual's current home state license and the required license fee. If the individual desires a nonresident insurance producer license for a line of authority for which the individual is not licensed in the individual's home state, the individual shall comply with the requirements of this act prior to making application to the department.

(2) Upon receipt and review of the application, proof of the home state license and the fee, the department shall issue a nonresident insurance producer license to the individual for the equivalent lines of authority for which the individual is licensed in the individual's home state. The department may verify the individual's licensing status through the Producer Database maintained by the NAIC. The

department may deny the application if the individual's home state does not award nonresident insurance producer licenses to resident licensees of this Commonwealth on the same basis.

(b) Nonresident business entities.—

(1) Upon designating one or more individuals licensed under this act to be responsible for the business entity's compliance with the insurance laws and regulations of this Commonwealth, a business entity which is currently licensed as a resident insurance producer in another state or territory may apply to the department for a nonresident insurance producer license for the equivalent lines of authority as the business entity is licensed in its home state. The designated licensees of the business entity shall remit to the department a completed business entity application or an updated copy of the business entity's home state application indicating the lines of authority for which the business entity desires to be licensed and for which the business entity is licensed in the other state, proof of the business entity's current home state license and the required license fee.

(2) Upon receipt and review of the application, proof of the home state license and the fee, the department shall issue a nonresident insurance producer license to the business entity for the equivalent lines of authority as the business entity is licensed in its home state if the department determines that the business entity and its designated licensees are licensees in good standing in the business entity's home state. The department may verify licensing status through the Producer Database maintained by the NAIC. The department may deny the application if the business entity's home state does not award nonresident insurance producer licenses to resident licensees of this Commonwealth on the same basis.

Section 611-A. Prohibited acts.

A licensee or applicant for an insurance producer license shall not:

(1) Provide incorrect, misleading, incomplete or false information to the department in a license application.

(2) Violate the insurance laws or regulations of this Commonwealth or a subpoena or order of the commissioner or of another state's insurance commissioner.

(3) Obtain or attempt to obtain a license through misrepresentation or fraud.

(4) Improperly withhold, misappropriate or convert money or property received in the course of doing business.

(5) Intentionally misrepresent the terms of an actual or proposed insurance contract or application for insurance.

(6) Admit to or been found to have committed any unfair insurance practice or fraud.

(7) Use fraudulent, coercive or dishonest practices or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this Commonwealth or elsewhere.

(8) Have an insurance producer license or other financial services license, or its equivalent, denied, suspended or revoked by a governmental entity.

(9) Forge another person's name on an application for insurance or on any document related to an insurance or financial service transaction.

(10) Cheat on an examination for an insurance producer license.

(11) Knowingly accept insurance business which was sold, solicited or negotiated by a person who is not licensed as an insurance producer.

(12) Fail to comply with an administrative or court order imposing a child support obligation.

(13) Fail to pay State income tax or comply with any administrative or court order directing the payment of State income tax.

(14) Commit a felony or its equivalent.

(15) Commit a misdemeanor that involves the misuse or theft of money or property belonging to another person.

(16) Commit a violation of subarticle B.

(17) Commit fraud, forgery, dishonest acts or an act involving a breach of fiduciary duty.

(18) Transfer insurance coverage to an insurer other than the insurer expressly chosen by the insured without the consent of the insured.

(19) Fail to notify the department of a change of address within 30 days.

(20) Demonstrate a lack of general fitness, competence or reliability sufficient to satisfy the department that the licensee is worthy of licensure.

Section 612-A. Failure to respond or remit payment.

(a) Response.—A licensee who fails to provide a written response to the department within 30 days of receipt of a written inquiry from the department or who fails to remit valid payment for all fees due and owing to the department shall, after notice from the department specifying the violation and advising of corrective action to be taken, correct the violation within 15 days of receipt of the notice.

(b) Correction.—If a licensee fails to correct the violation within 15 days of receiving notice, the department may assess an administrative fine of no more than \$100 per day per violation.

Section 613-A. Failure to appeal.

A decision of the department from which no timely appeal is taken to the administrative hearings office or an order of the commissioner from which no timely appeal is taken to a court of competent jurisdiction shall

be a final order and shall be enforceable by a court of competent jurisdiction.

Section 614-A. Reciprocity.

(a) Waiver.—The department may waive the requirements for a person applying for a nonresident insurance producer license in this Commonwealth that possesses a valid insurance producer license from the person's home state if the person's home state awards nonresident insurance producer licenses to resident licensees of this Commonwealth on the same basis.

(b) Limited line.—Notwithstanding any other provision of this division, after application to the department in accordance with section 610-A, a person licensed as a limited line credit insurance or other type of limited lines producer in the person's home state shall receive a nonresident limited lines producer license in accordance with subsection (a), granting the same scope of authority as granted under the license issued by the producer's home state.

**DIVISION 2
LICENSING OF MANAGERS AND EXCLUSIVE
GENERAL AGENTS**

Section 631-A. License required.

(a) General rule.—Except as provided in subsection (b), no person shall engage in any activities requiring a manager or exclusive general agent license without being licensed as a manager or exclusive general agent by the department.

(b) Exceptions.—The following persons shall not be required to be licensed as a manager or exclusive general agent:

(1) A licensee whose authority is limited primarily to the production of insurance business with limited underwriting authority.

(2) A manager or exclusive general agent operating under a management contract or exclusive general agency agreement entered into prior to December 22, 1965.

(3) A person subject to regulation as a managing general agent under Article VIII.

(c) Penalty.—A person that violates subsection (a) commits a misdemeanor of the third degree and, upon conviction, shall be sentenced to pay a fine not exceeding \$1,000 for each day of operation without a license.

Section 632-A. Application and licensure.

(a) Application.—A person may apply to the department for a manager or exclusive general agent license. The person shall submit to the department a completed application, the fee required by subsection (c) and any other information required by the department.

(b) Licensure.—The department shall review the application and may conduct an investigation of the person. The department shall issue a

license to the person when the department is satisfied that all of the following criteria have been met:

(1) The person possesses a good business reputation.

(2) The person possesses the fitness, competence and reliability sufficient to satisfy the department that the individual is worthy of licensure as a manager or exclusive general agent.

(3) The person has paid all applicable fees established pursuant to this article.

(4) Such other criteria as the department may establish.

(c) License fee.—A nonrefundable \$100 fee shall accompany an application for a manager or exclusive general agent license unless modified by the department by regulation.

(d) Term.—A license issued in accordance with this section shall be for a period of not more than one year.

Section 633-A. Insurers to certify names of managers or exclusive general agents.

(a) General rule.—Every domestic insurer operating under a management contract or an exclusive general agency agreement shall certify to the department the name of the manager or exclusive general agent within ten days from the effective date of the contract or agreement and within ten days after the renewal of the license of the manager or exclusive general agent.

(b) Penalty.—An insurer that fails to file the certification required by subsection (a) commits a misdemeanor of the third degree and, upon conviction, shall be sentenced to pay a fine not exceeding \$1,000 for each day of noncompliance.

Section 634-A. Enforcement by department.

