
THE GENERAL ASSEMBLY OF PENNSYLVANIA

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BROUJOS AND B. SMITH, APRIL 11, 1989

REFERRED TO COMMITTEE ON INSURANCE, APRIL 11, 1989

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, adding provisions relating to insurance; making
3 conforming changes to the Pennsylvania Consolidated Statutes;
4 and making repeals.

5 TABLE OF CONTENTS

6 TITLE 40

7 INSURANCE

8 PART I. PRELIMINARY PROVISIONS

9 Chapter 1. General Provisions

10 § 101. Short title of title.

11 § 102. Definitions.

12 § 103. Purpose and construction of title.

13 PART II. REGULATION OF INSURERS AND RELATED

14 PERSONS GENERALLY

15 Chapter 3. General Provisions

1 § 301. Definitions (Reserved).
2 § 302. Applicability of part.
3 § 303. Compliance with part.
4 Chapter 5. Insurance Department
5 § 501. Establishment of department.
6 § 502. Appointment of commissioner.
7 § 503. Restrictions on officers and employees.
8 § 504. Seal.
9 § 505. Certified documents and copies.
10 § 506. Certificates of authority to do business.
11 § 507. Penalty for acting without authority.
12 § 508. Fees.
13 § 509. Assessments for expenses of Committee on Valuation
14 of Securities.
15 § 510. Additional restrictions of other states.
16 § 511. Examination of companies.
17 § 512. Powers with regard to examinations.
18 § 513. Collection of taxes, fines and penalties.
19 § 514. Records and report of department.
20 § 515. Administrative procedure and judicial review.
21 Chapter 7. Reserve Liability
22 Subchapter A. Life Insurance and Annuities
23 § 701. Valuation by department.
24 § 702. Computation of reserves on prior policies.
25 § 703. Computation of reserves on recent policies.
26 § 704. Reserves for special plans.
27 § 705. Minimum reserve requirements of certain companies.
28 § 706. Computation of reserves for health and accident
29 insurance.
30 § 707. Valuations by other states.

1 § 708. Reserve fund.

2 § 709. Valuation of securities.

3 Subchapter B. Insurance Other than Life Insurance

4 § 721. Computation of unearned premium liability.

5 Subchapter C. Workmen's Compensation and Liability Insurance

6 § 731. Definitions.

7 § 732. Computation of reserves.

8 § 733. Distribution of unallocated loss expense payments.

9 § 734. Power of department to determine reserves.

10 Subchapter D. Casualty Insurance

11 § 741. Right of action.

12 § 742. Notice of impairment of funds.

13 Subchapter E. Title Insurance

14 § 751. Title insurance reserve.

15 § 752. Reinsurance on liquidation of company.

16 § 753. Recovery by policyholders.

17 Chapter 9. Deposits of Securities to do Interstate Business

18 § 901. Deposit of securities with department.

19 § 902. State Treasurer as custodian.

20 § 903. Return of securities.

21 § 904. Actions in equity regarding deposits.

22 Chapter 11. Agents and Brokers

23 Subchapter A. Agents

24 § 1101. Definition of agent.

25 § 1102. Certification of agents.

26 § 1103. Licenses of agents.

27 § 1104. Penalty for doing business as agent without license.

28 § 1105. Personal liability of agents for unauthorized entity.

29 § 1106. Penalty for advertising as agent of unauthorized
30 entity.

1 § 1107. Penalty for soliciting for nonexistent company.

2 § 1108. Licensure of nonresident agents.

3 Subchapter B. Termination of Agency Contracts

4 § 1121. Definitions and applicability of subchapter.

5 § 1122. Cancellation of contract.

6 § 1123. Continuation of business.

7 § 1124. Agency termination agreements.

8 § 1125. Penalties.

9 § 1126. Regulations.

10 Subchapter C. Insurance Brokers

11 § 1131. Definition and applicability.

12 § 1132. Licenses of brokers.

13 § 1133. Penalty for acting as broker without license.

14 § 1134. Doing business with unlicensed brokers.

15 § 1135. Payment of commissions to brokers.

16 Subchapter D. Prohibited Activities

17 § 1141. (Reserved).

18 § 1142. Theft offense.

19 § 1143. Commingling funds.

20 § 1144. Paying or receiving compensation for certain life
21 insurance.

22 § 1145. Offering rebates and inducements.

23 § 1146. Acceptance of rebates.

24 § 1147. Misrepresentation of policy terms.

25 § 1148. Misrepresentation to induce change of insurers.

26 § 1149. Penalties imposed by department.

27 § 1150. Lending institutions, public utilities and holding
28 companies not to be licensed.

29 Subchapter E. Managers and Exclusive General Agents

30 § 1161. Certification.

1 § 1162. Licensure.

2 § 1163. Exclusion, sale or transfer.

3 § 1164. Revocation and suspension of license.

4 § 1165. Penalties.

5 Subchapter F. Public Adjusters and Solicitors

6 § 1171. Definitions.

7 § 1172. Licensure.

8 § 1173. Fees.

9 § 1174. Bonds.

10 § 1175. Contracts.

11 § 1176. Penalties.

12 § 1177. Violations.

13 § 1178. Regulations.

14 Subchapter G. Motor Vehicle Physical Damage Appraisers

15 § 1181. Short title of subchapter.

16 § 1182. Legislative intent.

17 § 1183. Definitions.

18 § 1184. Licensure.

19 § 1185. Expiration and renewal.

20 § 1186. Denial, suspension, revocation or refusal to renew
21 license.

22 § 1187. Hearings and appeals.

23 § 1188. Conduct of business.

24 § 1188.1. Regulations.

25 § 1189. Penalty.

26 Subchapter H. Public Remedies for Unlicensed Activity

27 § 1191. Injunction or other process.

28 Chapter 13. Unlicensed Insurers

29 § 1301. Purpose of chapter.

30 § 1302. Definitions.

1 § 1303. Aiding unlicensed insurers.
2 § 1304. Surplus lines insurance.
3 § 1305. Exclusions.
4 § 1306. Declarations.
5 § 1307. Eligible surplus lines insurers.
6 § 1308. Licensure of surplus lines agents.
7 § 1309. Bond of surplus lines agents.
8 § 1310. Penalties.
9 § 1311. Surplus lines tax.
10 § 1312. Information required on contract.
11 § 1313. Regulations.
12 § 1314. Rights of insured.
13 § 1315. Penalties.
14 Chapter 15. Unfair Insurance Practices
15 § 1501. Short title of chapter.
16 § 1502. Purpose of chapter.
17 § 1503. Definitions.
18 § 1504. Unfair practices.
19 § 1505. Immunity for statements or information.
20 § 1506. Powers of department.
21 § 1507. Administrative action.
22 § 1508. Injunction.
23 § 1509. Civil penalties.
24 § 1510. Exclusions.
25 Chapter 17. Reporting Requirements
26 § 1701. Definitions.
27 § 1702. Disposal of assets.
28 § 1703. Ceding or reinsurance.
29 § 1703.1. Regulations.
30 § 1704. Business operations.

1 § 1705. Reports of financial condition.
2 § 1706. Additional reports from foreign or alien entities.
3 Chapter 19. Insurance Rates
4 § 1901. General provisions.
5 § 1902. Scope of chapter.
6 § 1903. Ratemaking.
7 § 1904. Rate filings.
8 § 1905. Disapproval of filings.
9 § 1906. Rating organizations.
10 § 1907. Deviations.
11 § 1908. Appeal by minority.
12 § 1909. Information to be furnished insureds.
13 § 1910. Hearings and appeals of insureds.
14 § 1911. Advisory organizations.
15 § 1912. Joint underwriting or joint reinsurance.
16 § 1913. Examinations.
17 § 1914. Recording and reporting of loss and expense experience.
18 § 1915. False or misleading information.
19 § 1916. Assigned risks.
20 § 1916.1. Regulations.
21 § 1916.2. Consultation with other states.
22 § 1917. Penalties.
23 § 1918. Hearing procedure and judicial review.
24 Chapter 21. Reciprocal and Inter-Insurance Exchanges
25 § 2101. General provisions.
26 § 2102. Authority to exchange.
27 § 2103. Declarations.
28 § 2104. Certificates of attorney.
29 § 2105. Statements to be filed by attorney.
30 § 2106. Examination by department.

1 § 2107. Reserves.

2 § 2108. Fees and taxes.

3 § 2109. Penalty.

4 Chapter 23. Lloyds Associations

5 § 2301. Definition.

6 § 2302. Authorization.

7 § 2303. Declarations.

8 § 2304. Certification to do business.

9 § 2305. Examination by department.

10 § 2306. Deposits by alien underwriters.

11 § 2307. Return of deposits.

12 § 2308. Additional and substituted underwriters.

13 § 2309. Information to be furnished to department.

14 § 2310. Maximum amount of risks.

15 § 2311. Applicability of other provisions.

16 § 2312. Penalties.

17 PART III. ORGANIZATION OF INSURANCE ENTITIES

18 Chapter 31. General Provisions

19 § 3101. Scope of part.

20 § 3102. Acceptance of part.

21 § 3103. Exemption from part.

22 § 3104. Power of General Assembly regarding charters.

23 § 3105. Persons prohibited from insurance business.

24 § 3106. Judicial proceedings.

25 Chapter 33. Incorporation of Insurance Companies

26 Subchapter A. Formation of Corporations

27 § 3301. Classes of insurance companies.

28 § 3302. Authorized classes of insurance.

29 § 3303. Articles of agreement.

30 § 3304. Name of company.

1 § 3305. Capital stock.
2 § 3306. Minimum capital stock and financial requirements.
3 § 3307. Officers and directors.
4 § 3308. Subscriptions.
5 Subchapter B. (Reserved)
6 Subchapter C. Authorization
7 § 3341. Certification to department.
8 § 3342. Approval of articles of agreement and letters patent.
9 § 3343. Recording of articles of agreement and letters patent.
10 § 3344. Information filed with the Auditor General.
11 § 3345. Certificate of authority.
12 Subchapter D. Valuation of Securities
13 § 3351. Valuation of securities.
14 Subchapter E. Conversion of Mutual Companies to Corporations
15 § 3361. Definitions.
16 § 3362. Valuation of interest of owner.
17 § 3363. Documentation filed with department.
18 § 3364. Determination by department.
19 § 3365. Hearing on approval.
20 § 3366. Approval of plan of conversion by policyholders.
21 § 3367. Recording plan of conversion.
22 § 3368. Legal effect of conversion.
23 § 3369. Subscriptions to capital stock of company.
24 § 3370. Survival of mutual policies.
25 § 3370.1. Regulations.
26 § 3371. Laws applicable to converted companies.
27 § 3372. Commencement of business.
28 Chapter 35. Corporate Operations
29 Subchapter A. Conduct of Business
30 § 3501. Use of company name.

- 1 § 3502. Stock and stockholders.
- 2 § 3503. Ownership of stock.
- 3 § 3504. Bylaws and seal.
- 4 § 3505. Administrative affairs.
- 5 § 3506. Salaries of employees in military service.
- 6 § 3507. Pensions.
- 7 § 3508. Execution of insurance policies.
- 8 § 3509. Joint policies.
- 9 § 3510. Incorporation of documents in policy.
- 10 § 3511. Lost insurance policies.
- 11 § 3512. Reinsurance.
- 12 § 3513. Reinsurance credits.
- 13 § 3514. Reinsurance among affiliates.
- 14 § 3515. Approval of contracts by department.
- 15 § 3516. Mortgage insurance.
- 16 § 3517. Distribution of dividends on group insurance.
- 17 Subchapter B. Election of Directors and Officers
- 18 § 3531. Annual meetings.
- 19 § 3532. Voting rights.
- 20 § 3533. Election of directors and trustees.
- 21 § 3534. Mutual fire insurance companies.
- 22 § 3535. Voting by stockholders and members.
- 23 § 3536. Proxies issued by domestic stock companies.
- 24 § 3537. Cumulative voting.
- 25 § 3538. Failure to elect directors or trustees.
- 26 § 3539. Directors and trustees.
- 27 Subchapter C. Fundamental Changes
- 28 § 3551. Stock votes on particular subjects.
- 29 § 3552. Amendment of charter.
- 30 § 3553. Proceedings to file amended charter and certification.

1 § 3554. Power to increase capital stock.

2 § 3555. Proceedings to increase capital stock.

3 § 3556. Records of increases of capital stock.

4 § 3557. Sale of increases of capital stock.

5 § 3558. Reduction of capital stock.

6 Subchapter D. Merger, Consolidation and Voluntary
7 Dissolution

8 § 3561. Power to merge or consolidate.

9 § 3562. Proceedings to merge or consolidate.

10 § 3563. Dissenters' rights upon merger or consolidation.

11 § 3564. Merger of domestic and foreign insurance companies.

12 § 3565. Protection of competition.

13 § 3566. Merger by acquisition of stock.

14 § 3567. Dissenters' rights upon merger by acquisition of stock.

15 § 3568. Approval of acquisitions by department.

16 § 3569. Holding company systems.

17 § 3570. Voluntary dissolution.

18 § 3571. Dissolution for failure to do business.

19 Subchapter E. Foreign or Alien Companies

20 § 3576. Government-owned companies.

21 § 3577. Conditions for authorization of foreign or alien
22 companies.

23 § 3578. Power of foreign or alien insurance companies
24 as to real property.

25 Subchapter F. Violations and Penalties

26 § 3581. Embezzlement by officers or agents.

27 § 3582. Rebates and inducements.

28 § 3583. Misrepresentations.

29 § 3583.1. Immunity from liability.

30 § 3584. Penalties for deceptive practices.

1 § 3585. Unfair discrimination.

2 § 3586. Unauthorized business practices.

3 § 3587. Buying proxies.

4 § 3588. Unauthorized motor vehicle services.

5 § 3589. Fraud in obtaining licenses or certificates.

6 § 3590. Securities transactions.

7 Chapter 37. International Operations

8 § 3701. Authority to transact business outside United States.

9 § 3702. Domestication of alien insurers.

10 Chapter 39. Suspension of Business and Dissolution

11 Subchapter A. General Provisions

12 § 3901. Construction and purpose.

13 § 3902. Applicability of chapter.

14 § 3903. Definitions.

15 Subchapter B. Judicial and Administrative Procedure

16 § 3911. Jurisdiction and venue.

17 § 3912. Injunctions and orders.

18 § 3913. Cooperation of officers and employees.

19 § 3914. Bonds.

20 § 3915. Reports of department.

21 Subchapter C. Summary Proceedings

22 § 3921. Summary orders of department.

23 § 3922. Supervision by department.

24 § 3923. Seizure orders.

25 § 3924. Conduct of hearings.

26 Subchapter D. Rehabilitation

27 § 3931. Grounds for rehabilitation.

28 § 3932. Rehabilitation orders.

29 § 3933. Powers and duties of rehabilitator.

30 § 3934. Actions by and against rehabilitator.

1 § 3935. Termination of rehabilitation.

2 Subchapter E. Liquidation Proceedings

3 § 3941. Grounds for liquidation.

4 § 3942. Liquidation orders.

5 § 3943. Continuation of coverage.

6 § 3944. Dissolution of insurer.

7 § 3945. Powers of liquidator.

8 § 3946. Notice to creditors and others.

9 § 3947. Duties of agents.

10 § 3948. Actions by and against liquidator.

11 Subchapter F. Estate of Liquidated Insurer

12 § 3951. Collection and list of assets.

13 § 3952. Fraudulent transfers prior to petition.

14 § 3953. Fraudulent transfers after petition.

15 § 3954. Voidable preferences and liens.

16 § 3955. Claims of holders of void or voidable rights.

17 § 3956. Setoffs and counterclaims.

18 § 3957. Assessments.