(a) Notice.—Upon evidence of conduct which would disqualify a licensed manager or exclusive general agent from initial issuance of a license, the department shall notify the manager or exclusive general agent, specifying the nature of the alleged conduct and fixing a time and place, at least ten days thereafter, when a hearing on the matter shall be held.

(b) Hearing.—The department shall conduct the hearing fixed in subsection (a) in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(c) Penalties.—After the hearing or upon failure of the manager or exclusive general agent to appear at the hearing, the commissioner may impose any combination of the following actions deemed appropriate:

(1) Suspension or revocation of the license, if any, of the person.

(2) An order to cease and desist.

(3) Any other conditions as the commissioner deems appropriate.

Section 635-A. Appeals.

The person aggrieved by a decision of the commissioner that has a direct interest in the decision may appeal the decision of the

commissioner in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

**SUBARTICLE B
REGULATION OF INSURANCE PRODUCERS**

**DIVISION 1
PROHIBITED ACTIVITIES**

Section 641-A. Unlicensed activity.

(a) Prohibition.—*No person shall act as or perform the duties of an insurance producer in this Commonwealth without being licensed in accordance with this act. An insurer shall be responsible for a violation of this section by its employees; however, other than against directors and officers, the department may not seek to impose penalties against the individual employees in addition to the insurer for the same activity.*

(b) Penalty.—*A person that violates this section commits a felony of the third degree.*

Section 641.1-A. Doing business with unlicensed persons.

(a) Violation.—*Any insurance entity or licensee accepting applications or orders for insurance from any person or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license shall be subject to civil penalty of no more than \$5,000 per violation in accordance with this act. This section shall not prohibit an insurer from accepting an insurance application directly from a consumer or prohibit the payment or receipt of referral fees in accordance with this act.*

(b) Penalty.—*A person that violates this section commits a misdemeanor of the third degree.*

Section 642-A. Theft by insurance producers.

(a) Prohibition.—*No insurance producer shall sell, solicit or negotiate a contract of insurance and fraudulently appropriate or convert to his own use or, with intent to use or fraudulently appropriate, take, or otherwise dispose of, or withhold, appropriate, lend, invest or otherwise use or apply money or substitutes for money received by him as an insurance producer contrary to the instructions or without the consent of the insurer.*

(b) Penalty.—*A person that violates this section commits a theft punishable in accordance with 18 Pa.C.S. Ch. 39 (relating to theft and related offenses).*

Section 643-A. Advertising as insurance producer of unauthorized entity.

(a) Prohibition.—*No person shall represent or advertise himself to be an insurance producer or representative of an unauthorized insurance entity, including an insurer that is not approved or admitted under section 208 and an insurer that has not met the requirements of an eligible surplus lines insurer under section 1605 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.*

(b) Penalty.—A person that violates subsection (a) commits a misdemeanor of the third degree.

Section 644-A. Soliciting for nonexistent entity.

(a) Prohibition.—No person shall, directly or indirectly, offer to sell, solicit or negotiate contracts, certificates, agreements, binders or applications for insurance, surety or indemnity in this Commonwealth for or on behalf of a fictitious, nonexistent, dissolved, inactive, liquidated, liquidating or bankrupt insurance entity.

(b) Penalty.—A person that violates this section commits a misdemeanor of the third degree.

Section 645-A. Rebates prohibited.

(a) Prohibition.—No insurance producer shall, directly or indirectly, offer, promise, allow, give, set off or pay a rebate of, or part of, a premium payable on the contract of insurance or on the insurance producer's commission, earnings, profits, dividends or other benefit founded, arising, accruing or to accrue thereon, or any special advantage in date of policy or age of issue, or any paid employment or contract for services of any kind, or any other valuable consideration or inducement, to or for insurance on a risk in this Commonwealth which is not specified in the contract of insurance.

(b) Penalty.—A person that violates subsection (a) commits a misdemeanor of the third degree.

Section 646-A. Inducements prohibited.

(a) Prohibition.—No insurance producer shall, directly or indirectly, offer, promise, give, option, sell or purchase any stocks, bonds, securities or property, or any dividends or profits accruing or to accrue thereon, or other thing of value whatsoever, as an inducement to purchase a contract of insurance. Nothing in this section shall be construed to prevent the taking of a bona fide obligation, with legal interest, in payment of any premium. This section shall not prohibit payment or receipt of referral fees in accordance with this act.

(b) Penalty.—A person that violates subsection (a) commits a misdemeanor of the third degree.

Section 647-A. Misrepresentation of terms of policy and future dividends by insurance producers.

(a) Prohibition.—No insurance producer shall, directly or indirectly:

(1) Issue, circulate or use, or cause or permit to be issued, circulated or used, a written or oral statement or circular misrepresenting the terms of a contract of insurance issued or to be issued by the insurer.

(2) Make an estimate with intent to deceive of the future dividends payable under the contract of insurance.

(b) Penalty.—A person that violates subsection (a) commits a misdemeanor of the third degree.

Section 648-A. Misrepresentations to an insured of another company.

(a) Prohibition.—*No insurance producer shall, directly or indirectly, misrepresent or make an incomplete comparison of contracts of insurance for the purpose of inducing an insured of another insurer to lapse, forfeit or surrender his contract of insurance and to take out a contract of insurance insuring against similar risks with the licensee or solicitor's insurer.*

(b) Penalty.—*A person that violates subsection (a) commits a misdemeanor of the third degree.*

Section 649-A. The licensing of financial institutions as insurers.

No financial institution shall apply to be licensed or to be admitted as an insurer except to underwrite title insurance.

Section 650-A. Requirements on insurance producers by financial institutions.

No financial institution may impose any unreasonable requirement on an insurance producer not associated with that financial institution.

Section 651-A. Conditional financial transactions.

No financial institution or its directors, officers, employees, agents or insurance producers may require the purchase of insurance from the financial institution or its affiliates or from a designated insurer or insurance producer as a condition of a loan or deposit transaction. A financial institution or its directors, officers, employees, agents or insurance producers may not reject a required contract of insurance solely because the contract was sold by a person that is not associated with the financial institution.

DIVISION 2 REGULATED ACTIVITIES

Section 671-A. Appointments.

(a) Representative of the insurer.—*An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.*

(b) Representative of the consumer.—*An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:*

(1) *delineates the services to be provided; and*

(2) *provides full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.*

(c) Notification to department.—*An insurer that appoints an insurance producer shall file with the department a notice of appointment. The notice shall state for which companies within the insurer's holding company system or group the appointment is made. Upon receipt of the notice, the department shall verify if the insurance producer is eligible for appointment. If the insurance producer is*

determined to be ineligible for appointment, the department shall notify the insurer of the determination.

(d) Termination of appointment.—Once appointed, an insurance producer shall remain appointed by an insurer until such time as the insurer terminates the appointment in writing to the insurance producer or until the insurance producer's license is suspended, revoked or otherwise terminated.

(e) Appointment fee.—An appointment fee of \$12.50 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation. The fee shall be paid in full within 30 days.

(f) Reporting.—An insurer shall, upon request, certify to the department the names of all licensees appointed by the insurer.

Section 671.1-A. Termination of appointments.

(a) Termination.—An insurer which terminates an appointment pursuant to section 671-A(d) shall notify the department in writing on a form approved by the department, or through an electronic process approved by the department, within 30 days following the effective date of the termination.

(b) Reason for termination.—If the reason for the termination was a violation of this act or if the insurer had knowledge that the licensee was found to have engaged in any activity prohibited by this act, the insurer shall inform the department in the notification. Upon the written request of the department, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.

(c) Ongoing notification requirement.—The insurer shall promptly notify the department if upon further review or investigation the insurer discovers additional information that would have been reportable to the commissioner in accordance with subsection (b) had the insurer known of the existence of the information.

(d) Copy of notification to be provided to licensee.—

(1) Within 15 days of making a notification required by subsection (b) or (c), an insurer shall mail a copy of the notification to the licensee's last known home address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(2) Within 30 days of receiving notification pursuant to paragraph (1), a licensee may file written comments concerning the substance of the notification with the department. The licensee shall simultaneously mail a copy of the comments to the insurer by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(e) Reports.—An insurer or licensee that fails to report as required under the provisions of this section or that is found to have falsely reported with malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may have civil penalties imposed against the insurer or licensee in an amount not to exceed \$5,000 for each violation.

(f) Immunities.—

(1) In the absence of actual malice, an insurer, the authorized representative of the insurer, a licensee, the Insurance Commissioner or an organization of which the Insurance Commissioner is a member and that compiles the information and makes it available to other insurance commissioners or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the Insurance Commissioner, from an insurer or licensee; or a statement by a terminating insurer or licensee to an insurer or licensee limited solely and exclusively to whether a termination under subsection (a) was reported to the Insurance Commissioner, provided that the propriety of any termination under subsection (a) is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

(2) In any action brought against a person that may have immunity under paragraph (1) for making any statement required by this section or providing any information relating to any statement that may be requested by the Insurance Commissioner, the party bringing the action shall plead specifically in any allegation that paragraph (1) does not apply because the person making the statement or providing the information did so with actual malice.

(3) Paragraph (1) or (2) shall not abrogate or modify any existing statutory or common law privileges or immunities.

(g) Preemption.—Nothing in this section shall supersede any provision of the act of September 22, 1978 (P.L.763, No.143), entitled “An act establishing certain procedures relating to the termination of insurance agency contracts or accounts and providing penalties.”

Section 672-A. Payment of commissions.

(a) Limitation.—An insurance entity may pay a commission, brokerage fee, service fee or other compensation to a licensee for selling, soliciting or negotiating a contract of insurance. A licensee may pay a commission, brokerage fee, service fee or other compensation to a licensee for selling, soliciting or negotiating a contract of insurance. Except as provided in subsection (b), an insurance entity or licensee may not pay a commission, brokerage fee, service fee or other compensation to

a person that is not a licensee for activities related to the sale, solicitation or negotiation of a contract of insurance.

(b) Exception.—An insurance entity or licensee may pay:

(1) a renewal or other deferred commission to a person that is not a licensee for selling, soliciting or negotiating a contract of insurance if the person was a licensee at the time of the sale, solicitation or negotiation; or

(2) a fee to a person that is not a licensee for referring to a licensee persons that are interested in purchasing insurance if the referring person does not discuss specific terms and conditions of a contract of insurance and, in the case of referrals for insurance that is primarily for personal, family or household use, the referring person receives no more than a one-time, nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a sale.

An insurance entity or licensee shall not pay a commission or fee to a person under this subsection if the person is a licensee under suspension or a former licensee whose insurance producer license was revoked.

Section 673-A. Receipt of commissions.

(a) Limitation.—A licensee may accept a commission, brokerage fee, service fee or other compensation from an insurance entity or licensee for selling, soliciting or negotiating a contract of insurance. Except as provided in subsection (b), a person may not accept a commission, brokerage fee, service fee or other compensation from an insurance entity or licensee if the person is not a licensee and the compensation is for activities related to the sale, solicitation or negotiation of a contract of insurance.

(b) Exception.—A person may accept:

(1) a renewal or other deferred commission for selling, soliciting or negotiating a contract of insurance if the person was a licensee at the time of the sale, solicitation or negotiation; or

(2) a fee for referring persons to a licensee that are interested in purchasing insurance provided they do not discuss specific terms and conditions of a contract of insurance and, in the case of referrals for insurance that is primarily for personal, family or household use, they receive no more than a one-time, nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a sale.

A person may not accept a commission or fee under this subsection if the person is a licensee under suspension or a former licensee whose insurance producer license was revoked.

Section 674-A. Imposition of additional fees.

(a) General rule.—A licensee may charge a fee in addition to a commission to a person for the sale, solicitation or negotiation of a contract of insurance for commercial business. The fee charged by the

licensee shall be disclosed in advance in writing to the person and shall be reasonable in relationship to the services provided.

(b) Application fee.—Notwithstanding other provisions of this section, no insurance producer shall charge a fee for the completion of an application for a contract of insurance.

Section 675-A. Credit life, credit accident and health and credit unemployment insurance.

(a) Sales restrictions.—A person that sells, solicits or negotiates a contract of credit insurance shall do so in accordance with the act of September 2, 1961 (P.L.1232, No.540), known as the Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance, for all of the following:

- (1) Credit life insurance.*
- (2) Credit accident and health insurance.*
- (3) Credit unemployment insurance.*

If the insurance is sold in connection with loans or other credit transactions, the provisions of the Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance relating to credit life and credit accident and health insurance are applicable to credit unemployment insurance.

(b) Additional restrictions.—In addition to the requirements of subsection (a), the sale, solicitation or negotiation of credit unemployment insurance shall be subject to all of the following:

- (1) The total amount of benefits payable by credit unemployment insurance in the event of unemployment shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness.*
- (2) The amount of each monthly payment shall not exceed the original indebtedness divided by the number of installments.*
- (3) The loss ratio for the insurance shall be set and regulated by the commissioner in the same manner as the loss ratio is set and regulated for credit life and credit accident and health insurance.*
- (4) Involuntary unemployment insurance sold in connection with open-end credit shall provide monthly benefits at least equal to the insured's minimum monthly payment calculated at the time of unemployment, subject to a maximum monthly indemnity contained in the certificate of insurance.*
- (5) Benefits are payable, at a minimum, upon the debtor meeting the eligibility requirements for unemployment compensation.*
- (6) The period during which benefits are payable in the event of the insured's involuntary unemployment shall continue at least until the earliest of the following:
 - (i) The insured's return to full-time work.*
 - (ii) Satisfaction of the loan or other credit transaction.**

(iii) *In the case of open-end credit, payment of 12 consecutive monthly installments.*

(7) *The insurance shall not be required as a condition of the extension of credit.*

(8) *If a creditor offers the insurance to any of its debtors, it must offer it under the same terms and conditions to all of its like debtors and under the same terms and conditions as all of its offices or locations in this Commonwealth.*

Section 676-A. Required purchases of insurance.