19 § 3958. Liability of reinsurer.

20 § 3959. Recovery of premiums.

21 § 3960. Proposal for distribution.

22 Subchapter G. Distribution of Estate of Liquidated Insurer

23 § 3961. Filing of claims.

24 § 3962. Proofs of claim.

25 § 3963. Special claims.

26 § 3964. Third-party claims.

27 § 3965. Disputed claims.

28 § 3966. Claims of surety.

29 § 3967. Secured claims of creditors.

30 § 3968. Order of distribution.

1 § 3969. Liquidator's recommendations to the court.

2 § 3970. Distribution of assets.

3 § 3971. Unclaimed and withheld funds.

4 § 3972. Termination of proceedings.

5 § 3973. Reopening of liquidation.

6 § 3974. Disposition of records.

7 § 3975. External audit of receiver.

8 § 3976. Federal receivership.

9 Subchapter H. Interstate Relations

10 § 3981. Conservation of property of foreign or alien insurers.

11 § 3982. Liquidation of property of foreign or alien insurers.

12 § 3983. Foreign domiciliary receivers in other states.

13 § 3984. Ancillary formal proceedings.

14 § 3985. Ancillary summary proceedings.

15 § 3986. Claims of nonresidents against domiciliary insurers.

16 § 3987. Claims of residents against insurers of reciprocal
17 states.

18 § 3988. Execution proceedings.

19 § 3989. Interstate priorities.

20 § 3990. Subordination of claims for lack of cooperation.

21 Chapter 41. Beneficial Societies

22 § 4101. Short title of chapter.

23 § 4102. Applicability of chapter.

24 § 4103. Limitation of benefits.

25 § 4104. Selection of directors.

26 § 4105. Holding, management or agency corporations.

27 § 4106. Reserves.

28 § 4107. Investment of surplus.

29 § 4108. Annual statements.

30 § 4109. Examinations.

1 § 4110. Filing and approval of documents.
2 § 4111. Qualifications of solicitors and agents.
3 § 4112. Inclusion of certain documents in policy.
4 § 4113. Criminal penalties.
5 § 4114. Civil penalties.
6 § 4115. Transfer restrictions.
7 Chapter 43. (Reserved).
8 Chapter 45. Fraternal Benefit Societies
9 Subchapter A. General Provisions
10 § 4501. Short title of chapter.
11 § 4502. Definitions.
12 § 4503. Exemption from general insurance law.
13 § 4504. Taxation.
14 § 4505. Applicability of chapter.
15 § 4506. Regulations.
16 Subchapter B. Organization and Corporate Operations
17 § 4511. Initial organization.
18 § 4512. Filing of initial papers with department.
19 § 4513. Validity of preliminary certificate.
20 § 4514. Solicitation of members.
21 § 4515. Examination by department.
22 § 4516. Exemption.
23 § 4517. Approval of documents.
24 § 4518. General corporate powers of societies.
25 § 4519. Review of orders of department.
26 § 4520. Classes of membership.
27 § 4521. Prohibition of activity.
28 § 4522. Location of offices and meetings.
29 § 4523. Consolidations and mergers.
30 § 4524. Amendments to articles of incorporation, constitution

1 and bylaws.

2 § 4525. Institutions.

3 § 4526. Personal liability.

4 § 4527. Waiver.

5 § 4528. Conversion of society into mutual life insurance
6 company.

7 § 4529. Reinsurance.

8 Subchapter C. Benefits and Beneficiaries

9 § 4531. Benefits.

10 § 4532. Benefits on lives of children.

11 § 4533. Benefit options.

12 § 4534. Beneficiaries.

13 § 4535. Attachment of benefits.

14 § 4536. Contract for benefits.

15 Subchapter D. Certificates

16 § 4541. Approval of certificates.

17 § 4542. Criteria for review.

18 § 4543. Statement of title and premiums.

19 § 4544. Membership provisions.

20 § 4545. Default.

21 § 4546. Tables.

22 § 4547. Redetermination of premiums.

23 § 4548. Surplus.

24 § 4549. Loan value.

25 Subchapter E. Accident, Health and Disability Insurance

26 Contracts

27 § 4551. Regulation by department.

28 § 4552. Conditions for certificates.

29 § 4553. Standard contract provisions.

30 § 4554. Entire contract and changes.

- 1 § 4555. Time limits on certain defenses.
- 2 § 4556. Grace periods.
- 3 § 4557. Reinstatement.
- 4 § 4558. Claim procedure.
- 5 § 4559. Payment of claims.
- 6 § 4560. Legal actions.
- 7 § 4561. Change of beneficiary.
- 8 § 4562. Change of occupation.
- 9 § 4563. Conduct of insured.
- 10 § 4564. Other insurance.
- 11 § 4565. Relation of earnings to insurance.
- 12 § 4566. Cancellation.
- 13 § 4567. Conformity of provisions with state statutes.
- 14 § 4568. Inapplicable provisions.
- 15 § 4569. Composition and construction of certificates.
- 16 Subchapter F. Licensure
- 17 § 4571. Annual license for societies.
- 18 § 4572. Fees.
- 19 § 4573. Foreign or alien societies.
- 20 § 4574. Injunction, liquidation or receivership of domestic
- 21 societies.
- 22 § 4575. Suspension, revocation or refusal of license to
- 23 foreign or alien societies.
- 24 § 4576. Application for injunction.
- 25 § 4577. Licensure of fraternal insurance agents.
- 26 Subchapter G. Regulation of Operations
- 27 § 4581. Funds.
- 28 § 4582. Investments.
- 29 § 4583. Report of financial condition.
- 30 § 4584. Determination of reserves.

1 § 4585. Deferred payments as liability.

2 § 4586. Certification of valuation.

3 § 4587. Valuation standards.

4 § 4588. Excess reserves.

5 § 4589. Examination of societies.

6 § 4590. Misrepresentations.

7 § 4591. Discrimination and rebates.

8 § 4592. Penalties.

9 Chapter 47. Mutual Companies

10 § 4701. Definition.

11 § 4702. Licensing of foreign or alien companies.

12 § 4703. Investment of assets.

13 § 4704. Investments in real estate.

14 § 4705. Policy provisions.

15 § 4706. Countersigning and delivery of policies.

16 § 4707. Premiums.

17 § 4708. Reserves.

18 § 4709. Assessments.

19 § 4710. Loans to companies.

20 § 4711. Surplus.

21 PART IV. SPECIAL PROVISIONS RELATING TO

22 PARTICULAR CLASSES OF RISK

23 Chapter 51. General Provisions (Reserved)

24 Chapter 53. Life Insurance

25 Subchapter A. Investments and Corporate Operations

26 § 5301. General investment provisions.

27 § 5302. Permitted investments.

28 § 5303. Valuation.

29 § 5304. Additional investment authority for subsidiaries.

30 § 5305. Authorized holdings of real estate.

1 § 5306. Capital of foreign and alien stock companies.

2 § 5307. Separate accounts.

3 § 5308. Impairment of reserve liability.

4 § 5309. Penalty.

5 § 5310. Corporations operating under prior statutes.

6 § 5311. Dividends.

7 § 5312. (Reserved).

8 § 5313. Vouchers for payment.

9 Subchapter B. Conduct of Business

10 § 5321. Uniform policy provisions.

11 § 5322. Standard nonforfeiture law for life insurance.

12 § 5323. Annuity and endowment contracts.

13 § 5324. Standard nonforfeiture law for individual deferred
14 annuities.

15 § 5325. Notice of right to examine policies.

16 § 5326. Policy loan interest rates.

17 § 5327. Prohibited policy provisions.

18 § 5328. Medical examinations.

19 § 5329. Insurance on the life of another person.

20 § 5330. Statements by prospective insured.

21 § 5331. Insurance proceeds.

22 § 5332. (Reserved).

23 § 5333. (Reserved).

24 § 5334. Exchange, alteration and conversion of policies.

25 § 5335. Penalty for misrepresentation.

26 Subchapter C. Conversion of Stock Companies into Mutual
27 Companies

28 § 5341. Power to effect conversion.

29 § 5342. Approval of plan of conversion.

30 § 5343. Filing of plan.

1 § 5344. Rights of dissenters.

2 § 5345. Completion of conversion.

3 Subchapter D. Mutual Life Insurance Companies

4 § 5351. Foreign and alien companies.

5 § 5352. Guarantee capital subscriptions.

6 § 5353. Surplus or safety fund.

7 Subchapter E. Group Insurance

8 § 5361. Authorized types of group insurance.

9 § 5362. Coverage of spouse and children.

10 § 5363. Policies issued to employers or trustees.

11 § 5364. Policies issued to trustees of joint funds.

12 § 5365. Policies issued to creditors.

13 § 5366. Policies issued to employee organizations.

14 § 5367. Standard policy provisions.

15 § 5368. Notice of conversion privileges.

16 § 5369. Assignment of incidents of ownership.

17 § 5370. Existing policies.

18 § 5371. Basis of premiums.

19 § 5372. Voting power of employers.

20 § 5373. Insurance for public employees.

21 § 5374. Payment of public employee group premiums.

22 Subchapter F. Industrial Insurance

23 § 5381. Definition.

24 § 5382. Uniform policy provisions.

25 § 5383. Prohibited policy provisions.

26 § 5384. Notice of right to examine policies.

27 Subchapter G. Limited Life Insurance Companies

28 § 5391. Definition.

29 § 5392. Powers of limited life insurance companies.

30 § 5393. Reincorporation as limited life insurance company.

1 § 5394. Procedure for reincorporation.

2 § 5395. Authorization to do business.

3 § 5396. Reserves and capital stock requirements.

4 § 5397. Election of directors.

5 Chapter 55. Property and Casualty Insurance

6 Subchapter A. General Regulation

7 § 5501. Applicability of chapter.

8 § 5502. Financial requirements of foreign or alien companies.

9 § 5503. Investment of capital.

10 § 5504. Investments in financial institutions.

11 § 5505. Investment of surplus.

12 § 5506. Authorized holdings of real estate.

13 § 5507. Dividends.

14 § 5508. Reduction and withdrawal of capital stock.

15 § 5509. Procedure when capital impaired.

16 § 5510. Resident agents for foreign or alien insurance
17 entities.

18 § 5511. Insurability of downhill ski operators against punitive
19 damages.

20 Subchapter B. Workmen's Compensation Insurance

21 § 5521. Policy provisions.

22 § 5522. Actions for premiums.

23 § 5523. Rating plans.

24 § 5524. Annual report of premiums and loss experience.

25 § 5525. Powers of department.

26 Subchapter C. Employers' Mutual Liability Insurance
27 Associations

28 § 5531. Definitions.

29 § 5532. Examination of premises and books.

30 § 5533. Rules and regulations.

- 1 § 5534. Premiums.
- 2 § 5535. Division of subscribers into groups.
- 3 § 5536. Powers of department.
- 4 § 5537. Dividends.
- 5 § 5538. Surplus.
- 6 § 5539. Contingent mutual liability of subscribers.
- 7 § 5540. Assessments.
- 8 § 5541. Withdrawal of subscribers.

9 Subchapter D. Arson Reporting Immunity

- 10 § 5551. Short title of subchapter.
- 11 § 5552. Definitions.
- 12 § 5553. Disclosure of information.
- 13 § 5554. Immunity.
- 14 § 5555. Evidence.
- 15 § 5556. Penalty.
- 16 § 5557. Construction of subchapter.
- 17 § 5558. Regulations.

18 Subchapter E. Anti-Arson Applications

- 19 § 5561. Short title of subchapter.
- 20 § 5562. Purpose of subchapter.
- 21 § 5563. Definitions.
- 22 § 5564. Applicability of subchapter.
- 23 § 5565. Form of anti-arson applications.
- 24 § 5566. Insurability.
- 25 § 5567. Requirement and effect of anti-arson applications.
- 26 § 5568. Alternative anti-arson applications.
- 27 § 5569. Termination of insurance policies or contracts.
- 28 § 5570. Penalties.
- 29 § 5570.1. Regulations.
- 30 § 5571. Advisory board.

1 Subchapter F. Notice of Premium Increases, Cancellations
2 and Nonrenewals

3 § 5575.1. Notice of premium increases.

4 § 5575.2. Grounds for cancellation.

5 § 5575.3. Notice of midterm cancellations and nonrenewals.

6 § 5575.4. Return of unearned premium amounts.

7 § 5575.5. Extended reporting endorsement.

8 § 5575.6. Policy form filings.

9 § 5575.7. Applicability.

10 § 5575.8. Penalties.

11 § 5575.9. Rulemaking.

12 Subchapter G. Miscellaneous Provisions

13 § 5581. Companies providing boiler insurance.

14 § 5582. Boiler insurance in cities of the first class.

15 § 5583. Insurance consultation services exemption.

16 Chapter 57. Pennsylvania Fair Plan

17 Subchapter A. General Provisions

18 § 5701. Short title of chapter.

19 § 5702. Purposes of chapter.

20 § 5703. Definitions.

21 Subchapter B. Structure of Fair Plan

22 § 5711. Industry placement facility.

23 § 5712. Fair plan.

24 § 5713. Distribution of risks.

25 § 5714. Uninsurable risks.

26 § 5715. Regulation by department.

27 § 5716. Annual and other statements.

28 § 5717. Privileged communications.

29 § 5718. Review.

30 Subchapter C. Pennsylvania Civil Disorder Authority

- 1 § 5721. Formation of authority.
- 2 § 5722. Board of directors.
- 3 § 5723. Powers of authority.
- 4 § 5724. Civil Disorder Authority Fund.
- 5 § 5725. Reimbursement payments to Federal reinsurance facility.
- 6 § 5726. Bonds of authority.
- 7 § 5727. Remedies of bondholder.

8 Subchapter D. Basic Property Insurance Assessment

- 9 § 5731. Levy and amount of assessment.
- 10 § 5732. Payments to Pennsylvania Civil Disorder Authority.
- 11 § 5733. Reports and statements.
- 12 § 5734. Duration of assessment.

13 Chapter 59. Fire and Marine Insurance

14 Subchapter A. Insurers Generally

- 15 § 5901. Resident agents for foreign or alien insurance
16 entities.
- 17 § 5902. Examination of foreign or alien entities by
18 department.
- 19 § 5903. Annual returns.
- 20 § 5904. Penalties and revocation of license.
- 21 § 5905. Reports of fires to Bureau of Fire Protection.
- 22 § 5906. Provisions of fire insurance policies.
- 23 § 5907. Penalties for issuing other than standard fire
24 policies.

25 Subchapter B. Stock Companies

- 26 § 5921. Capital of foreign or alien companies.
- 27 § 5922. Authorized investment of capital.
- 28 § 5923. Investment of surplus.
- 29 § 5924. Treasury stock.
- 30 § 5925. Estimation of surplus for dividends.

1 § 5926. Authorized holdings of real estate.

2 § 5927. Procedure when capital impaired.

3 Subchapter C. Mutual Companies

4 § 5931. Licensing of foreign mutual companies.

5 § 5932. Rechartering of companies.

6 § 5933. Cash premium policies.

7 § 5934. Cash premiums.

8 § 5935. Surplus.

9 Chapter 61. Eligibility for Motor Vehicle Insurance

10 § 6101. Definitions.

11 § 6102. General provisions.

12 § 6103. Insufficient grounds for failure to insure.

13 § 6104. Grounds for cancellation.

14 § 6105. Premium increase or surcharge.

15 § 6106. Notice of refusal.

16 § 6107. Exclusions.

17 § 6108. Information regarding refusal to insure.

18 § 6109. Request for review.

19 § 6110. Review procedure.

20 § 6111. Powers of department.

21 § 6112. Penalty.