(a) *Disclosures.—If a financial institution requires a person to obtain insurance in connection with a loan and the insurance is available through the financial institution, a licensee employed by or affiliated with the financial institution shall inform the person at or prior to the time of application that the purchase of the insurance from the financial institution is not a condition of the loan and will not affect current or future credit decisions. The licensee may inform the person that insurance is available from the financial institution.*

(b) *Acknowledgment.—If the person purchases the insurance through the financial institution, the licensee shall obtain a written statement or acknowledgment from the person prior to the purchase of the insurance stating that the person has been advised that the purchase of the insurance from the financial institution is not a condition of receiving the loan and will not affect current or future credit decisions.*

(c) *Regulations.—The commissioner may promulgate regulations providing for alternative methods of achieving the disclosures and acknowledgment required by this section for situations which do not involve direct contact with the customer at the time of solicitation or application.*

Section 677-A. Sales on or from the premises of a financial institution.

(a) *Disclosures.—A licensee employed by or affiliated with a financial institution that solicits the sale of annuities or life insurance, except credit life insurance, on or from the physical premises of the financial institution shall provide a person applying for a contract of insurance a written disclosure at or prior to the time of application for the insurance or annuity. The disclosure shall include a notice of all of the following:*

(1) *The insurance or annuity is not a deposit.*

(2) *The insurance or annuity is not insured by the Federal Deposit Insurance Corporation or any other agency or instrumentality of the Federal Government.*

(3) *The insurance or annuity is not guaranteed by the financial institution or an affiliated insured depository institution.*

(4) *The insurance or annuity is subject to investment risk, including potential loss of principal, when appropriate.*

(b) *Setting and circumstance.—Sales of annuities or insurance, except credit insurance, by a financial institution or by a licensee employed by or*

affiliated with the financial institution shall take place in a location which is distinct from the area where deposits are taken and loan applications are discussed and accepted. Signs or other means shall be used to distinguish the insurance or annuities sales area from the deposit taking and lending areas. The commissioner shall exempt a financial institution from the requirements of this section if the number of staff or size of the facility prevents compliance.

(c) Exceptions.—Compliance by a financial institution with the disclosure and the setting and circumstances requirements set forth in the Interagency Statement on Retail Sales of Nondeposit Investment Products issued February 15, 1994, by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Office of Thrift Supervision shall satisfy the requirements of this section.

Section 677.1-A. Customer privacy.

(a) General rule.—No financial institution shall use or share with a third party any insurance coverage information obtained in making a loan to a current customer for the purpose of selling or soliciting the purchase of insurance or annuities unless the requirements of this section are met.

(b) Notice.—The following notice to a loan customer shall be set forth in standard or larger type:

**USE OF INSURANCE INFORMATION RELATING
TO YOUR LOAN**

AS A CURRENT LOAN CUSTOMER, WE MAY HAVE INSURANCE COVERAGE INFORMATION THAT WAS OBTAINED AS PART OF YOUR LOAN PROCESS. UNDER PENNSYLVANIA LAW, YOU HAVE THE RIGHT TO DIRECT THAT WE NOT USE OR SHARE THIS INFORMATION IN THE MARKETING OF INSURANCE OR ANNUITIES. TO EXERCISE THIS RIGHT, YOU MUST SIGN AND RETURN THIS FORM WITHIN THIRTY (30) DAYS. IF YOU DO NOT SIGN AND RETURN THIS FORM TO US, WE MAY USE OR SHARE THIS INFORMATION IN THE MARKETING OF INSURANCE OR ANNUITIES.

.....
(Signature)

(c) Mailing.—The notice prescribed in subsection (b) shall be sent by first class mail and may be included in a solicitation for the purchase of insurance or annuities. This notice shall be addressed to the individual customer and shall include a postage prepaid response mechanism.

(d) Consent.—For the purpose of complying with subsection (a), a financial institution may directly obtain written consent for the use of customer information from a current or prospective loan customer. The

following notice, set forth in standard or larger type, shall be used for this purpose:

**USE OF INSURANCE INFORMATION RELATING
TO YOUR LOAN
THE BORROWER HEREBY CONSENTS TO THE USE OR
SHARING OF ANY INSURANCE COVERAGE INFORMATION
OBTAINED AS PART OF THE LOAN PROCESS IN THE
MARKETING OF INSURANCE OR ANNUITIES.**

.....
(Signature)

Section 678-A. Licensee reporting of misconduct.

(a) Misconduct reporting.—A licensee shall report to the department any administrative action taken against the licensee in another jurisdiction or by another governmental agency in this Commonwealth within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

(b) Criminal conduct reporting.—Within 30 days of being charged with criminal conduct, a licensee shall report the charges to the department. The licensee shall provide the department with all of the following within 30 days of their availability to the licensee:

- (1) A copy of the criminal complaint, information or indictment.*
- (2) A copy of the order resulting from a pretrial hearing, if any.*
- (3) A report of the final disposition of the charges.*

Section 679-A. Confidentiality.

(a) General rule.—Any documents, materials or other information in the control or possession of the department which is furnished by an insurer or licensee under section 671.1-A or which is obtained by the department in an investigation pursuant to this act shall be confidential by law and privileged, shall not be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the department is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the department's duties.

(b) Testimony prohibited.—Neither the department nor any person who received documents, materials or other information while acting under the authority of the department shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (a).

(c) Information sharing.—In order to assist in the performance of the department's duties under this article, the department may share and receive confidential information in accordance with section 202-A.

(d) Effect of sharing.—No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the department under section 671.1-A or as a result of sharing as authorized in subsection (c).

(e) Exception.—Nothing in this article shall prohibit the department from releasing final, adjudicated actions that are open to public inspection pursuant to the Right-to-Know Law to a database or other clearinghouse service maintained by the NAIC, its affiliates or subsidiaries.

DIVISION 3 ENFORCEMENT

Section 691-A. Enforcement by department.

(a) Notice.—Upon evidence of a violation of this act, the department shall notify the person of the alleged violation. The notice shall specify the nature of the alleged violation and fix a time and place, at least ten days thereafter, when a hearing on the matter shall be held.

(b) Hearing.—The department shall conduct the hearing on the violation in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(c) Evidence.—No person shall be excused from testifying or from producing any books, papers, contracts, agreements or documents at any hearing held by the commissioner on the ground that the testimony or evidence may tend to incriminate that person.

(d) Penalties.—After the hearing or upon failure of the person to appear at the hearing, if a violation of this act is found, the commissioner may, in addition to any penalty which may be imposed by a court, impose any combination of the following deemed appropriate:

(1) Denial, suspension, refusal to renew or revocation of the license, if any, of the person.

(2) A civil penalty not to exceed \$5,000 for each action in violation of this act.

(3) An order to cease and desist.

(4) Any other conditions as the commissioner deems appropriate.

Section 692-A. Injunctions.

The commissioner may maintain an action for an injunction or other process against any person to restrain and prevent the person from engaging in any activity violating this act or regulations promulgated under this act.