22 Chapter 63. Motor Vehicle Financial Responsibility

23 Subchapter A. General Provisions

24 § 6301. Short title of chapter.

25 § 6302. Definitions.

26 § 6303. Applicability of chapter.

27 § 6304. Administration of chapter.

28 Subchapter B. Motor Vehicle Liability Insurance

29 First Party Benefits

30 § 6311. Required benefits.

1 § 6312. Availability of benefits.
2 § 6312.1. Limitation on exclusion of benefits.
3 § 6313. Source of benefits.
4 § 6314. Ineligible claimants.
5 § 6315. Availability of adequate limits.
6 § 6316. Payment of benefits.
7 § 6317. Stacking of benefits.
8 § 6318. Exclusion from benefits.
9 § 6318.1. Certain nonexcludable conditions.
10 § 6319. Coordination of benefits.
11 § 6320. Subrogation.
12 § 6321. Statute of limitations.
13 § 6322. Preclusion of recovering required benefits.
14 § 6323. Reporting requirements.
15 Subchapter C. Uninsured and Underinsured Motorist Coverage
16 § 6331. Scope and amount of coverage.
17 § 6332. Limits of coverage.
18 § 6333. Priority of recovery.
19 § 6334. Request for lower or higher limits of coverage.
20 § 6335. Workmen's compensation benefits.
21 § 6336. Coverage in excess of required amounts.
22 Subchapter D. Assigned Risk Plan
23 § 6341. Establishment of assigned risk plan.
24 § 6342. Scope of assigned risk plan.
25 § 6343. Rates.
26 § 6344. Termination of policies.
27 Subchapter E. Assigned Claims Plan
28 § 6351. Organization of assigned claims plan.
29 § 6352. Eligible claimants.
30 § 6353. Benefits available.

1 § 6354. Additional coverage.

2 § 6355. Coordination of benefits.

3 § 6356. Subrogation.

4 § 6357. Statute of limitations.

5 Subchapter F. (Reserved).

6 Subchapter G. Nonpayment of Judgments

7 § 6371. Court reports on nonpayment of judgments.

8 § 6372. Suspension for nonpayment of judgments.

9 § 6373. Duration of suspension.

10 § 6374. Satisfaction of judgments.

11 § 6375. Installment payment of judgments.

12 Subchapter H. Proof of Financial Responsibility

13 § 6381. Notice of sanction for not evidencing financial

14 responsibility.

15 § 6382. Manner of providing proof of financial responsibility.

16 § 6383. Proof of financial responsibility before restoring

17 operating privilege or registration.

18 § 6384. Proof of financial responsibility following violation.

19 § 6385. Proof of financial responsibility following accident.

20 § 6386. Self-certification of financial responsibility.

21 § 6387. Self-insurance.

22 Subchapter I. Miscellaneous Provisions

23 § 6391. Notice of available benefits and limits.

24 § 6392. Availability of certain coverage.

25 § 6393. Premiums.

26 § 6394. Jurisdictional limit on judicial arbitration.

27 § 6395. Insurance fraud reporting immunity.

28 § 6396. Mental or physical examinations.

29 § 6397. Customary charges for treatment.

30 § 6398. Attorney fees and costs.

1 Chapter 65. Credit Insurance

2 § 6501. General provisions.

3 § 6502. Definitions.

4 § 6503. Forms.

5 § 6504. Amount of insurance.

6 § 6505. Term of insurance.

7 § 6506. Disclosure to debtors.

8 § 6507. Review of forms and premium rates.

9 § 6508. Premiums and refunds.

10 § 6509. Issuance of policies.

11 § 6510. Claims.

12 § 6511. Choice of insurer.

13 § 6512. Regulations and enforcement.

14 § 6513. Judicial review.

15 § 6514. Penalties.

16 Chapter 67. Title Insurance

17 Subchapter A. General Provisions

18 § 6701. Definitions.

19 § 6702. Applicability of chapter.

20 § 6703. Applicability of other provisions of title.

21 § 6704. Regulations.

22 Subchapter B. Business Operations

23 § 6711. Powers of title insurance companies.

24 § 6712. Corporate form.

25 § 6713. Title examination and records.

26 § 6714. Prohibition of guaranteeing mortgages.

27 § 6715. Loss of power to transact title insurance.

28 § 6716. Primary retained liability.

29 § 6717. Power to reinsure.

30 § 6718. Special reinsurance.

- 1 § 6719. Licensure of foreign or alien insurers.
- 2 § 6720. Resident agents for foreign or alien insurers.
- 3 § 6721. Regulation of agents.
- 4 § 6722. Commissions.
- 5 § 6723. Mergers and consolidations.
- 6 § 6724. Other corporate acquisitions.
- 7 § 6725. Change in corporate control.

8 Subchapter C. Investment and Reserves

- 9 § 6731. Financial requirements.
- 10 § 6732. Procedure when capital impaired.
- 11 § 6733. Unearned premium reserve.
- 12 § 6734. Amount of unearned premium reserve.
- 13 § 6735. Maintenance of unearned premium reserve.
- 14 § 6736. Use of unearned premium reserve.
- 15 § 6737. Reserves for unpaid losses and loss expenses.
- 16 § 6738. Investment of capital.
- 17 § 6739. Investment of surplus.
- 18 § 6740. Investment of unearned premium reserve.
- 19 § 6741. Other reserves.

20 Subchapter D. Rate Regulation

- 21 § 6751. Rate filing.
- 22 § 6752. Justification for rates.
- 23 § 6753. Making of rates.
- 24 § 6754. Disapproval of filings.
- 25 § 6755. Rating organizations.
- 26 § 6756. Deviations.
- 27 § 6757. Appeals by minority.
- 28 § 6758. Information to be furnished insureds.
- 29 § 6759. Hearings and appeals of insureds.
- 30 § 6760. Examination of rating organizations.

1 § 6761. Recording and reporting of loss and expense experience.

2 § 6762. False or misleading information.

3 Subchapter E. Penalties and Procedures

4 § 6771. Penalties.

5 § 6772. Hearing procedure.

6 Chapter 69. Health and Accident Insurance

7 Subchapter A. Preliminary Provisions

8 § 6901. Construction of "insured."

9 § 6902. (Reserved).

10 § 6903. Applicability.

11 § 6904. Nonconforming policies.

12 § 6905. Penalties.

13 Subchapter B. General Requirements

14 § 6911. Approval of policies by department.

15 § 6912. Formal requirements.

16 § 6913. Mandatory policy provisions.

17 § 6914. Optional policy provisions.

18 § 6915. Relationship of policy provisions.

19 § 6916. Coverage of certain services.

20 § 6917. Coverage of newborn children.

21 § 6918. Licensed medical treatment.

22 § 6919. Services of nurse midwives.

23 § 6919.1. Insurance payments to registered nurses.

24 § 6920. Age limits.

25 § 6921. Cost-of-living increases.

26 § 6922. Applications for insurance.

27 § 6923. Preservation of rights of insurer.

28 § 6924. Discrimination.

29 § 6925. Preferred provider organizations.

30 Subchapter C. Group, Blanket and Franchise Policies

- 1 § 6931. Definitions.
- 2 § 6932. Required provisions for group health and accident
- 3 policies.
- 4 § 6933. Provision for direct payment.
- 5 § 6934. Conversion privileges.
- 6 § 6935. Blanket health and accident insurance.
- 7 § 6936. Companies authorized to write policies.

8 Subchapter D. Minimum Standards for Individual Policies

- 9 § 6941. Short title of subchapter.
- 10 § 6941.1. Definitions.
- 11 § 6942. Standards for policy provisions.
- 12 § 6943. Minimum standards for benefits.
- 13 § 6944. Outline of coverage.
- 14 § 6945. Preexisting conditions.
- 15 § 6946. Procedure regarding regulations.

16 Subchapter E. Medicare Supplement Insurance

- 17 § 6951. Short title of subchapter.
- 18 § 6952. Definitions.
- 19 § 6953. Definitions in Medicare supplement policies.
- 20 § 6954. Prohibited policy provisions.
- 21 § 6955. Minimum benefit standards.
- 22 § 6956. Loss ratio standards.
- 23 § 6957. Required disclosures.
- 24 § 6958. Requirements for replacement.
- 25 § 6959. Regulations.
- 26 § 6960. Applicability of mandated coverages.
- 27 § 6961. Applicability of subchapter.

28 Subchapter F. Benefits for Alcohol Abuse and Dependency

- 29 § 6971. Definitions.
- 30 § 6972. Mandated policy coverage and options.

- 1 § 6973. Inpatient detoxification.
- 2 § 6974. Nonhospital residential alcohol services.
- 3 § 6975. Outpatient alcohol services.
- 4 § 6976. Deductibles, copayment plans and prospective pay.
- 5 § 6977. Regulations.
- 6 § 6978. Preservation of certain benefits.
- 7 § 6979. Applicability and expiration of subchapter.

8 Chapter 71. Health Care Services Malpractice

9 Subchapter A. General Provisions

- 10 § 7101. Short title of chapter.
- 11 § 7102. Purpose of chapter.
- 12 § 7103. Definitions.
- 13 § 7104. Exemptions.
- 14 § 7105. Liability of nonqualifying health care providers.
- 15 § 7106. Informed consent.
- 16 § 7107. Official immunity.
- 17 § 7108. Cancellation of insurance policies.

18 Subchapter B. Arbitration Panels for Health Care

- 19 § 7111. Administrator for arbitration panels.
- 20 § 7112. Powers and duties of administrator.
- 21 § 7113. Arbitration panels for health care.

22 Subchapter C. Procedure in Malpractice Cases

- 23 § 7121. Jurisdiction of arbitration panel.
- 24 § 7122. Procedure for filing claims.
- 25 § 7123. Hearings and determinations.
- 26 § 7124. Transfer to court.
- 27 § 7125. Service of papers.
- 28 § 7126. Applicability of other law.
- 29 § 7127. Appointment of expert witnesses.
- 30 § 7128. Powers and duties of panel.

- 1 § 7129. Notice of award.
- 2 § 7130. Judicial review.
- 3 § 7131. Judgments.
- 4 § 7132. Advance payments.
- 5 § 7133. Submission of findings to licensing boards.
- 6 § 7134. Reduction of award by other benefits.
- 7 § 7135. Award of punitive damages.
- 8 § 7136. Attorney fees.
- 9 § 7137. Limitation on liability of provider.

10 Subchapter D. Medical Professional Liability Catastrophe
11 Loss Fund

- 12 § 7141. Professional liability insurance.
- 13 § 7142. Medical Professional Liability Catastrophe Loss Fund.
- 14 § 7143. Administration of fund.
- 15 § 7144. Liability of excess carriers.
- 16 § 7145. Licensure penalties.

17 Subchapter E. Availability of Insurance

- 18 § 7151. Plan to assure availability of insurance.
- 19 § 7152. Participation in plan.
- 20 § 7153. Plan operation, rates and deficits.
- 21 § 7154. Authority of department.
- 22 § 7155. Financing and payment of premiums.
- 23 § 7156. Selection of insurer to administer plan.
- 24 § 7157. Approval of policies on claims made basis.
- 25 § 7158. Annual reports to department.
- 26 § 7159. Studies and recommendations.
- 27 § 7160. Professional corporations, professional associations
28 and partnerships.

29 Subchapter F. Disciplinary Proceedings

- 30 § 7171. Investigations.

- 1 § 7172. Hearings.
- 2 § 7173. Decisions of hearing examiners.
- 3 § 7174. Evidence.
- 4 § 7175. Review and decision by licensing boards.
- 5 § 7176. Disposition of certain moneys.

6 Subchapter G. Miscellaneous Provisions

- 7 § 7181. Existing contract provisions.
- 8 § 7182. Joint committee.
- 9 § 7183. Applicability of chapter.

10 Chapter 73. Health Maintenance Organizations

11 Subchapter A. General Provisions

- 12 § 7301. Short title of chapter.
- 13 § 7302. Purpose of chapter.
- 14 § 7303. Definitions.
- 15 § 7304. Applicability of chapter.
- 16 § 7305. Applicability of other law.
- 17 § 7306. Exemption from taxation.
- 18 § 7307. Regulations.

19 Subchapter B. Operation and Regulation

- 20 § 7321. Scope of authorization.
- 21 § 7322. Certificates of authority.
- 22 § 7323. Foreign health maintenance organizations.
- 23 § 7324. Filing of rates and contract forms.
- 24 § 7325. Reports and examinations.
- 25 § 7326. Contracts.
- 26 § 7327. Services performed outside service area.
- 27 § 7328. Additional requirements.
- 28 § 7329. Penalties.

29 Chapter 74. Continuing Care Providers

- 30 § 7401. Short title of chapter.

1 § 7402. Purpose of chapter.
2 § 7403. Definitions.
3 § 7404. Certificates of authority.
4 § 7405. Revocation of certificate of authority.
5 § 7406. Sales or transfers of ownership.
6 § 7407. Disclosure statements.
7 § 7408. False information.
8 § 7409. Reserves.
9 § 7410. Reserve fund escrow.
10 § 7411. Liens on behalf of residents.
11 § 7412. Entrance fee escrow.
12 § 7413. Cross-collateralization.
13 § 7414. Residents' agreements.
14 § 7415. Organizational rights of residents.
15 § 7416. Rehabilitation or liquidation.
16 § 7417. Civil liability.
17 § 7418. Investigations and compulsory process.
18 § 7419. Audits.
19 § 7420. Consumers' guides.
20 § 7421. Civil relief from violations.
21 § 7422. Criminal penalties.
22 § 7422.1. Regulations.
23 § 7423. Fees and expenses.
24 § 7424. Compliance period.
25 Chapter 75. Hospital Plan Corporations
26 Subchapter A. Preliminary Provisions
27 § 7501. Definitions.
28 § 7502. (Reserved).
29 § 7503. Penalties.
30 Subchapter B. Certification

1 § 7511. Certification of hospital plan corporations.

2 § 7512. Exemptions for hospital plan corporations.

3 § 7513. Uncertified plans.

4 Subchapter C. Regulation

5 § 7521. Eligible hospitals.

6 § 7522. Action as agent under Federal and other programs.

7 § 7523. Investment of funds.

8 § 7524. Rates and contracts.

9 § 7525. Reports and examinations.

10 § 7526. Solicitors and agents.

11 § 7527. Dissolution or liquidation.

12 Chapter 77. Professional Health Services Plan Corporations

13 Subchapter A. Preliminary Provisions

14 § 7701. Applicability of chapter.

15 § 7702. Definitions.

16 § 7703. Purpose of chapter.

17 § 7704. Penalties.

18 § 7705. Enforcement.

19 Subchapter B. Certification

20 § 7711. Certification of professional health service
21 corporations.

22 § 7712. Initial reserves.

23 § 7713. Incorporators.

24 § 7714. Exemptions for professional health service
25 corporations.

26 § 7715. Uncertificated plans.

27 Subchapter C. Regulation Generally

28 § 7721. Required reserves.

29 § 7722. Scope of service.

30 § 7723. Action as agent under Federal and other programs.

1 § 7724. Health service doctors.
2 § 7725. Eligibility determination.
3 § 7726. Authorized contract provisions.
4 § 7727. Subscriptions provided by government agencies.
5 § 7728. Board of directors.
6 § 7729. Rates and contracts.
7 § 7730. Investment of funds.
8 § 7731. Reports and examinations.
9 § 7732. Regulation by Department of Health.
10 § 7733. Dental service agents.
11 § 7734. Dissolution or liquidation.
12 § 7735. Ancillary health services.
13 Chapter 79. Surety Companies
14 § 7901. Corporate sureties.
15 § 7902. Conditions for doing business.
16 § 7903. Certificates of authority.
17 § 7904. Annual statements.
18 § 7905. Power to execute obligations.
19 § 7906. Liability of companies.
20 § 7907. Guaranteed arrest bond certificates.
21 Chapter 81. Property and Casualty Insurance Guaranty
22 Association
23 Subchapter A. General Provisions
24 § 8101. Short title of chapter.
25 § 8102. Purposes of chapter.
26 § 8103. Definitions.
27 § 8104. Immunity.
28 § 8105. References to association in advertising.
29 Subchapter B. Pennsylvania Insurance Guaranty
30 Association

- 1 § 8111. Pennsylvania Insurance Guaranty Association.
- 2 § 8112. Plan of operation.
- 3 § 8113. Examination of association.
- 4 § 8114. Annual and other statements.
- 5 § 8115. Limitation on taxability of association.

6 Subchapter C. Assessments

- 7 § 8121. Assessments.
- 8 § 8122. Refunds.
- 9 § 8123. Recognition of assessments in rates.
- 10 § 8124. Assessments of other states.

11 Subchapter D. Powers and Duties of Department

- 12 § 8131. Powers and duties of department.

13 Subchapter E. Recovery Procedure

- 14 § 8141. Notice of claims.
- 15 § 8142. Effect of paid claims.
- 16 § 8143. Duplication of recovery.
- 17 § 8144. Proceedings involving insolvent insurers.

18 Chapter 83. Life and Health Insurance Guaranty Association

19 Subchapter A. General Provisions

- 20 § 8301. Short title of chapter.
- 21 § 8302. Purpose of chapter.
- 22 § 8303. Applicability.
- 23 § 8304. Definitions.
- 24 § 8305. Immunity.
- 25 § 8306. Prohibited advertisement.

26 Subchapter B. Organization of Association

- 27 § 8311. Pennsylvania Life and Health Insurance Guaranty
28 Association.
- 29 § 8312. Board of directors.
- 30 § 8313. Powers and duties of association.

1 § 8314. Plan of operation.

2 § 8315. Tax exemption.

3 Subchapter C. Assessments

4 § 8321. Assessments.

5 § 8322. Tax credits for assessments paid.

6 § 8323. Assessments of other states.

7 § 8324. Relation to Pennsylvania Insurance Guaranty
8 Association.

9 Subchapter D. Powers and Duties of Department

10 § 8331. Powers and duties of department.

11 Subchapter E. Impaired and Insolvent Insurers

12 § 8341. Prevention of insolvencies.

13 § 8342. Affairs of impaired and insolvent insurers.

14 § 8343. Proceedings involving insolvent insurers.

15 § 8344. Timely filing of claims.

16 § 8345. Duplication of recovery.

17 Chapter 85. Insurance Premium Finance Companies

18 Subchapter A. General Provisions

19 § 8501. Short title of chapter.

20 § 8502. Definitions.

21 Subchapter B. Licensure

22 § 8511. Licensure requirement.

23 § 8512. Issuance and renewal of license.

24 § 8513. Revocation or suspension of license.

25 Subchapter C. Regulation

26 § 8521. Books and records of licensee.

27 § 8522. Form of agreement.

28 § 8523. Limitations on interest and other charges.

29 § 8524. Delinquency and cancellation charges.

30 § 8525. Cancellation of insurance contract upon default.

- 1 § 8526. Return of premiums.
- 2 § 8527. Secured transactions.
- 3 § 8528. Penalties for violations.
- 4 § 8529. Regulations.

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

7 Section 1. Title 40 and Chapter 17 of Title 75 of the
8 Pennsylvania Consolidated Statutes are repealed.

9 Section 2. Title 40 is amended by adding parts to read:

10 TITLE 40

11 INSURANCE

12 Part

- 13 I. Preliminary Provisions
- 14 II. Regulation of Insurers and Related Persons Generally
- 15 III. Organization of Insurance Entities
- 16 IV. Special Provisions Relating to Particular Classes of Risk

17 PART I

18 PRELIMINARY PROVISIONS

19 Chapter

- 20 1. General Provisions

21 CHAPTER 1

22 GENERAL PROVISIONS

23 Sec.

- 24 101. Short title of title.
- 25 102. Definitions.
- 26 103. Purpose and construction of title.
- 27 § 101. Short title of title.

28 This title shall be known and may be cited as the Insurance
29 Code.

- 30 § 102. Definitions.

1 Subject to additional definitions contained in subsequent
2 provisions of this title which are applicable to specific
3 provisions of this title, the following words and phrases when
4 used in this title shall have the meanings given to them in this
5 section unless the context clearly indicates otherwise:

6 "Alien." Incorporated or organized under the law of another
7 country.

8 "Association." An individual, partnership or association of
9 individuals authorized to engage in the business of insurance in
10 this Commonwealth as insurers on the Lloyds plan.

11 "Authorized." Having authority under this title to engage in
12 this Commonwealth in the class or classes of insurance specified
13 in the authorization.

14 "Certificate of authority." An instrument in writing issued
15 by the department authorizing an insurer or proposed insurer to
16 engage in the business of insurance, or some specified class or
17 classes thereof, in this Commonwealth.

18 "Commissioner." The Insurance Commissioner of the
19 Commonwealth.

20 "Company." An insurance corporation or title insurance
21 corporation whether incorporated under the law of this
22 Commonwealth, or of any other state, or under the law of any
23 foreign country.

24 "Corporation not-for-profit." A corporation not-for-profit
25 as defined in Title 15 (relating to corporations and
26 unincorporated associations).

27 "Department." The Insurance Department of the Commonwealth.

28 "Domestic." Incorporated or organized under the law of this
29 Commonwealth.

30 "Entity." A company, association or exchange.

1 "Exchange." An individual, partnership or corporation
2 authorized by the law of this Commonwealth to exchange inter-
3 insurance or reciprocal insurance contracts with other similarly
4 authorized individuals, partnerships or corporations.

5 "Foreign." Incorporated or organized under the law of
6 another state.

7 "Regulation." A regulation as defined in 45 Pa.C.S. § 501
8 (relating to definitions).

9 § 103. Purpose and construction of title.

10 (a) Purpose.--It is the purpose of this title to restate,
11 without substantive change, the law replaced by this title on
12 its date of enactment.

13 (b) Construction.--Subject to 1 Pa.C.S. § 1952 (relating to
14 effect of separate amendments on code provisions enacted by same
15 General Assembly), the provisions of this title shall be
16 construed to reenact, without substantive change, the
17 corresponding provisions of statutes in force as of the date of
18 enactment of this title. Such a construction shall not apply to
19 subsequent statutes amending this title.

20 PART II

21 REGULATION OF INSURERS AND RELATED

22 PERSONS GENERALLY

23 Chapter

24 3. General Provisions

25 5. Insurance Department

26 7. Reserve Liability

27 9. Deposits of Securities to do Interstate Business

28 11. Agents and Brokers

29 13. Unlicensed Insurers

30 15. Unfair Insurance Practices

- 1 17. Reporting Requirements
- 2 19. Insurance Rates
- 3 21. Reciprocal and Inter-Insurance Exchanges
- 4 23. Lloyds Associations

5 CHAPTER 3

6 GENERAL PROVISIONS

7 Sec.

8 301. Definitions (Reserved).

9 302. Applicability of part.

10 303. Compliance with part.

11 § 301. Definitions (Reserved).

12 § 302. Applicability of part.

13 (a) General rule.--Except as provided in Part IV (relating
14 to special provisions relating to particular classes of risk),
15 the provisions of this part shall apply to all entities
16 transacting any class of insurance business, to rating
17 organizations and to all insurance agents and insurance brokers.

18 (b) Fraternal benefit societies.--Except for sections 514
19 (relating to records and report of department), 709 (relating to
20 valuation of securities) and 1107 (relating to penalty for
21 soliciting for nonexistent company) and Chapter 39 (relating to
22 suspension of business and dissolution), this part does not
23 apply to fraternal benefit societies, orders or associations
24 conducted not for profit, and having a lodge system with
25 ritualistic form of work and representative form of government,
26 or to beneficial or relief associations conducted not for profit
27 formed by churches, societies, classes, firms or corporations,
28 with or without ritualistic form of work, the privilege of
29 membership in which is confined to the members of such churches,
30 societies or classes, and to members and employees of such firms

1 or corporations.

2 (c) Mutual fire insurance companies.--Except for sections
3 511 (relating to examination of companies), 512 (relating to
4 powers with regard to examinations) and 514 and Chapter 39, this
5 part does not apply to incorporated domestic mutual fire
6 insurance companies with unlimited or limited liability to
7 assessment for payment of expenses and of losses and loss
8 adjustments, set forth in the policy contract or in the
9 promissory notes attached thereto.

10 § 303. Compliance with part.

11 (a) General rule.--Except as otherwise expressly provided in
12 this title, a person shall not negotiate, solicit or execute any
13 contract of insurance in this Commonwealth, receive and transmit
14 any offer of insurance, receive or deliver a policy of insurance
15 or aid in the transaction of the business of insurance without
16 fully complying with this part.

17 (b) Cross references.--See sections 7305 (relating to
18 applicability of other law), 7512 (relating to exemptions for
19 hospital plan corporations) and 7714 (relating to exemptions for
20 professional health service corporations).

21 CHAPTER 5

22 INSURANCE DEPARTMENT

23 Sec.

24 501. Establishment of department.

25 502. Appointment of commissioner.

26 503. Restrictions on officers and employees.

27 504. Seal.

28 505. Certified documents and copies.

29 506. Certificates of authority to do business.

30 507. Penalty for acting without authority.

- 1 508. Fees.
- 2 509. Assessments for expenses of Committee on Valuation of
3 Securities.
- 4 510. Additional restrictions of other states.
- 5 511. Examination of companies.
- 6 512. Powers with regard to examinations.
- 7 513. Collection of taxes, fines and penalties.
- 8 514. Records and report of department.
- 9 515. Administrative procedure and judicial review.

10 § 501. Establishment of department.

11 The Insurance Department shall be the executive agency
12 charged with the execution of the laws relating to insurance.

13 § 502. Appointment of commissioner.

14 The Governor, with the advice and consent of the Senate,
15 shall appoint an Insurance Commissioner, who shall hold office
16 for the term of four years and until his successor is appointed
17 and qualified.

18 § 503. Restrictions on officers and employees.

19 An officer or employee of the department shall not be
20 employed by or be pecuniarily interested in any insurance entity
21 or in any insurance business, other than as a policyholder.

22 § 504. Seal.

23 The department shall adopt and renew, from time to time, a
24 seal of office, an impression of which shall be filed in the
25 office of the Secretary of the Commonwealth.

26 § 505. Certified documents and copies.

27 (a) Certificates of authority.--The department shall
28 furnish, under seal of the department, when required for
29 evidence in court, certificates relative to the authority of an
30 entity, agent or broker to transact business in this

1 Commonwealth upon any particular date.

2 (b) Certified copies of documents.--The department shall, at
3 the request of any person and on payment of the fee, give
4 certified copies of any charter, statement or record filed in
5 its office, whenever it is deemed by the department not
6 prejudicial to the public interest.

7 § 506. Certificates of authority to do business.

8 (a) General rule.--A foreign or alien insurance entity shall
9 not do an insurance business in this Commonwealth without first
10 having obtained a certificate of authority from the department
11 authorizing it to do such business. Before granting the
12 certificate of authority to an insurance entity, the department
13 shall be satisfied, by such examination as it may make or by
14 such evidence as it may require, that the entity conforms to the
15 requirements of this title. After such issue, the holder shall
16 continue to comply with the requirements of this title.

17 (b) Renewal.--The department may renew the certificate of
18 authority of any mutual assessment life or accident association,
19 which is now lawfully doing business in this Commonwealth,
20 beginning on April 1 of each year, and continuing in force for
21 one year unless sooner revoked by the department or surrendered
22 by the licensee. Any certificates issued after April 1 shall
23 expire on March 31 succeeding.

24 (c) Doing insurance business.--Any of the following acts
25 constitute the doing of an insurance business in this
26 Commonwealth, whether effected by mail or otherwise:

27 (1) The issuance or delivery of contracts of insurance
28 to persons resident in this Commonwealth.

29 (2) The solicitation of applications for such contracts
30 or other negotiations preliminary to execution of such

1 contracts.

2 (3) The collection of premiums, membership fees,
3 assessments or other consideration for such contracts.

4 (4) The transaction of matters subsequent to execution
5 of such contracts and arising out of them.

6 (d) Action for injunction.--Whenever the department
7 believes, from evidence satisfactory to it, that any insurance
8 entity is doing an insurance business in this Commonwealth in
9 violation of any provision of this title or any order or
10 requirement of the department issued or promulgated pursuant to
11 authority expressly granted the department by law, or is about
12 to violate any such provision, order or requirement, the
13 department may, after approval by the Attorney General, bring an
14 action for an injunction. This remedy is in addition to any
15 other remedy provided by law.

16 (e) Service of process on foreign or alien entities.--A
17 foreign or alien entity shall be subject to service of process
18 as provided by 42 Pa.C.S. Ch. 53 (relating to bases of
19 jurisdiction and interstate and international procedure).

20 (f) (Reserved).

21 (g) Personal service.--Service of process in any action or
22 proceeding under 42 Pa.C.S. § 5322 (relating to bases of
23 personal jurisdiction over persons outside this Commonwealth)
24 shall be valid if served upon any person in this Commonwealth
25 who on behalf of the entity is soliciting insurance; making,
26 issuing or delivering any contract of insurance; or collecting
27 or receiving any premium, membership fee, assessment or other
28 consideration for insurance.

29 (h) Bond.--Before any foreign or alien entity files any
30 pleading in any action or proceeding instituted against it under

1 42 Pa.C.S. § 5322, the entity shall, if the court requires,
2 deposit with the court cash or securities or file with the court
3 a bond with good and sufficient sureties approved by the court.
4 The deposit or bond shall be in the amount approved by the
5 court, taking into account all relevant circumstances, including
6 the financial condition of the entity, as sufficient to secure
7 the payment of any final judgment which may be rendered in such
8 action or proceeding.

9 (i) (Reserved).

10 (j) (Reserved).

11 (k) Exclusions.--This section does not apply to the
12 following:

13 (1) Transactions regulated by Chapter 13 (relating to
14 unlicensed insurers).

15 (2) Life insurance or annuities provided to educational
16 or scientific institutions organized and operated without
17 profit to any private shareholder or individual for the
18 benefit of the institutions and individuals engaged in the
19 service of the institutions.

20 (3) Contracts of reinsurance.

21 (4) Transactions in this Commonwealth which involve a
22 policy lawfully solicited, written and delivered outside this
23 Commonwealth covering only subjects of insurance not
24 resident, located or expressly to be performed in this
25 Commonwealth at the time of issuance of the policy and which
26 are subsequent to the issuance of the policy.

27 (5) Transactions in this Commonwealth, except group
28 credit life or group credit accident and health insurance
29 transactions, involving group or blanket insurance policies
30 or group annuity contracts, where the group policy or

1 contract is issued and delivered pursuant to the group or
2 blanket insurance or group annuity laws of a jurisdiction in
3 which the insurer is authorized to do an insurance business
4 and in which the policyholder is domiciled or has its
5 principal place of business or otherwise has a situs.

6 (6) Transactions in this Commonwealth, except group
7 credit life or group credit accident and health insurance
8 transactions, involving a group or blanket insurance policy
9 or group annuity contract not exempt under paragraph (5), if:

10 (i) they involve a group which conforms to one of
11 the definitions of eligibility for group coverage
12 contained in this title; and

13 (ii) the group policy or contract is lawfully issued
14 outside this Commonwealth in a jurisdiction in which the
15 insurer is authorized to do insurance business.

16 The insurer claiming exemption under this paragraph has the
17 burden of demonstrating compliance with the conditions of
18 this paragraph.