Section 693-A. Appeals.

The person aggrieved by a decision of the commissioner that has a direct interest in the decision may appeal the decision of the commissioner in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

**DIVISION 4
MISCELLANEOUS**

Section 695-A. Personal liability of an insurance producer for an unauthorized entity.

An insurance producer shall be personally liable on all contracts of insurance or suretyship unlawfully made by or through the producer, directly or indirectly, for or on behalf of any insurance entity which is not authorized to do business in this Commonwealth.

Section 696-A. Fiduciary capacity of an insurance producer.

An insurance producer shall be responsible in a fiduciary capacity for all funds received or collected as an insurance producer and shall not, without the express consent of the insurance entity on whose behalf the funds were received, mingle the funds with the producer's own funds or with funds held by the insurance producer in any other capacity. Nothing in this article shall be deemed to require an insurance producer to maintain a separate bank deposit for the funds of each insurance entity if and as long as the funds of each insurance entity are reasonably ascertainable from the books of account and records of the insurance producer.

Section 697-A. Federal preemption.

Notwithstanding any law or regulation of this Commonwealth to the contrary, in the event of Federal preemption of any of the provisions of this act or any other law of this Commonwealth regarding the sale of insurance or annuities by federally chartered financial institutions, State-chartered financial institutions shall not be subject to those provisions or laws which were the subject of the Federal preemption.

Section 698-A. Regulations.

The department may promulgate regulations necessary for the administration of this article. Regulations promulgated under Article VI which are not clearly inconsistent with the provisions of this article shall remain in effect until replaced, revised or amended.

**SUBARTICLE C
CONFLICTING PROVISIONS**

Section 699.1-A. Scope.

(a) Provisions superseded.—The provisions of this article shall supersede conflicting provisions found elsewhere in this act.

(b) Provisions not superseded.—Nothing in this act shall supersede any provision of the act of December 21, 1995 (P.L.714, No.79), entitled "An act amending the act of May 17, 1921 (P.L.682, No.284), 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,' further providing for financial requirements, for agents, for prohibition of commissions and other considerations, for rate filing, for making of rates and for penalties; further providing for the operation of the Pennsylvania Property and Casualty Insurance Guaranty Association, for covered claims and for loans to companies; providing for conditions with respect to escrow, closing and settlement services and title indemnification accounts and for division of fees; providing for mutual to stock conversion and for contributions to surplus; further providing for investment; providing for additional investment authority for subsidiaries; and making repeals."

**ARTICLE XI
INSURANCE FRAUD PREVENTION AUTHORITY**

**SUBARTICLE A
PRELIMINARY PROVISIONS**

Section 1101. Scope.

This article deals with insurance fraud prevention.

Section 1102. Purpose.

The purpose of this article is to establish, coordinate and fund activities in this Commonwealth to prevent, combat and reduce insurance fraud, to improve and support insurance fraud law enforcement and administration and to improve and support insurance fraud prosecution.

Section 1103. Definitions.

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

"Authority." The Insurance Fraud Prevention Authority established in section 1121.

"Board." The board of directors of the Insurance Fraud Prevention Authority.

"Fund." The Insurance Fraud Prevention Trust Fund established in section 1123.

"Insurance fraud." Any activity defined as an offense under 18 Pa.C.S. § 4117 (relating to insurance fraud).

"Section of Insurance Fraud" or "section." The Section of Insurance Fraud in the Office of Attorney General.

**SUBARTICLE B
INSURANCE FRAUD PREVENTION AUTHORITY**

Section 1121. Establishment of authority.

(a) Establishment.—There is hereby established a body corporate and politic to be known as the Insurance Fraud Prevention Authority. The

purposes, powers and duties of the authority shall be vested in and exercised by a board of directors.

(b) Composition.—The board of the authority shall consist of seven members composed and appointed in accordance with the following:

(1) The Attorney General or his designee.

(2) A representative of the Philadelphia Federal Insurance Fraud Task Force.

(3) Four representatives of insurers, one of whom shall be appointed by the President pro tempore of the Senate, one of whom shall be appointed by the Minority Leader of the Senate, one of whom shall be appointed by the Speaker of the House of Representatives and one of whom shall be appointed by the Minority Leader of the House of Representatives. Each of the four members shall be, respectively, a representative of an insurer writing workers' compensation, accident and health, automobile or general commercial liability insurance in this Commonwealth.

(4) One representative of purchasers of insurance in this Commonwealth who is not employed by or connected with the business of insurance and is appointed by the Governor.

(c) Terms.—With the exception of the Attorney General and the representative of the Philadelphia Federal Insurance Fraud Task Force, members of the board shall serve for terms of four years.

(d) Compensation.—Members of the board shall serve without compensation but shall receive reimbursement for all reasonable and necessary expenses incurred in connection with their duties in accordance with the rules of the Executive Board.

(e) Quorum.—A majority of the members of the board shall constitute a quorum for the transaction of business at a meeting or the exercise of a power or function of the authority. Notwithstanding any other provision of law, action may be taken by the board at a meeting upon a vote of the majority of its members present in person or through the use of amplified telephonic equipment if authorized by the bylaws of the board. The board shall meet at the call of the chairperson or as may be provided in the bylaws of the board. The board shall meet at least quarterly. Meetings of the board may be held anywhere within this Commonwealth. The board shall elect its own chairperson.

Section 1122. Powers and duties.

The authority shall have the powers necessary and convenient to carry out and effectuate the purposes and provisions of this article and the purposes of the authority and the powers delegated by other laws, including, but not limited to:

(1) Employ administrative, professional, clerical and other personnel as may be required and organize the staff as may be appropriate to effectuate the purposes of this article.

(2) Have a seal and alter the same at pleasure, have perpetual succession, make, execute and deliver contracts, conveyances and other instruments necessary or convenient to the exercise of its powers and make and amend bylaws.

(3) Procure insurance against any loss in connection with its property, assets or activities.

(4) Apply for, solicit, receive, establish priorities for, allocate, disburse, contract for, administer and spend funds in the fund and other funds that are made available to the authority from any source consistent with the purposes of this article.

(5) Make grants to and provide financial support for the Section of Insurance Fraud, the unit of insurance fraud in the Philadelphia District Attorney's Office, other county district attorneys' offices, other government agencies, community, consumer and business organizations consistent with the purposes of this article and considering the extent of the insurance fraud problem in each county of this Commonwealth.

(6) Advise the State Treasurer in relation to the investment of any money held in the fund and any funds held in reserve or sinking funds and any money not required for immediate use or disbursement and to advise the State Treasurer in relation to the use of depositories for moneys of the fund.

(7) Assess the scope of the problem of insurance fraud, including areas of this Commonwealth where the problem is greatest, and review State and local criminal justice policies, programs and plans dealing with insurance fraud.

(8) Develop and sponsor the implementation of Statewide plans, programs and strategies to combat insurance fraud, improve the administration of the insurance fraud laws and provide a forum for identification of critical problems for those persons dealing with insurance fraud.

(9) Coordinate the development, adoption and implementation of plans, programs and strategies relating to interagency and intergovernmental cooperation with respect to insurance fraud law enforcement.

(10) Promulgate rules or regulations related to the expenditure of moneys held in the fund in order to assist and support those agencies, units of government, county district attorneys' offices and other organizations charged with the responsibility of reducing insurance fraud or interested and involved in achieving this goal.

(11) Audit at its discretion the plans and programs that it has funded in whole or in part in order to evaluate the effectiveness of the plans and programs and withdraw funding should the authority determine that a plan or program is ineffective or is no longer in need of further financial support from the fund.

(12) Report annually on or before the first day of April to the Governor and the General Assembly on the authority's activities in the preceding period of operation.

(13) Meet with the Section of Insurance Fraud on at least a quarterly basis in order to advise and assist it in implementing its statutory mandate.

(14) Advise the General Assembly on matters relating to insurance fraud and recommend to the General Assembly on an annual basis any changes to the operation of the Section of Insurance Fraud. The report shall be available for public inspection.

(15) Establish either alone or in cooperation with authorized insurance companies and licensed agents and producers a fund to reward persons not connected with the insurance industry who provide information or furnish evidence leading to the arrest and conviction of persons responsible for insurance fraud.

(16) Require as a condition of every application and request for financial support, including every application for ongoing renewal of a multiyear grant under section 1123(f), that the applicant describe both the nature of and the amount of funding for the activities, if any, devoted to the investigation and prosecution of insurance fraud at the time of the application or request.

(17) Require as a condition of every application and request for financial support that every recipient of funding report annually within four months of the close of each funding cycle to the authority on the use of the funds obtained from the authority during the previous year, including a description of programs implemented and results obtained. The authority will include this information on the use of funds by grantees in its annual report under paragraph (12) and send a copy specifically to the chairman and the minority chairman of the standing committees of the Senate and the chairman and the minority chairman of the standing committees of the House of Representatives with jurisdiction over insurance matters.

Section 1123. Insurance Fraud Prevention Trust Fund.

(a) Establishment.—There is hereby established a separate account in the State Treasury to be known as the Insurance Fraud Prevention Trust Fund. This fund shall be administered by the State Treasurer with the advice of the authority. All interest earned from the investment or deposit of moneys accumulated in the fund shall be deposited in the fund for the same use.

(b) Funds.—All moneys deposited into the fund shall be held in trust and shall not be considered general revenue of the Commonwealth but shall be used only to effectuate the purposes of this article as determined by the authority and shall be subject to audit by the Auditor General.

(c) Assessment.—

(1) Annually on or before the first day of April, each insurer engaged in the writing of the insurance coverages listed below, as a condition of its authorization to transact business in this Commonwealth, shall pay into the fund in trust an amount equal to the product obtained by multiplying \$8,000,000 by a fraction, the numerator of which is the direct premium collected for those coverages listed below by that insurer in this Commonwealth during the preceding calendar year and the denominator of which is the direct premium written on such coverages in this Commonwealth by all insurers in the same period.

(2) The following coverages, as listed in the Annual Statistical Report of the Insurance Department, shall be considered in determining assessments: all fire and casualty direct business written and accident and health and credit accident and health written under life/annuity/accident and health direct business written. Assessments made under this section shall not be considered burdens and prohibitions under section 212.

(3) Assessments for health plan corporations and professional health services plan corporations when added together shall not be more than 10% of the total assessment authorized by this subsection. If the total assessment for these organizations is more than 10%, such organizations will share the assessment up to the 10% limit among themselves in the same proportion as they would otherwise have shared their calculated assessment absent this limit. Any deficiency in the total assessment caused by the application of this limit will be shared by all other entities being assessed in the same proportions as they are sharing the rest of the assessment.

(d) Base amount.—In succeeding years the authority may vary the base amount of \$8,000,000, provided, however, that any increase which on an annual basis exceeds the increase in the Consumer Price Index for this Commonwealth must be approved by three of the four insurance representatives on the board.

(e) Expenditures.—Moneys in the fund may be expended by the authority for the following purposes:

(1) Effectuate the powers, duties and responsibilities of the authority as set forth in this article.

(2) Pay the costs of administration and operation of the Section of Insurance Fraud and the unit for insurance fraud in the Philadelphia District Attorney's Office.

(3) Provide financial support to law enforcement, correctional agencies and county district attorneys' offices for programs designed to reduce insurance fraud and to improve the administration of insurance fraud laws.

(4) Provide financial support for other governmental agencies, community, consumer and business organizations for programs

designed to reduce insurance fraud and to improve the administration of insurance fraud laws.

(5) Provide financial support to programs designed to inform insurance consumers about the costs of insurance fraud to individuals and to society and to suggest methods for preventing insurance fraud.

(6) Provide financial support for reward programs leading to the arrest and conviction of persons and organizations engaged in insurance fraud.

(7) Provide financial support for other plans, programs and strategies consistent with the purposes of this article.

(f) Multiyear grants.—In funding the Section of Insurance Fraud, the Unit for Insurance Fraud in the Philadelphia District Attorney's Office and in funding grant requests, the authority may consider and approve requests for multiyear grants of not more than four years in length, although extensions of such multiyear commitments may be renewed from year to year. No funding reduction under subsection (d) can be imposed by the authority in any given year which would operate to reduce funding for any multiyear approved program for which persons have been hired for full-time positions to a funding level where such positions must be terminated unless the organization employing such persons certifies either that other equivalent positions are available or that such positions with the antifraud program can be funded from other sources.

(g) Dissolution.—In the event that the trust fund is discontinued or the authority is dissolved by operation of law, any balance remaining in the fund, after deducting administrative costs for liquidation, shall be returned to insurers in proportion to their financial contributions to the fund in the preceding calendar year.

Section 1124. Immunity.

In the absence of malice, no board member and no employee of the authority shall be subject to any civil or criminal liability for receiving or disclosing information related to insurance fraud or the activities of the authority. In the absence of malice, persons or organizations shall not be subject to civil or criminal liability for providing information relating to insurance fraud to the authority, its employees, agents or designees. This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

SUBARTICLE C SECTION OF INSURANCE FRAUD

Section 1141. Establishment.

(a) Establishment.—There is hereby established within the Office of Attorney General a Section of Insurance Fraud to investigate and prosecute insurance fraud in accordance with jurisdictional mandates as specified by the act of October 15, 1980 (P.L.950, No.164), known as the

Commonwealth Attorneys Act, and 18 Pa.C.S. § 4117 (relating to insurance fraud).

(b) Funding.—All costs of administration and operation of the section shall be borne by the fund. Any moneys or other property awarded to the section as costs of investigation or as a fine shall be credited to the fund.

Section 1142. Powers and duties.

The section shall have the powers necessary and convenient to carry out and effectuate the purposes and provisions of this article and the powers delegated by other laws, including, but not limited to, the power:

(1) To employ administrative, professional, clerical and other personnel as may be required and organize the staff as may be appropriate to effectuate the purposes of this article.

(2) To initiate inquiries and conduct investigations when the section has reason to believe that insurance fraud may have been or is being committed.