19 (7) Any industrial insured, insurance company or
20 underwriter issuing contracts of insurance to industrial
21 insureds or any contract of insurance issued to an industrial
22 insured. This paragraph does not exempt any industrial
23 insured from Chapter 13. As used in this paragraph the term
24 "industrial insured" means an insured who procures the
25 insurance of any risk by use of the services of a full-time
26 employee acting as an insurance manager or buyer or the
27 services of a regularly and continuously retained qualified
28 insurance consultant, whose aggregate annual premiums for
29 insurance on all risks total at least \$25,000 and who has at
30 least 25 full-time employees.

1 (8) Transactions in this Commonwealth involving a policy
2 of insurance issued prior to July 31, 1968.

3 (9) Insurance on the property and operation of railroads
4 or aircraft engaged in interstate or foreign commerce.

5 (10) Insurance on vessels, crafts or hulls, cargoes,
6 marine builder's risks, marine protection and indemnity,
7 lessees' and charterers' liability, or other risks, including
8 strikes and war risks commonly insured under ocean or wet
9 marine forms of policies.

10 § 507. Penalty for acting without authority.

11 (a) Entities.--Any insurance entity doing an insurance
12 business in this Commonwealth without a certificate of authority
13 as required by this chapter shall pay a civil penalty of not
14 less than \$1,000 nor more than \$10,000 for each offense, to be
15 recovered on behalf of the Commonwealth.

16 (b) Persons.--Any person negotiating or soliciting any
17 policy of insurance or suretyship in this Commonwealth,
18 collecting or forwarding premiums or delivering policies for any
19 entity to which a certificate of authority has not been granted
20 shall be deemed to be the agent of the entity in any legal
21 proceedings brought against it. The person shall pay a civil
22 penalty of not less than \$1,000 nor more than \$10,000 for each
23 offense, to be recovered on behalf of the Commonwealth.

24 (c) Exceeding authority.--Any insurance entity doing an
25 insurance business in this Commonwealth, which exceeds the
26 powers granted under a certificate of authority, shall pay to
27 the Commonwealth a sum of not more than \$500 for each policy
28 issued in violation of this chapter.

29 (d) Hearing and notice.--Before the department takes any
30 action under this section, it shall give written notice to the

1 entity or person accused of violating the law, stating the
2 nature of the alleged violation and fixing a time and place, at
3 least ten days thereafter, when a hearing of the matter shall be
4 held. After the hearing or the failure of the respondent to
5 appear at the hearing, the department shall impose such penalty
6 as it deems advisable.

7 § 508. Fees.

8 (a) General rule.--The department shall charge and collect
9 fees as provided under this title or under section 612-A of the
10 act of April 9, 1929 (P.L.177, No.175), known as The
11 Administrative Code of 1929. All fees collected shall be paid
12 daily into the State Treasury.

13 (b) Biennial licenses.--The department may issue licenses
14 for a period of two years at two times the annual fees
15 established by law. One-half of any fee collected shall be
16 refunded or be credited to the account of the payor entitled to
17 the refund if the license is canceled within 12 months of its
18 inception date or within 12 months of its effective date as
19 certified to the department by insurance entities authorized by
20 law to transact business in this Commonwealth.

21 § 509. Assessments for expenses of Committee on Valuation of
22 Securities.

23 (a) Authority of department.--The department may contract
24 with the Committee on Valuation of Securities of the National
25 Association of Insurance Commissioners to make available to the
26 department the analyses, reports and information developed by
27 the committee with respect to the investigation, analyses and
28 valuation of securities and the determination of the
29 amortizability of bonds owned by insurance companies. After
30 taking into consideration similar payments which may be made by

1 other states, the department may make payment therefor to the
2 committee to the extent authorized in this section, on account
3 of the expenses of the committee, from funds obtained through
4 assessments under this section.

5 (b) Information from committee.--The department shall
6 periodically obtain from the committee a verified budget
7 estimate of the receipts and of the expenses to be incurred by
8 the committee for a stated period not exceeding one year with
9 appropriate explanations of the estimates. The department shall
10 require annually, and at such other times as it may deem it
11 necessary or advisable, a duly certified audit of receipts and
12 disbursements and statement of assets and liabilities showing
13 the details of the financial operations of the committee.

14 (c) Method of assessment.--If the department is satisfied as
15 to the reasonableness of the committee's budget estimate, it
16 shall determine the portion of the funds required by the budget
17 estimate, to be assessed as provided in this section, by
18 deducting from the budget estimate or from the sum of \$250,000,
19 whichever is less, any amounts received or receivable by the
20 committee from other states whose laws do not substantially
21 conform to the method of assessment provided in this section,
22 and applying to the remainder the proportion which the total
23 investments in securities of domestic life insurers bear to the
24 total investments in securities of life insurers domiciled in
25 this and other states whose laws authorize and require
26 assessments on substantially the same base as provided in this
27 section. The department shall thereafter, as soon as convenient,
28 by notice stating the method of computation thereof, assess the
29 amount to be paid on account of such expense pro rata upon all
30 domestic life insurers in the proportion which the total

1 investments in securities of each domestic life insurer bears to
2 the total investments in securities of all such insurers. The
3 aggregate amount assessed upon all domestic life insurers
4 pursuant to this section in any one year shall not exceed an
5 amount determined by applying to the "remainder," referred to in
6 the first sentence of this subsection, the proportion which the
7 total investments in securities of domestic life insurers bear
8 to 75% of the total investments in securities of all life
9 insurers domiciled in all the states of the United States and
10 the District of Columbia. For purposes of this section, the
11 total investments in securities of any life insurer, shall be
12 the total admitted value of stock and bonds reported as such in
13 its annual statement last filed prior to the assessment with the
14 department or with the supervisory official of its state of
15 domicile. Upon receipt of the notice, each insurer shall, within
16 30 days, pay the assessment to the department. The department
17 shall deposit all moneys collected by it pursuant to this
18 section in an account entitled "Insurance Commissioner Security
19 Valuation Expense Account" in a bank or trust company in this
20 Commonwealth. The moneys shall be paid by the department to the
21 Committee on Valuation of Securities after audit by the Auditor
22 General.

23 § 510. Additional restrictions of other states.

24 (a) General rule.--If any other state or a foreign
25 government imposes any burdens or prohibitions on insurance
26 companies, or agents of this Commonwealth doing business
27 therein, which are in addition to or in excess of the burdens or
28 prohibitions imposed by the Commonwealth on insurance companies
29 and agents, similar burdens and prohibitions shall be imposed on
30 all insurance companies and agents of the other state or foreign

1 government doing business in this Commonwealth so long as these
2 burdens and prohibitions remain in force. Foreign or alien
3 insurance companies shall not be required to pay any taxes and
4 fees which are greater in aggregate amount than those which
5 would be imposed by the law of the other state or foreign
6 country or any political subdivision thereof upon an insurance
7 company of this Commonwealth transacting the same volume and
8 kind of business in the foreign state or country.

9 (b) Motor vehicle insurance.--If any other state or foreign
10 country requires additional or other insurance covering
11 motorists, or motor vehicles that are insured by domestic
12 insurance companies, or in authorized insurance companies of
13 other states in order to use the highways of the other state or
14 foreign country, similar insurance shall be required to cover
15 all motorists and motor vehicles of the other state or foreign
16 country using the highways of this Commonwealth so long as the
17 requirements of the other state or foreign country remain in
18 force.

19 (c) Monopolistic funds.--The existence of a monopolistic
20 state fund for the writing of any class of insurance in any
21 state or foreign country shall not be deemed a reason to deny to
22 an entity of that state or foreign country a license to transact
23 such classes of insurance in this Commonwealth.

24 (d) Definitions.--As used in this section the following
25 words and phrases shall have the meanings given to them in this
26 subsection:

27 "Agent." An insurance agent, insurance broker, public
28 adjuster or public adjusters' solicitor.

29 "Burdens or prohibitions." Taxes, fines, penalties,
30 licenses, fees, rules, regulations, obligations and

1 prohibitions, including prohibitions against writing particular
2 kinds of insurance by insurance companies, and restrictions on
3 the payment or division of commissions to or with insurance
4 agents or brokers licensed under the law of this Commonwealth.

5 § 511. Examination of companies.

6 (a) Power of department.--The department shall require every
7 domestic insurance entity to keep its books, records, accounts,
8 vouchers, portfolios and transactions in such manner that it may
9 readily verify its annual quarterly and monthly statements and
10 ascertain whether the entity has complied with the provisions of
11 law. The department shall, without notice, at least once every
12 year during the first five years of existence of every domestic
13 insurance entity, and thereafter every four years or more often
14 thoroughly examine the affairs of each domestic insurance entity
15 to ascertain its financial condition, its ability to fulfill its
16 obligations, its compliance with law, the equity of its plans,
17 its dealings with its policyholders and claimants and any other
18 facts relating to its business methods and management. In the
19 course of conducting this examination, it may compel the
20 attendance of officers, directors, trustees or members of any
21 domestic insurance entity or examine any foreign or alien
22 insurance entity applying for admission or already admitted to
23 do business in this Commonwealth. In lieu of this examination,
24 the department may accept the report of examination made by or
25 upon the authority of the supervising official of any other
26 state.

27 (b) Report.--The department shall prepare a report of the
28 examination of any domestic insurance entity immediately upon
29 completion of its examination. It shall submit the report to the
30 domestic insurance entity examined, which may object to any part

1 of the report within 30 days from the receipt thereof. If any
2 objection is made, the department shall grant a hearing to the
3 organization examined before making the report available for
4 public inspection. Thereafter, it may publish the report or the
5 results of the examination as contained therein in one or more
6 newspapers in this Commonwealth.

7 (c) Corporations.--The department may examine into the
8 affairs of any domestic or foreign corporation doing business in
9 this Commonwealth which is engaged in, or is claiming or
10 advertising that it is engaged in, organizing or receiving
11 subscriptions for or disposing of stocks of, or in any manner
12 taking part in the formation or in the business of, an insurance
13 entity, either as agent or otherwise, or which is holding the
14 capital stock of one or more insurance companies for the purpose
15 of controlling the management thereof as voting trustees or
16 otherwise.

17 § 512. Powers with regard to examinations.

18 For the purpose of the examination under section 511
19 (relating to examination of companies), the department shall
20 have free access to all the books and papers of any entity which
21 relate to its business, and to the books and papers kept by any
22 of its agents, and may summon, and administer the oath to, and
23 examine as witnesses, the directors, officers, agents and
24 trustees of the entity and any other person. The department
25 shall publish the result of its examination of the affairs of
26 any entity if it is deemed by the department in the interest of
27 the policyholders to do so. All expenses incurred in the course
28 of the examination, including compensation of the deputies,
29 examiners and other employees of the department assisting in the
30 examination, shall be charged to the entity examined in

1 equitable proportions at such times and in such manner as the
2 department shall by rule or regulation prescribe.

3 § 513. Collection of taxes, fines and penalties.

4 The taxes imposed under this title shall be collected by the
5 Department of Revenue. The fines and penalties imposed by the
6 department shall, in case of failure to pay after notice from
7 the department, be collected as taxes upon corporations or
8 individuals are now collected by law. The department shall have
9 the powers conferred by law upon the Department of Revenue in
10 the settlement of accounts, for purposes of collecting these
11 fines and penalties, subject to the approval of the Auditor
12 General and to the right of any party aggrieved to file a
13 petition for resettlement or for review and appeal.

14 § 514. Records and report of department.

15 The department shall preserve, in a permanent form, a full
16 record of its proceedings and a concise statement of the
17 condition of each entity, society or agency examined. It shall
18 make an annual report, to be submitted to the General Assembly,
19 showing the receipts and expenses of the department, the
20 condition of the entities or societies doing business in this
21 Commonwealth, and such other information as will inform the
22 public of the affairs or activities of the department.

23 § 515. Administrative procedure and judicial review.

24 (a) Administrative procedure.--Except as otherwise
25 specifically provided, no provision of this title abridges the
26 availability of an administrative hearing under 2 Pa.C.S. Ch. 5
27 Subch. A (relating to practice and procedure of Commonwealth
28 agencies). The department shall conduct all administrative
29 hearings in such a manner as to maintain the separation of
30 prosecutorial and adjudicatory functions required by law.

1 (b) Judicial review.--Any adjudication rendered pursuant to
2 this title may be appealed under 2 Pa.C.S. Ch. 7 Subch. A
3 (relating to judicial review of Commonwealth agency action).

4 CHAPTER 7

5 RESERVE LIABILITY

6 Subchapter

- 7 A. Life Insurance and Annuities
- 8 B. Insurance Other than Life Insurance
- 9 C. Workmen's Compensation and Liability Insurance
- 10 D. Casualty Insurance
- 11 E. Title Insurance

12 SUBCHAPTER A

13 LIFE INSURANCE AND ANNUITIES

14 Sec.

- 15 701. Valuation by department.
- 16 702. Computation of reserves on prior policies.
- 17 703. Computation of reserves on recent policies.
- 18 704. Reserves for special plans.
- 19 705. Minimum reserve requirements of certain companies.
- 20 706. Computation of reserves for health and accident insurance.
- 21 707. Valuations by other states.
- 22 708. Reserve fund.
- 23 709. Valuation of securities.
- 24 § 701. Valuation by department.

25 The department shall each year value, or cause to be valued,
26 the reserve liabilities referred to in this section as reserves
27 or net value, as of December 31 of the preceding year, for all
28 outstanding life insurance policies and annuity and pure
29 endowment contracts of every life insurance company doing
30 business in this Commonwealth, except that, in the case of any

1 alien company, the valuation shall be limited to its United
2 States business in accordance with the terms of the policy or
3 contract and with this chapter, and may certify the amount of
4 these reserves, specifying the mortality tables, rates of
5 interest and methods (net level premium method or other) used in
6 the calculation of the reserves. In calculating these reserve
7 liabilities, the department may use group methods and
8 approximate averages for fractions of a year or otherwise. The
9 provisions of this section and sections 702 (relating to
10 computation of reserves on prior policies) through 705 (relating
11 to minimum reserve requirements of certain companies) for the
12 valuation of policies and for premium rates do not apply to
13 companies or associations transacting business on the mutual
14 assessment plan.

15 § 702. Computation of reserves on prior policies.

16 In the case of policies issued prior to the operative date of
17 section 5322 (relating to standard nonforfeiture law for life
18 insurance):

19 (1) The net value of all outstanding policies of life
20 insurance issued by the company prior to January 1, 1890,
21 shall be computed on the basis of the American experience
22 table of mortality, with interest at not less than 4.5% and
23 not more than 6% a year.

24 (2) The net value of all outstanding policies of life
25 insurance issued between January 1, 1890, and December 31,
26 1902, shall be computed on the basis of the combined
27 experience or actuaries' table of mortality, with interest at
28 4% a year.

29 (3) The net value of all outstanding policies of life
30 insurance issued on and after January 1, 1903, shall be

1 computed on the basis of the American experience table of
2 mortality, with interest at 3.5% a year, except that any
3 company may value its group term insurance policies under
4 which premium rates are not guaranteed for a period in excess
5 of five years on the basis of the American men ultimate table
6 of mortality, with interest at 3.5% a year.

7 (4) The net value of all policies of life insurance
8 issued on and after January 1, 1921, where the premiums are
9 payable monthly or more often, shall be computed on the basis
10 of the American experience table of mortality, with interest
11 at 3.5% a year, except that any company may value its
12 industrial policies on the basis of the standard industrial
13 mortality table, with interest at 3.5% a year.

14 (5) The net value of a policy at any time shall be taken
15 to be the single net premium which will at that time effect
16 the insurance, less the value at that time of the future net
17 premiums called for by the table of mortality and rate of
18 interest designated.