(3) To respond to notifications or complaints of suspected insurance fraud generated by State and local police, other law enforcement authorities, governmental units, including the Federal Government, and the general public.

(4) To review notices and reports of insurance fraud submitted by authorized insurers, their employees and licensed insurance agents or producers and to select those incidents of suspected fraud as, in its judgment, require further investigation and undertake such investigation.

(5) To conduct independent examination of insurance fraud, conduct studies to determine the extent of insurance fraud, deceit or intentional misrepresentation of any kind in the insurance process and publish information and reports on such examinations or studies.

(6) To prosecute both on its own and in conjunction with other sections and divisions within the Office of Attorney General any incidents of insurance fraud involving more than one county of this Commonwealth or involving any county of this Commonwealth and another state disclosed by its investigations and to assemble evidence, prepare charges, bring charges or, upon request of any other prosecutorial authority, otherwise assist that prosecutory authority having jurisdiction over such incidents.

(7) To report incidents of insurance fraud disclosed by its investigations to any other appropriate law enforcement, administrative, regulatory or licensing agency.

(8) To pay over all civil and criminal fines and penalties collected for violations and acts subject to investigation and prosecution into the fund.

(9) To undertake programs to investigate insurance fraud and to meet, at least on a quarterly basis, with the Insurance Fraud Prevention Authority.

(10) To employ investigators trained in accordance with the act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law. The laws applicable to law enforcement officers of this Commonwealth shall be applicable to the investigators. Investigators of the section shall have the following additional powers:

(i) To make arrests in accordance with existing jurisdictional rules for criminal violations established as a result of their investigations.

(ii) To execute arrest and search warrants in accordance with existing jurisdictional rules for the same criminal violations.

(11) To designate, if evidence, documentation and related materials sought are located outside of this Commonwealth, representatives, including officials of the state where the matter is located, to secure the matter or inspect the matter on its behalf. The person so requested shall either make the matter available to the section or shall make the matter available for inspection or examination by a designated representative of the section.

Section 1143. Document confidentiality and immunity from subpoena.

(a) General rule.—Papers, records, documents, reports, materials or other evidence relative to the subject of an insurance fraud investigation shall remain confidential and shall not be subject to public inspection for so long as the section deems it reasonably necessary to complete its investigation or for so long as the section deems it reasonably necessary to protect the privacy of the person investigated, to protect the person furnishing the matter or to be in the public interest.

(b) Subpoena.—

(1) Papers, records, documents, reports, materials or other evidence relative to the subject of an insurance fraud investigation shall not be subject to subpoena until opened for public inspection by the section unless the Office of Attorney General consents or until, after notice to the section and a hearing, a court of record determines that the section will not be unnecessarily hindered by compliance with a subpoena.

(2) Investigators employed by the section shall not be subject to subpoena in civil actions by any court in this Commonwealth to testify concerning any matter of which they have knowledge pursuant to a pending or continuing insurance fraud investigation being conducted by the section unless the Office of Attorney General consents or until, after notice to the Office of Attorney General and a hearing, a court of record determines that the investigation will not be hindered by the appearance.

Section 1144. Duties of insurers, employees, agents and brokers.

Every insurer, every employee of an insurer and every licensed agent or broker shall cooperate fully with the section. Where an insurer, agent or broker who believes that an insurance fraud has been or is being committed notifies the section, the notification shall toll any applicable

time period in the act of July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance Practices Act, or any other law or regulation.

Section 1145. Persons not connected with insurance industry.

Any person having knowledge of or who believes that an insurance fraud is being or has been committed may send to the section a report or information pertinent to the knowledge and belief.

Section 1146. Refusal to cooperate with investigation.

It is unlawful for any person to resist an arrest authorized by this article or in any manner to interfere either by abetting or assisting such resistance or otherwise interfere with section investigators in the duties imposed upon them by this article or by any other applicable law.

Section 1147. Immunity.

(a) General rule.—In the absence of malice, persons or organizations providing information to or otherwise cooperating with the section, its employees, agents or designees shall not be subject to civil or criminal liability for supplying the information.

(b) Civil and criminal liability.—

(1) In the absence of malice, persons or organizations shall not be subject to civil or criminal liability for complying with an order issued by a court of competent jurisdiction acting in response to a request by the section.

(2) In the absence of malice, the Attorney General and any employee, agent or designee of the Office of Attorney General and the section shall not be subject to civil or criminal liability for the execution of official activities or duties of the section by virtue of the publication of any report or bulletin related to the official activities or duties of the section.

(c) Construction of section.—This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

SUBARTICLE D MISCELLANEOUS PROVISIONS

Section 1161. Other law enforcement authority.

This article shall not:

(1) Preempt the authority of or relieve the duty of any other law enforcement agencies to investigate and prosecute suspected violations of law.

(2) Prevent or prohibit a person from voluntarily disclosing any information concerning insurance fraud to any law enforcement agency other than the section.

(3) Limit any of the powers granted to the Insurance Commissioner to investigate possible violations of law and to take appropriate action against wrongdoers.

Section 1162. Severability.

If any provision of this article or its application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

**ARTICLE XII
AUTOMOBILE THEFT PREVENTION AUTHORITY**

Section 1201. Scope.

This article deals with automobile theft prevention.

Section 1202. Purpose.

The purpose of this article is to establish, coordinate and fund activities in this Commonwealth to prevent, combat and reduce automobile theft, to improve and support automobile theft law enforcement and administration and to improve and support automobile theft prosecution.

Section 1203. Definitions.

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

"Authority." *The Automobile Theft Prevention Authority established under this article.*

"Automobile." *A private passenger four-wheel motor vehicle, except recreational vehicles not intended for highway use, which is insured.*

"Board." *The board of directors of the Automobile Theft Prevention Authority.*

"Fund." *The Automobile Theft Prevention Trust Fund created under section 1206.*

Section 1204. Automobile Theft Prevention Authority.

(a) Establishment.—*There is hereby established a body corporate and politic to be known as the Automobile Theft Prevention Authority. The purposes, powers and duties of the authority shall be vested in and exercised by the board of directors thereof as provided for in this article.*

(b) Composition.—*The board of the authority shall consist of seven members composed and appointed in accordance with the following:*

(1) The Attorney General or his designee.

(2) Three representatives of insurers authorized to write automobile insurance doing business in this Commonwealth.

(3) Three at-large members who are not employed by the insurance industry.

(c) Appointment.—*With the exception of the Attorney General, all board members shall be appointed by the Governor from names submitted to the Governor by the Pennsylvania Anti-Car Theft Committee.*

(d) Terms.—With the exception of the Attorney General, members of the board shall serve for terms of four years.

(e) Compensation.—Members of the board shall serve without compensation, except that members of the board shall receive reimbursement for all reasonable expenses incurred in connection with their duties, in accordance with the rules of the board.

(f) Quorum and meetings.—A majority of the members of the board shall constitute a quorum for the transaction of business at a meeting or the exercise of a power or function of the authority. Notwithstanding any other provision of law, action may be taken by the board at a meeting upon a vote of the majority of its members present in person or through the use of amplified telephonic equipment if authorized by the bylaws of the board and provided a quorum is present by such means. The board shall meet at the call of the chairperson or as may be provided in the bylaws of the board. The board shall meet at least quarterly. Meetings of the board may be held anywhere within this Commonwealth. The board shall elect its own chairperson.

Section 1205. Powers and duties.

The authority shall have the powers necessary and convenient to carry out and effectuate the purposes and provisions of this article and the purposes of the authority and the powers delegated by other laws, including, but not limited to, the power to:

(1) Employ administrative, professional, clerical and other personnel as may be required and organize the staff as may be appropriate to effectuate the purposes of this article.

(2) Have a seal and alter the same at pleasure, have perpetual succession, make, execute and deliver contracts, conveyances and other instruments necessary or convenient to the exercise of its powers and make and amend bylaws.

(3) Procure insurance against any loss in connection with its property, assets or activities.

(4) Apply for, solicit, receive, establish priorities for, allocate, disburse, contract for, administer and spend funds in the fund and other funds that are made available to the authority from any source consistent with the purposes of this article.

(5) Make grants to and provide financial support for government agencies, community, consumer and business organizations consistent with the purposes of this article.

(6) Invest any money held in the fund and any funds held in reserve or sinking funds and any money not required for immediate use or disbursement at its discretion and to name and use depositories for its money.

(7) Assess the scope of the problem of automobile theft, including identification of those areas of this Commonwealth where the problem

is greatest, and review State and local criminal justice policies, programs and plans dealing with automobile theft.

(8) Develop and sponsor the implementation of Statewide plans, programs and strategies to combat automobile theft, improve the administration of the automobile theft laws and provide a forum for identification of critical problems for those persons dealing with automobile theft.

(9) Coordinate the development, adoption and implementation of plans, programs and strategies relating to interagency and intergovernmental cooperation with respect to automobile theft law enforcement.

(10) Promulgate rules or regulations related to the expenditure of moneys held in the fund in order to assist and support those agencies, units of government and other organizations charged with the responsibility of reducing automobile theft or interested and involved in achieving this goal.

(11) Audit at its discretion the plans and programs that it has funded in whole or in part in order to evaluate the effectiveness of the plans and programs and withdraw funding should the authority determine that a plan or program is ineffective or is no longer in need of further financial support from the fund.

(12) Report annually on or before the first day of April to the Governor and the General Assembly on the authority's activities in the preceding period. The report shall be available for public inspection.

Section 1206. Automobile Theft Prevention Trust Fund.

(a) Creation.—A separate account in the State Treasury is hereby established to be known as the Automobile Theft Prevention Trust Fund. The fund shall be administered by the authority. All interest earned from the investment or deposit of moneys accumulated in the fund shall be deposited in trust in the fund.

(b) Funds.—All moneys deposited into the fund shall not be considered general revenue of this Commonwealth but shall be used only to effectuate the purposes of this article as determined by the authority and shall be subject to audit by the Auditor General.

(c) Assessment.—Annually on or before the first day of April, each insurer engaged in the writing of automobile insurance coverages, as a condition of its authorization to transact automobile insurance business in this Commonwealth, shall pay into the fund in trust an amount equal to the product obtained by multiplying \$4,000,000 by a fraction, the numerator of which is the total private passenger and commercial automobile physical damage insurance premiums written in this Commonwealth by that insurer during the preceding calendar year and the denominator of which is the total private passenger and commercial automobile physical damage insurance premiums written in this Commonwealth by all insurers in the same period. Assessments made

under this section shall not be considered burdens and prohibitions under section 212.

(d) Base amount.—In succeeding years the authority may vary the base amount of \$4,000,000, provided, however, that any increase which on an annual basis exceeds the increase in the Consumer Price Index for this Commonwealth must be approved by five of seven members of the board.

(e) Expenditures.—Moneys in the fund shall be expended by the authority for the following purposes:

(1) To effectuate the powers, duties and responsibilities of the authority as set forth in section 1205.

(2) To provide financial support to law enforcement, correctional agencies and prosecutors for programs designed to reduce automobile theft and to improve the administration of automobile theft laws.

(3) To provide financial support for other governmental agencies, community, consumer and business organizations for programs designed to reduce automobile theft and to improve the administration of automobile theft laws.

(4) To provide financial support to programs designed to inform owners of automobiles about the costs of automobile theft to individuals and to society and to suggest methods for preventing automobile theft.

(5) To provide financial support for reward programs leading to the arrest and conviction of persons and organizations engaged in automobile theft.

(6) To provide financial support for other plans, programs and strategies consistent with the purposes of this article.

(f) Dissolution.—In the event that the trust fund is discontinued or the authority is dissolved by operation of law, any balance remaining in the fund, after deducting administrative costs for liquidation, shall be returned to insurers in proportion to their financial contributions to the fund in the preceding calendar year.

Section 1207. Immunity.

In the absence of malice, no board member and no employee, agent or designee of the authority shall be subject to civil or criminal liability for receiving or disclosing information related to automobile theft or the activities of the authority. In the absence of malice, persons or organizations shall not be subject to civil or criminal liability for providing information to the authority or its employees relating to automobile theft. This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

Section 3. Persons currently licensed under Article VI of the act remain licensed and are subject to the provisions of subarticle B of Article VI-A of

the act. Upon expiration of existing licenses, persons shall be licensed in accordance with Article VI-A of the act.

Section 3.1. (a) An insurance entity, broker or agent may pay a fee to a person that is not a broker or agent for referring to a broker or agent persons that are interested in purchasing insurance if the referring person does not discuss specific terms and conditions of a contract of insurance and, in the case of referrals for insurance that is primarily for personal, family or household use, the referring person receives no more than a one-time, nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a sale.

(b) A person may accept a fee for referring to a broker or agent persons that are interested in purchasing insurance provided the person does not discuss specific terms and conditions of a contract of insurance and, in the case of referrals for insurance that is primarily for personal, family or household use, the person receives no more than a one-time, nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a sale.

(c) This section shall expire 180 days from the effective date of this act.

Section 4. Existing references to persons licensed in accordance with Article VI of the act are deemed to be references to persons licensed in accordance with Article VI-A and shall remain in effect until replaced, revised or amended.

Section 5. (a) The following acts are repealed:

Act of December 28, 1994 (P.L.1414, No.166), known as the Insurance Fraud Prevention Act.

Act of December 28, 1994 (P.L.1445, No.171), known as the Automobile Theft Prevention Act.

(b) The following acts and parts of acts are repealed insofar as they are inconsistent with this act:

Act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

Act of September 2, 1961 (P.L.1232, No.540), known as the Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance.

Section 6. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The addition of sections 601-A, 602-A and 677.1-A of the act.

(ii) The addition of Articles XI and XII of the act.

(iii) Sections 3.1 and 5(a) of this act.

(iv) This section.

(2) The remainder of this act shall take effect in 180 days.

APPROVED—The 6th day of December, A.D. 2002.

MARK S. SCHWEIKER