19 (6) Except as otherwise provided in section 703(b)(2)
20 and (c) (relating to computation of reserves on recent
21 policies) for group annuity and pure endowment contracts, the
22 legal minimum standard for valuation of annuities issued
23 after January 1, 1912, shall be McClintock's table of
24 mortality among annuitants, with interest at 3.5% a year. For
25 annuities and pure endowments purchased under group annuity
26 and pure endowment contracts, the legal minimum standard may,
27 at the option of the company, be the 1971 Group Annuity
28 Mortality Table or any modification of this table approved by
29 the department, with interest at 5% a year. Annuities
30 deferred ten or more years and written in connection with

1 life or term insurance shall be valued upon the same
2 mortality table from which the consideration or premiums were
3 computed, with interest not higher than 3.5% a year.

4 (7) A company may at any time elect under any of its
5 policies of life insurance to reserve on the American
6 experience table of mortality, with a lower rate of interest
7 but at a rate not less than 2%, or on the American men
8 ultimate table of mortality with such modification and
9 extension below age 20 as may be approved by the department,
10 with interest at a rate not more than 3.5% and not less than
11 2%, and its obligations under such policies shall be valued
12 accordingly.

13 (8) On or after the operative date of section 5322,
14 reserves for any policies or contracts may be calculated, at
15 the option of the company, according to any standard which
16 produces greater aggregate reserves for all such policies or
17 contracts than the standard in use by such company
18 immediately prior to the exercise of the option. With the
19 approval of the department, any company which has adopted any
20 standard of valuation producing greater aggregate reserves
21 than the minimum reserves under paragraphs (1) through (7)
22 may adopt any lower standard of valuation for any policies or
23 contracts but not lower than the minimum reserves under
24 paragraphs (1) through (7) nor lower than the standard
25 specified in the policies or contracts or the standard used
26 by the company for the determination of the nonforfeiture
27 values thereof.

28 § 703. Computation of reserves on recent policies.

29 (a) Applicability.--This section applies only to policies
30 and contracts issued on or after the operative date of section

1 5322 (relating to standard nonforfeiture law for life
2 insurance), except as otherwise provided in subsections (b)(2)
3 and (c) for group annuity and pure endowment contracts issued
4 prior thereto.

5 (b) General rule for minimum standard.--

6 (1) Except as otherwise provided in paragraph (2) and in
7 subsection (c), the minimum standard for the valuation of all
8 such policies and contracts shall be the commissioners
9 reserve valuation methods defined in subsections (d) and (e),
10 and in section 705 (relating to minimum reserve requirements
11 of certain companies), 3.5% interest for policies and
12 contracts other than group annuity and pure endowment
13 contracts and as provided in paragraph (1)(iv) for group
14 annuity and pure endowment contracts, or in the case of
15 policies and contracts, other than annuity and pure endowment
16 contracts, issued on or after June 23, 1976, 4% interest for
17 such policies issued prior to January 1, 1979, and 4.5%
18 interest or such higher rate of interest as may be approved
19 from time to time by the department for such policies issued
20 on or after January 1, 1979, and the following tables:

21 (i) For all ordinary policies of life insurance
22 issued on the standard basis, excluding any disability
23 and accidental death benefits in such policies, the
24 Commissioners 1941 Standard Ordinary Mortality Table for
25 such policies issued prior to the operative date of
26 section 5322(e)(2) and the Commissioners 1958 Standard
27 Ordinary Mortality Table for such policies issued on or
28 after that operative date and prior to the operative date
29 of section 5322(f). However, for any category of such
30 policies issued on female risks, all modified net

1 premiums and present values referred to in this section
2 may be calculated according to any age not more than six
3 years younger than the actual age of the insured; and for
4 such policies issued on or after the operative date of
5 section 5322(f), the modified net premiums and present
6 values may be calculated on the basis of the
7 Commissioners 1980 Standard Ordinary Mortality Table or,
8 at the election of the company for any one or more
9 specified plans of life insurance, the Commissioners 1980
10 Standard Ordinary Mortality Table with Ten-Year Select
11 Mortality Factors or any ordinary mortality table adopted
12 after 1980 by the National Association of Insurance
13 Commissioners and approved by regulation of the
14 department for use in determining the minimum standard of
15 valuation for such policies.

16 (ii) For all industrial life insurance policies
17 issued on the standard basis, excluding any disability
18 and accidental death benefits in those policies, the 1941
19 Standard Industrial Mortality Table for those policies
20 issued prior to the operative date of section 5322(e)(3),
21 and, for those policies issued on or after that operative
22 date, the Commissioners 1961 Standard Industrial
23 Mortality Table or any industrial mortality table adopted
24 after 1980 by the National Association of Insurance
25 Commissioners and approved by regulation of the
26 department for use in determining the minimum standard of
27 valuation for such policies.

28 (iii) For individual annuity and pure endowment
29 contracts, excluding any disability and accidental death
30 benefits in such contracts, the 1937 Standard Annuity

1 Mortality Table, or, at the option of the company, the
2 Annuity Mortality Table for 1949 Ultimate or any
3 modification of either of these tables approved by the
4 department.

5 (iv) For all annuities and pure endowments purchased
6 under group annuity and pure endowment contracts,
7 excluding any disability and accidental death benefits in
8 such contracts, either the Group Annuity Mortality Table
9 for 1951 or any modification of such table approved by
10 the department, with interest at 3.5% or, at the option
11 of the company, the 1971 Group Annuity Mortality Table or
12 any modification of this table approved by the
13 department, with interest at 5%; or, at the option of the
14 company, any of the tables or modifications of tables
15 specified for individual annuity and pure endowment
16 contracts.

17 (v) For total and permanent disability benefits in
18 or supplementary to ordinary policies or contracts, for
19 policies or contracts issued on or after January 1, 1966,
20 the tables of Period 2 disablement rates and the 1930 to
21 1950 termination rates of the 1952 Disability Study of
22 the Society of Actuaries, with due regard to the type of
23 benefit, or any tables of disablement rates and
24 termination rates adopted after 1980 by the National
25 Association of Insurance Commissioners and approved by
26 regulation of the department for use in determining the
27 minimum standard of valuation for such policies; for
28 policies or contracts issued on or after January 1, 1961,
29 and prior to January 1, 1966, either such tables or, at
30 the option of the company, the Class (3) Disability Table

1 (1926); and for policies issued prior to January 1, 1961,
2 the Class (3) Disability Table (1926). Any such table
3 shall, for active lives, be combined with a mortality
4 table permitted for calculating the reserves for life
5 insurance policies.

6 (vi) For accidental death benefits in or
7 supplementary to policies, for policies issued on or
8 after January 1, 1966, the 1959 Accidental Death Benefits
9 Table or any accidental death benefits table adopted
10 after 1980 by the National Association of Insurance
11 Commissioners and approved by regulation of the
12 department for use in determining the minimum standard of
13 valuation for such policies; for policies issued on or
14 after January 1, 1961, and prior to January 1, 1966,
15 either such table or, at the option of the company, the
16 Inter-Company Double Indemnity Mortality Table; and for
17 policies issued prior to January 1, 1961, the Inter-
18 Company Double Indemnity Mortality Table. Either table
19 shall be combined with a mortality table permitted for
20 calculating the reserves for life insurance policies.

21 (vii) For group life insurance, life insurance
22 issued on the substandard basis and other special
23 benefits, such tables as may be approved by the
24 department.

25 (2) Except as provided in subsection (c), the minimum
26 standard for valuation of all individual annuity and pure
27 endowment contracts issued on or after the operative date of
28 this subparagraph, as defined in subparagraph (vi), and for
29 all annuities and pure endowments purchased on or after the
30 operative date under group annuity and pure endowment

1 contracts, shall be the commissioners reserve valuation
2 methods defined in subsections (d) and (e) and the following
3 tables and interest rates:

4 (i) For individual annuity and pure endowment
5 contracts issued prior to January 1, 1979, excluding any
6 disability and accidental death benefits in such
7 contracts, the 1971 Individual Annuity Mortality Table or
8 any modification of this table approved by the
9 department; and 6% interest for single premium immediate
10 annuity contracts, and 4% interest for all other
11 individual annuity and pure endowment contracts.

12 (ii) For individual single premium immediate annuity
13 contracts issued on or after January 1, 1979, excluding
14 any disability and accidental death benefits in such
15 contracts, the 1971 Individual Annuity Mortality Table or
16 any individual annuity mortality table, adopted after
17 1980 by the National Association of Insurance
18 Commissioners and approved by regulation of the
19 department for use in determining the minimum standard of
20 valuation for such contracts, or any modification of
21 these tables approved by the department, and 7.5%
22 interest or such higher rate of interest as may be
23 approved from time to time by the department.

24 (iii) For individual annuity and pure endowment
25 contracts issued on or after January 1, 1979, other than
26 single premium immediate annuity contracts, excluding any
27 disability and accidental death benefits in such
28 contracts, the 1971 Individual Annuity Mortality Table or
29 any individual annuity mortality table adopted after 1980
30 by the National Association of Insurance Commissioners

1 and approved by regulation of the department for use in
2 determining the minimum standard of valuation for such
3 contracts, or any modification of these tables approved
4 by the department, and 5.5% interest for single premium
5 deferred annuity and pure endowment contracts and 4.5%
6 interest for all other such individual annuity and pure
7 endowment contracts or such higher rate of interest as
8 may be approved from time to time by the department.

9 (iv) For all annuities and pure endowments purchased
10 prior to January 1, 1979, under group annuity and pure
11 endowment contracts, excluding any disability and
12 accidental death benefits purchased under such contracts,
13 the 1971 Group Annuity Mortality Table or any
14 modification of this table approved by the department,
15 and 6% interest.

16 (v) For all annuities and pure endowments purchased
17 on or after January 1, 1979, under group annuity and pure
18 endowment contracts, excluding any disability and
19 accidental death benefits purchased under such contracts,
20 the 1971 Group Annuity Mortality Table or any group
21 annuity mortality table adopted after 1980 by the
22 National Association of Insurance Commissioners and
23 approved by regulation of the department for use in
24 determining the minimum standard of valuation for such
25 annuities and pure endowments or any modification of
26 these tables approved by the department, and 7.5%
27 interest or such higher rate of interest as may be
28 approved, from time to time, by the department.

29 (vi) After June 23, 1976, a company may file with
30 the department a written notice of its election to comply

1 with the provisions of this subparagraph (ii) after a
2 specified date before January 1, 1979, which shall be the
3 operative date of this subparagraph for the company.

4 However, a company may elect a different operative date
5 for individual annuity and pure endowment contracts from
6 that elected for group annuity and pure endowment
7 contracts. Whenever a company makes no such election, the
8 operative date of this subparagraph for the company shall
9 be January 1, 1979.

10 (c) Dynamic interest rates.--

11 (1) The interest rates used in determining the minimum
12 standard for the valuation of any of the following shall be
13 the calendar year statutory valuation interest rates as
14 defined in this subsection:

15 (i) All life insurance policies issued in a
16 particular calendar year, on or after the operative date
17 of section 5322(f).

18 (ii) All individual annuity and pure endowment
19 contracts issued in a particular calendar year on or
20 after January 1, 1981.

21 (iii) All annuities and pure endowments purchased in
22 a particular calendar year on or after January 1, 1981,
23 under group annuity and pure endowment contracts.

24 (iv) The net increase, if any, in a particular
25 calendar year after January 1, 1981, in amounts held
26 under guaranteed interest contracts.

27 (2) The calendar year statutory valuation interest
28 rates, referred to in this paragraph as I, shall be
29 determined as follows and the results rounded to the nearer
30 0.25%:

1 (i) For life insurance: $I = .03 + W(R1 - .03) +$
2 $W/2(R2 - .09)$.

3 (ii) For single premium immediate annuities and for
4 annuity benefits involving life contingencies arising
5 from other annuities with cash settlement options and
6 from guaranteed interest contracts with cash settlement
7 options: $I = .03 + W(R - .03)$. For purposes of this
8 paragraph, R1 is the lesser of R and .09, R2 is the
9 greater of R and .09, R is the reference interest rate
10 defined in paragraph (4) and W is the weighting factor
11 defined in paragraph (3).

12 (iii) For other annuities with cash settlement
13 options and guaranteed interest contracts with cash
14 settlement options, valued on an issue year basis, except
15 as stated in subparagraph (ii), the formula for life
16 insurance stated in subparagraph (i) shall apply to
17 annuities and guaranteed interest contracts with
18 guarantee durations in excess of ten years, and the
19 formula for single premium immediate annuities stated in
20 subparagraph (ii) shall apply to annuities and guaranteed
21 interest contracts with guarantee duration of ten years
22 or less.

23 (iv) For other annuities with no cash settlement
24 options and for guaranteed interest contracts with no
25 cash settlement options, the formula for single premium
26 immediate annuities stated in subparagraph (ii) shall
27 apply.

28 (v) For other annuities with cash settlement options
29 and guaranteed interest contracts with cash settlement
30 options, valued on a change in fund basis, the formula

1 for single premium immediate annuities stated in
2 subparagraph (ii) shall apply.

3 (vi) However, if the calendar year statutory
4 valuation interest rate for any life insurance policies
5 issued in any calendar year determined without reference
6 to this subparagraph differs from the corresponding
7 actual rate for similar policies issued in the
8 immediately preceding calendar year by less than 0.5%,
9 the calendar year statutory valuation interest rate for
10 the life insurance policies shall be equal to the
11 corresponding actual rate for the immediately preceding
12 calendar year. For the purpose of applying the
13 immediately preceding sentence, the calendar year
14 statutory valuation interest rate for life insurance
15 policies issued in a calendar year shall be determined
16 for 1980 (using the reference interest rate defined for
17 1979) and shall be determined for each subsequent
18 calendar year.

19 (3) The weighting factors referred to in the formulas
20 stated above are given in the following tables:

21 (i) Weighting factors for life insurance:

22	Guarantee	Weighting
23	Duration	Factors
24	(Years)	
25	10 or less	.50
26	More than 10, but not more than 20	.45
27	More than 20	.35

28 For life insurance, the guarantee duration is the maximum
29 number of years the life insurance can remain in force on
30 a basis guaranteed in the policy or under options to

1 convert to plans of life insurance with premium rates or
 2 nonforfeiture values or both which are guaranteed in the
 3 original policy.

4 (ii) The weighting factor for single premium
 5 immediate annuities and for annuity benefits involving
 6 life contingencies arising from other annuities with cash
 7 settlement options and guaranteed interest contracts with
 8 cash settlement options shall be .80.

9 (iii) Weighting factors for other annuities and for
 10 guaranteed interest contracts, except as stated in
 11 subparagraph (ii), shall be as specified in clauses (A),
 12 (B) and (C), subject to the rules and definitions in
 13 clauses (D), (E) and (F):

14 (A) For annuities and guaranteed interest
 15 contracts valued on an issue year basis:

Guarantee	Weighting Factor		
Duration	for Plan Type		
(Years)	A	B	C
5 or less	.80	.60	.50
More than 5, but not			
more than 10:	.75	.60	.50
More than 10, but not			
more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

25 (B) For annuities and guaranteed interest
 26 contracts valued on a change in fund basis, the
 27 factors stated in clause (A) shall be increased by:

	Plan Type		
	A	B	C
	.15	.25	.05

1 (C) For annuities and guaranteed interest
2 contracts valued on an issue year basis (other than
3 those with no cash settlement options) which do not
4 guarantee interest on considerations received more
5 than one year after issue or purchase and for
6 annuities and guaranteed interest contracts valued on
7 a change in fund basis which do not guarantee
8 interest rates on considerations received more than
9 twelve months beyond the valuation date, the factors
10 as determined under clauses (A) and (B) shall be
11 increased by:

12 Plan Type

13	A	B	C
14	.05	.05	.05

15 (D) For other annuities with cash settlement
16 options and guaranteed interest contracts with cash
17 settlement options, the guarantee duration is the
18 number of years for which the contract guarantees
19 interest rates in excess of the calendar year
20 statutory valuation interest rate for life insurance
21 policies with guarantee duration in excess of twenty
22 years. For other annuities with no cash settlement
23 options and for guaranteed interest contracts with no
24 cash settlement options, the guarantee duration is
25 the number of years from the date of issue or date of
26 purchase to the date annuity benefits are scheduled
27 to commence.

28 (E) The plan types as used in clauses (A), (B)
29 and (C) are defined as follows:

30 Plan Type A: At any time the policyholder

1 may not withdraw funds or may withdraw funds
2 only on the following conditions: (1) with
3 an adjustment to reflect changes in interest
4 rates or asset values since receipt of the
5 funds by the insurance company; (2) without
6 such adjustment but in installments over five
7 years or more; or (3) as an immediate life
8 annuity.

9 Plan Type B: Before expiration of the
10 interest rate guarantee, the policyholder may
11 not withdraw funds or may withdraw funds only
12 on the following conditions: (1) with an
13 adjustment to reflect changes in interest
14 rates or asset values since receipt of the
15 funds by the insurance company; or (2)
16 without such adjustment but in installments
17 over five years or more. At the end of the
18 interest rate guarantee, funds may be
19 withdrawn without such adjustment in a single
20 sum or installments over less than five
21 years.

22 Plan Type C: The policyholder may
23 withdraw funds before expiration of the
24 interest rate guarantee in a single sum or
25 installments over less than five years
26 either: (1) without adjustment to reflect
27 changes in interest rates or asset values
28 since receipt of the funds by the insurance
29 company; or (2) subject only to a fixed
30 surrender charge stipulated in the contract

1 as a percentage of the fund.

2 (F) A company may elect to value guaranteed
3 interest contracts with cash settlement options and
4 annuities with cash settlement options on either an
5 issue year basis or on a change in fund basis.
6 Guaranteed interest contracts with no cash settlement
7 options and other annuities with no cash settlement
8 options shall be valued on an issue year basis. As
9 used in this subsection, an "issue year basis of
10 valuation" refers to a valuation basis under which
11 the interest rate used to determine the minimum
12 valuation standard for the entire duration of the
13 annuity or guaranteed interest contract is the
14 calendar year valuation interest rate for the year of
15 issue or year of purchase of the annuity or
16 guaranteed interest contract, and the "change in fund
17 basis of valuation" refers to a valuation basis under
18 which the interest rate used to determine the minimum
19 valuation standard applicable to each change in the
20 fund held under the annuity or guaranteed interest
21 contract is the calendar year valuation interest rate
22 for the year of the change in the fund.

23 (4) The reference interest rate referred to in paragraph
24 (2)(ii) shall be as follows:

25 (i) For all life insurance, the lesser of the
26 average over a period of 36 months and the average over a
27 period of 12 months, ending on June 30 of the calendar
28 year next preceding the year of issue, of Moody's
29 Corporate Bond Yield Average--Monthly Average Corporates
30 as published by Moody's Investors Service, Inc.

1 (ii) For single premium immediate annuities and for
2 annuity benefits involving life contingencies arising
3 from other annuities with cash settlement options and
4 guaranteed interest contracts with cash settlement
5 options, the average over a period of 12 months, ending
6 on June 30 of the calendar year of issue or year of
7 purchase, of Moody's Corporate Bond Yield Average--
8 Monthly Average Corporates as published by Moody's
9 Investors Service, Inc.

10 (iii) For other annuities with cash settlement
11 options and guaranteed interest contracts with cash
12 settlement options, valued on a year of issue basis,
13 except as stated in subparagraph (ii) with guarantee
14 duration in excess of ten years, the lesser of the
15 average over a period of 36 months and the average over a
16 period of 12 months, ending on June 30 of the calendar
17 year of issue or purchase, of Moody's Corporate Bond
18 Yield Average--Monthly Average Corporates as published by
19 Moody's Investors Service, Inc.

20 (iv) For other annuities with cash settlement
21 options and guaranteed interest contracts with cash
22 settlement options, valued on a year of issue basis,
23 except as stated in subparagraph (ii), with guarantee
24 duration of ten years or less, the average over a period
25 of 12 months, ending on June 30 of the calendar year of
26 issue or purchase, of Moody's Corporate Bond Yield
27 Average--Monthly Average Corporates as published by
28 Moody's Investors Service, Inc.

29 (v) For other annuities with no cash settlement
30 options and for guaranteed interest contracts with no

1 cash settlement options, the average over a period of 12
2 months, ending on June 30 of the calendar year of issue
3 or purchase, of Moody's Corporate Bond Yield Average--
4 Monthly Average Corporates as published by Moody's
5 Investors Service, Inc.

6 (vi) For other annuities with cash settlement
7 options and guaranteed interest contracts with cash
8 settlement options, valued on a change in fund basis,
9 except as stated in subparagraph (ii), the average over a
10 period of 12 months, ending on June 30 of the calendar
11 year of the change in the fund, of Moody's Corporate Bond
12 Yield Average--Monthly Average Corporates as published by
13 Moody's Investors Service, Inc.

14 (5) If Moody's Corporate Bond Yield Average--Monthly
15 Average Corporates is no longer published by Moody's
16 Investors Service, Inc., or if the National Association of
17 Insurance Commissioners determines that Moody's Corporate
18 Bond Yield Average--Monthly Average Corporates is no longer
19 appropriate for the determination of the reference interest
20 rate, then an alternative method for determination of the
21 reference interest rate adopted by the National Association
22 of Insurance Commissioners and approved by regulation of the
23 department may be substituted.

24 (d) Commissioners reserve valuation method.--

25 (1) Except as otherwise provided in paragraph (2), in
26 subsection (e) and in section 705 (relating to minimum
27 reserve requirements of certain companies), reserves
28 according to the commissioners reserve valuation method for
29 the life insurance and endowment benefits of policies
30 providing for a uniform amount of insurance and requiring the

1 payment of uniform premiums shall be the excess, if any, of
2 the present value at the date of valuation of such future
3 guaranteed benefits provided for by those policies, over the
4 then present value of any future modified net premiums
5 therefor. The modified net premiums for any such policy shall
6 be such uniform percentage of the respective contract
7 premiums for such benefits that the present value, at the
8 date of issue of the policy, of all such modified net
9 premiums shall be equal to the sum of the then present value
10 of such benefits provided for by the policy and the excess of
11 (i) over (ii), as follows:

12 (i) A net level annual premium equal to the present
13 value at the date of issue of such benefits provided for
14 after the first policy year, divided by the present value
15 at the date of issue of an annuity of one per annum
16 payable on the first and each subsequent anniversary of
17 such policy on which a premium falls due. However, such
18 net level annual premium shall not exceed the net level
19 annual premium on the 19 year premium whole life plan for
20 insurance of the same amount at an age one year higher
21 than the age at issue of such policy.

22 (ii) A net one year term premium for such benefits
23 provided for in the first policy year.

24 (2) For any life insurance policy issued on or after
25 January 1, 1985, for which the gross premium in the first
26 policy year exceeds that of the second year and for which no
27 comparable additional benefit is provided in the first year
28 for such excess and which provides an endowment benefit or a
29 cash surrender value or a combination thereof in an amount
30 greater than such excess premium, the reserve according to

1 the commissioners reserve valuation method as of any policy
2 anniversary occurring on or before the assumed ending date
3 shall, except as otherwise provided in section 705, be the
4 greater of the reserve as of such policy anniversary
5 calculated as described in paragraph (1) and the reserve as
6 of such policy anniversary calculated as described in
7 paragraph (1), but subject to the following:

8 (i) the value defined in paragraph (1)(i) shall be
9 reduced by 15% of the amount of such excess first year
10 premium;

11 (ii) all present values of benefits and premiums
12 shall be determined without reference to premiums or
13 benefits provided for by the policy after the assumed
14 ending date;

15 (iii) the policy shall be assumed to mature on the
16 assumed ending date as an endowment; and

17 (iv) the cash surrender value provided on the
18 assumed ending date shall be considered as an endowment
19 benefit.

20 In making this comparison the mortality and interest bases
21 stated in subsections (b)(1) and (c) shall be used. As used
22 in this paragraph, the term "assumed ending date" means the
23 first policy anniversary on which the sum of any endowment
24 benefit and any cash surrender value then available is
25 greater than the excess premium.

26 (3) Reserves according to the commissioners reserve
27 valuation method for:

28 (i) life insurance policies providing for a varying
29 amount of insurance or requiring the payment of varying
30 premiums;

1 (ii) group annuity and pure endowment contracts
2 purchased under a retirement plan or plan of deferred
3 compensation, established or maintained by an employer,
4 including a partnership or sole proprietorship, or by an
5 employee organization, or by both, other than a plan
6 providing individual retirement accounts or individual
7 retirement annuities under section 408 of the Internal
8 Revenue Code (68A Stat. 3, 26 U.S.C. § 408);

9 (iii) disability and accidental death benefits in
10 all policies and contracts; and

11 (iv) all other benefits, except life insurance and
12 endowment benefits in life insurance policies and
13 benefits provided by all other annuity and pure endowment
14 contracts;

15 shall be calculated by a method consistent with the
16 principles of this subsection except that any extra premiums
17 charged because of impairments or special hazards shall be
18 disregarded in the determination of modified net premiums.

19 (e) Department's annuity reserve method.--This subsection
20 applies to all annuity and pure endowment contracts other than
21 group annuity and pure endowment contracts purchased under a
22 retirement plan or plan of deferred compensation established or
23 maintained by an employer, including a partnership or sole
24 proprietorship, or by an employee organization, or by both,
25 other than a plan providing individual retirement accounts or
26 individual retirement annuities under section 408 of the
27 Internal Revenue Code. Reserves according to the commissioners
28 annuity reserve method for benefits under annuity or pure
29 endowment contracts, excluding any disability and accidental
30 death benefits in such contracts, shall be the greatest of the

1 respective excesses of the present values at the date of
2 valuation of the future guaranteed benefits, including
3 guaranteed nonforfeiture benefits, provided for by such
4 contracts at the end of each respective contract year, over the
5 present value, at the date of valuation, of any future valuation
6 considerations derived from future gross considerations required
7 by the terms of such contract, that become payable prior to the
8 end of such respective contract year. The future guaranteed
9 benefits shall be determined by using the mortality table, if
10 any, and the interest rate specified in such contracts for
11 determining guaranteed benefits. The valuation considerations
12 are the portions of the respective gross considerations applied
13 under the terms of such contracts to determine nonforfeiture
14 values.

15 (f) Test against nonforfeiture interest rate.--A company's
16 aggregate reserves for all life insurance policies, excluding
17 disability and accidental death benefits, shall not be less than
18 the aggregate reserves calculated in accordance with the methods
19 set forth in subsections (d) and (e) and in section 705, and the
20 mortality table or tables and rate or rates of interest used in
21 calculating nonforfeiture benefits for such policies.

22 (g) Standards producing greater reserves.--Reserves for any
23 category of policies, contracts or benefits as established by
24 the department may be calculated, at the option of the company,
25 according to any standards which produce greater aggregate
26 reserves for such category than those calculated according to
27 the minimum standard provided under this section, but the rate
28 of interest used for policies and contracts other than annuity
29 and pure endowment contracts shall not be higher than the
30 corresponding rate of interest used in calculating any

1 nonforfeiture benefits provided for therein.

2 (h) Destrengthening of reserves.--Any life insurance company
3 which adopts any standard of valuation producing greater
4 aggregate reserves than those calculated according to the
5 minimum standard provided under this section may, with the
6 approval of the department, adopt any lower standard of
7 valuation, but not lower than the minimum provided under this
8 section.

9 § 704. Reserves for special plans.

10 In the case of any plan of life insurance which provides for
11 future premium determination, the amounts of which are to be
12 determined by the insurance company based on then estimates of
13 future experience or, in the case of any plan of life insurance
14 or annuity which is of such a nature that the minimum reserves
15 cannot be determined by the methods described in sections 703(d)
16 and (e) (relating to computation of reserves on recent policies)
17 and 705 (relating to minimum reserve requirements of certain
18 companies), the reserves which are held under the plan shall:

19 (1) be appropriate in relation to the benefits and the
20 pattern of premiums for that plan; and

21 (2) be computed by a method which is consistent with the
22 principles of this section and section 705, as determined by
23 regulations of the department.

24 § 705. Minimum reserve requirements of certain companies.

25 (a) Reduced premiums.--If in any contract year the gross
26 premium charged by any life insurance company on any policy or
27 contract is less than the valuation net premium for the policy
28 or contract calculated by the method used in calculating the
29 reserve thereon but using the minimum valuation standards of
30 mortality and rate of interest, the minimum reserve required for

1 the policy or contract shall be the greater of either the
2 reserve calculated according to the mortality table, rate of
3 interest and method actually used for the policy or contract, or
4 the reserve calculated by the method actually used for the
5 policy or contract but using the minimum valuation standards of
6 mortality and rate of interest and replacing the valuation net
7 premium by the actual gross premium in each contract year for
8 which the valuation net premium exceeds the actual gross
9 premium. The minimum valuation standards of mortality and rate
10 of interest referred to in this section are those standards
11 stated in sections 702 (relating to computation of reserves on
12 prior policies) and 703 (b)(1) and (c) (relating to computation
13 of reserves on recent policies).

14 (b) Exception.--For any life insurance policy issued on or
15 after January 1, 1985, for which the gross premium in the first
16 policy year exceeds that of the second year and for which no
17 comparable additional benefit is provided in the first year for
18 the excess and which provides an endowment benefit or a cash
19 surrender value or a combination thereof in an amount greater
20 than the excess premium, the provisions of subsection (a) shall
21 be applied as if the method actually used in calculating the
22 reserve for the policy were the method described in section
23 703(d), ignoring section 703(d)(2). The minimum reserve at each
24 policy anniversary of such policy shall be the greater of the
25 minimum reserve calculated in accordance with section 703(d),
26 including section 703(d)(2), and the minimum reserve calculated
27 in accordance with this section.

28 § 706. Computation of reserves for health and accident
29 insurance.

30 (a) General rule.--The department shall annually value, or

1 shall annually require the insurer to value, the reserve
2 liabilities, as of December 31 of the preceding year, of every
3 life insurance company doing business in this Commonwealth, with
4 respect to its health and accident insurance policies. For all
5 such policies, the company shall maintain an active life reserve
6 which shall place a sound value on its liabilities under such
7 policies and shall be not less than the reserve according to
8 appropriate standards set forth in the regulations of the
9 department and not less in the aggregate than the pro rata gross
10 unearned premiums for the policies.

11 (b) Exception.--This section does not apply to total and
12 permanent disability benefits supplementary to life insurance or
13 annuity policies or contracts.

14 § 707. Valuations by other states.

15 In lieu of the valuation of the reserves required in sections
16 701 (relating to valuation by department) through 704 (relating
17 to reserves for special plans) and section 706 (relating to
18 computation of reserves for health and accident insurance) of
19 any foreign or alien company, the department may accept any
20 valuation made by the insurance supervisory official of any
21 state or other jurisdiction if this valuation complies with the
22 minimum standard provided in those sections and if the official
23 of that state or jurisdiction accepts as sufficient and valid
24 for all legal purposes the certificate of valuation of the
25 department when such certificate states the valuation to have
26 been made in a specified manner according to which the aggregate
27 reserves would be at least as large as if they had been computed
28 in the manner prescribed by the law of that state or
29 jurisdiction. Each company shall furnish to the department, on
30 or before March 1 in each year, a certificate from the proper

1 officer of that state or jurisdiction, setting forth the value
2 of all the policies and contracts of the company in force on the
3 previous December 31. Any company failing to furnish the
4 certificate shall make a complete detailed list of policies to
5 the department and shall be liable for all charges and expenses
6 resulting from the failure to furnish this certificate.

7 § 708. Reserve fund.

8 The aggregate reserves or net value of the policies and
9 contracts of any life insurance company ascertained under this
10 chapter shall be deemed its reserve liability. It shall hold
11 funds in secure investments of an amount equal to the net value
12 above all its other liabilities. The department shall, after
13 having determined the net value of all the policies and
14 contracts in force, confirm compliance with this section.
15 Whenever any life insurance company doing business in this
16 Commonwealth does not have on hand the net value of all policies
17 in force, after all other debts and claims against it, including
18 50% of capital, have been provided for, the department shall
19 notify the company and its agents to issue no new policies until
20 its funds become equal to its liabilities.

21 § 709. Valuation of securities.

22 (a) General rule.--Bonds or other evidences of debt held by
23 life insurance companies or fraternal benefit societies
24 authorized to do business in this Commonwealth may, if amply
25 secured and if not in default as to principal or interest, be
26 valued as follows:

27 (1) If purchased at par, at the par value.

28 (2) If purchased above or below par, on the basis of the
29 purchase price adjusted so as to bring the value at maturity
30 and so as to yield meantime the effective rate of interest at

1 which the purchase was made.

2 The purchase price shall not be taken at a higher figure than
3 the actual market value at the time of purchase. The department
4 shall have full discretion in determining the method of
5 calculating values under this section, and the values found by
6 it in accordance with that method shall be final and binding.
7 Any company or society may return the bonds or other evidences
8 of debt at their market value or their book value, but not at an
9 aggregate value exceeding the aggregate of the values calculated
10 under this section.

11 (b) Election.--This section does not require any life
12 insurance company or fraternal benefit society authorized to do
13 business in this Commonwealth to value its bonds and other
14 evidences of debt by amortization as provided in this section,
15 but any company or society electing to adopt the amortized basis
16 shall have its bonds valued upon that basis.

17 SUBCHAPTER B

18 INSURANCE OTHER THAN LIFE INSURANCE

19 Sec.

20 721. Computation of unearned premium liability.

21 § 721. Computation of unearned premium liability.

22 (a) General rule.--In determining the liabilities upon its
23 contracts of insurance of any insurance company, other than a
24 life insurance company, and the amount the company should hold
25 as an unearned premium liability, the department shall calculate
26 the amount on a monthly prorata basis or its equivalent on the
27 premiums in force at the end of any quarterly or annual period,
28 except in the case of noncancelable health and accident
29 insurance issued on and after January 1, 1950. The amount shall
30 be calculated according to the methods set out in subsection

1 (b). On perpetual insurance, the department shall charge the
2 cash deposit received, less a surrender charge not exceeding 10%
3 thereof. For marine and inland insurance, the department shall
4 charge 50% of the premium written in the policy upon risks
5 covering more than one passage not terminated, and the full
6 amount of the premium written in the policy upon all other
7 marine and inland risks not terminated; however, the department
8 may charge a premium reserve equal to the unearned portions of
9 the gross premiums charged, computed on each respective risk
10 from the date of the issuance of the policy.

11 (b) Casualty insurance other than noncancelable health and
12 accident insurance.--The department shall, in calculating the
13 reserve against unpaid losses of casualty insurance companies,
14 other than losses under noncancelable health and accident
15 insurance issued on and after January 1, 1950, liability and
16 workmen's compensation policies, set down by careful estimate in
17 each case the loss likely to be incurred against every claim
18 presented or that may be presented pursuant to notice from the
19 insured of the occurrence of an event that may result in a loss.
20 The sum of the items so estimated shall be the total amount of
21 the reserve, except that in credit insurance 50% of the premiums
22 on all credit policies expiring in the months of October,
23 November and December of the current year, less the amount of
24 losses paid on such policies, shall in addition thereto be
25 charged in the loss reserve.

26 (c) Health and accident insurance.--The department shall
27 annually value, or shall annually require the insurer to value,
28 the reserve liabilities, as of December 31 of the preceding
29 year, of every casualty insurance company doing business in this
30 Commonwealth, with respect to all of its health and accident

1 insurance policies. For all such policies the company shall
2 maintain an active life reserve which shall place a sound value
3 on its liabilities under the policies and be not less than the
4 reserve according to appropriate standards set forth in the
5 regulations of the department and not less in the aggregate than
6 the prorata gross unearned premiums for such policies. With
7 respect to any foreign or alien insurer, the department may
8 accept a like valuation of the insurance supervising official of
9 the state, province or foreign country in which the insurer is
10 domiciled if the valuation is made upon a basis and according to
11 standards producing an aggregate reserve not less than under
12 this section.

13 (d) Definition.--As used in this section, the term
14 "noncancelable health and accident insurance" means insurance
15 against disability resulting from sickness, ailment or bodily
16 injury under a policy or contract which the insurer does not
17 have the option to cancel or otherwise terminate the contract at
18 or after the expiration of one year from its effective date,
19 excluding policies or contracts insuring solely against
20 accidental injury, or total and permanent disability benefits,
21 supplementary to life insurance or annuity policies or
22 contracts.

23 SUBCHAPTER C

24 WORKMEN'S COMPENSATION AND LIABILITY INSURANCE

25 Sec.

26 731. Definitions.

27 732. Computation of reserves.

28 733. Distribution of unallocated loss expense payments.

29 734. Power of department to determine reserves.

30 § 731. Definitions.

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

4 "Compensation." All insurance effected by virtue of statutes
5 providing compensation to employees for personal injuries
6 irrespective of fault of the employer.

7 "Earned premiums." Gross premiums charged on all policies
8 written, including all excess and additional premiums and
9 reinsurance premiums accepted, less return premiums other than
10 premiums returned to policyholders as dividends, and less all
11 reinsurance premiums ceded and premiums on policies canceled.
12 Earned premiums attributable to any specific period shall be
13 calculated by adding to the liability for unearned premiums at
14 the beginning of the period, the premiums written during the
15 period and subtracting the liability for unearned premiums at
16 the end of the period.

17 "Even monthly amount." The written premium divided by the
18 number of months for which the premium is written.

19 "Liability." All insurance except compensation insurance
20 against loss or damage from accident to or injuries suffered by
21 an employee or other person and for which the insured is liable.

22 "Loss payments" or "loss expense payments." All payments to
23 claimants, including payments for medical and surgical services,
24 legal expenses, salaries and expenses of investigators,
25 adjusters and field men, rents, salaries and expenses of office
26 employees, home office expenses and all other payments made on
27 account of claims, whether the payments are allocated to
28 specific claims or unallocated.

29 "Monthly prorata basis." The calculation by which written
30 premium becomes earned in even monthly amounts for each entire

1 calendar month or part thereof during which a policy is in
2 force, except that for the calendar months in which a premium is
3 written or expires, one-half the even monthly amount is earned.

4 § 732. Computation of reserves.

5 The reserve required of stock and mutual insurance companies
6 and exchanges for outstanding losses under insurance against
7 loss or damage from accident to or injuries suffered by an
8 employee or other person, and for which the insured is liable,
9 shall be computed as follows:

10 (1) For all liability premiums earned during the three
11 years immediately preceding the date as of which the
12 statement is made, 60% of the earned liability premiums of
13 each of those three years, less all loss and loss expense
14 payments made under liability policies written in the
15 corresponding years.

16 (2) For all compensation claims under policies written
17 more than three years prior to the date as of which the
18 statement is made, the present value at 4% interest of the
19 determined and estimated future payments.

20 (3) For all compensation premiums earned in the three
21 years immediately preceding the date as of which the
22 statement is made, 65% of the earned compensation premiums of
23 each of those three years, less all loss and loss expense
24 payments made in connection with such claims under policies
25 written in the corresponding years, but not less than the
26 present value at 4% interest of the determined and the
27 estimated unpaid compensation claims under policies written
28 during each of those years.

29 § 733. Distribution of unallocated loss expense payments.

30 All unallocated liability loss expense payments and all

1 unallocated compensation loss expense payments made in a given
2 calendar year in which an insurer has been issuing liability or
3 compensation policies, as appropriate, shall be made in
4 accordance with instructions set forth in the notes pertaining
5 to Schedule P, at page 35 of the Fire and Casualty Companies
6 (Association Edition) Annual Statement Blank for the year ended
7 December 31, 1974, as adopted for use in this Commonwealth by
8 the department.

9 § 734. Power of department to determine reserves.

10 Whenever the department determines that the liability or
11 compensation loss reserves of any insurer calculated in
12 accordance with this subchapter are inadequate, it may require
13 the insurer to maintain additional reserves based upon estimated
14 individual claims or otherwise. Whenever a satisfactory
15 mathematical or actuarial table for valuing compensation loss
16 reserves is approved and promulgated by the department, it may
17 require any insurer under its supervision to maintain upon this
18 tabular basis greater or lesser reserves than those provided
19 under section 732 (relating to computation of reserves).

20 SUBCHAPTER D

21 CASUALTY INSURANCE

22 Sec.

23 741. Right of action.

24 742. Notice of impairment of funds.

25 § 741. Right of action.

26 A policy of accident insurance against loss or damage
27 resulting from accident to or injury suffered by an employee or
28 other person and for which the person insured is liable, or
29 against loss or damage to property caused by animals or by any
30 vehicle drawn, propelled or operated by any motive power and for

1 which loss or damage the person is liable, shall not be issued
2 or delivered in this Commonwealth by any corporation or other
3 insurer authorized to do business in this Commonwealth unless
4 the policy contains a provision that the insolvency or
5 bankruptcy of the person insured shall not release the insurance
6 carrier from the payment of damages for injury sustained or loss
7 occasioned during the life of the policy. The provision shall
8 also state that in case execution against the insured is
9 returned unsatisfied because of bankruptcy or insolvency in an
10 action brought by the injured person, or his personal
11 representative in case death results from the accident, then an
12 action may be maintained by the injured person or his personal
13 representative against the corporation under the terms of the
14 policy, for the amount of judgment in the action, not exceeding
15 the amount of the policy.

16 § 742. Notice of impairment of funds.

17 Having charged as a liability the reinsurance and loss
18 reserves for insurance companies and exchanges of this
19 Commonwealth other than life insurance companies and adding
20 thereto all other debts and claims against the company or
21 exchange, the department shall, in case it finds the capital or
22 reserve of the company or exchange impaired to any degree, give
23 notice to the company or exchange to make good the capital or
24 reserve within 30 days.

25 SUBCHAPTER E

26 TITLE INSURANCE

27 Sec.

28 751. Title insurance reserve.

29 752. Reinsurance on liquidation of company.

30 753. Recovery by policyholders.

1 § 751. Title insurance reserve.

2 (a) Reserve fund requirement.--All companies incorporated
3 for the insurance of owners of real estate, mortgages and others
4 interested in real estate, from loss by reason of defective
5 titles, liens and encumbrances, as well as all title insurance
6 and trust companies receiving deposits, heretofore incorporated
7 and authorized by charter or by law to carry on such business,
8 shall establish and maintain a reserve fund for the protection
9 of policyholders.

10 (b) Establishment and maintenance of fund.--The reserve fund
11 shall be established by setting aside a sum equal to 10% of the
12 premium paid on each policy of insurance which the company may
13 issue until the total amount set aside equals \$250,000. The
14 total reserve fund may, with the consent of the department, be
15 set aside at any one time or from time to time out of surplus
16 and undivided profits. The reserve fund shall be maintained as
17 long as liability on any policies is outstanding.

18 (c) Supervision by department.--The custody of the reserve
19 fund shall be retained by the company, and the fund shall be
20 kept separate from other assets of the company. The department
21 shall ascertain that a reserve fund equal to the amount required
22 by subsection (b) is maintained. If any company neglects or
23 refuses to establish or maintain the reserve fund, the
24 department shall direct the company either to comply with the
25 provisions of this section or to discontinue doing title
26 insurance business.

27 (d) Investment of reserve fund.--The company shall invest
28 the reserve fund in first mortgage or other securities
29 designated by law as legal investments for trust funds whenever
30 the accumulated fund amounts to \$1,000 or more. The mortgages or

1 other securities shall be carried at cost price, but not at more
2 than market price. If there is a depreciation in the market
3 price of any securities, the company shall make good the
4 depreciation by the addition of other legal investments so that
5 the fund shall always be maintained at the full amount required
6 by subsection (b). The companies may withdraw from the fund any
7 mortgages or other securities held therein by crediting the fund
8 the amount at which the mortgages or securities are valued if
9 there are immediately substituted therefor other first mortgages
10 or securities.

11 (e) Cancellation of policy.--Whenever any policy of title
12 insurance is surrendered by the holder, canceled or liability
13 thereon completely discharged, the reserve therefor may be
14 withdrawn or credited against reserves that may be due.

15 (f) Status of reserve fund to be a trust fund.--The reserve
16 fund shall be kept separate and apart from the other assets of
17 the company. The income of the reserve fund shall become part of
18 the general assets of the company. The reserve fund shall
19 constitute a separate and distinct trust fund for the protection
20 of policyholders and shall not be subject to distribution among
21 depositors or other creditors until all policyholders have been
22 paid in full or the liability on the policies contingent or
23 actual has been completely discharged.

24 (g) Reinsurance by department.--If the department takes
25 possession of and winds up any company, the department may use
26 the reserve fund to purchase reinsurance for the liabilities
27 represented by the policies outstanding against the fund.
28 Acceptance of the policy of the reinsuring company shall operate
29 as a complete discharge of liability under the policy of the
30 insolvent company. If any policyholder refuses to accept the

1 policy of the reinsuring company, he shall be entitled to
2 receive only the pro rata portion of his reserve that remains
3 upon distribution under subsection (h).

4 (h) Distribution of reserve fund.--The reserve fund in the
5 custody of the department shall be liable only to the following
6 claims:

7 (1) To pay all outstanding claims of indemnity that have
8 arisen by virtue of any policies of insurance.

9 (2) For the purchase of reinsurance to indemnify and
10 protect the remaining outstanding policies.

11 (3) To distribute among policyholders, upon cancellation
12 of their policies, the proportionate share of the reserve
13 fund to which they are entitled, which shall not exceed the
14 proportion which the premium paid for the policy bears to the
15 whole amount of title insurance then outstanding.

16 § 752. Reinsurance on liquidation of company.

17 Whenever the department purchases reinsurance under section
18 751 (relating to title insurance reserve), it may do so by
19 purchasing, from a company incorporated under the law of this
20 Commonwealth with the right to insure titles to real estate to
21 owners, mortgagees and others and having a title insurance
22 reserve of the maximum amount required by section 751, a blanket
23 policy in the name of the Commonwealth for the use of the
24 original policyholders. In this blanket policy, the title
25 insurance company shall agree that it will, on demand of anyone
26 holding an outstanding policy issued by the original company,
27 fulfill for the policyholder the same obligations as were due to
28 him under the original policy, but the amount of recoverable
29 damages shall be limited in accordance with section 753
30 (relating to recovery by policyholders).

1 § 753. Recovery by policyholders.

2 (a) Determinations of insurance and liability.--Prior to
3 purchasing reinsurance, the department shall determine the total
4 amount of insurance issued by the corporation of which it has
5 taken possession and the amount of this insurance upon which the
6 corporation had an outstanding liability on the day the
7 corporation came into its custody. The department shall file
8 written certificates of these determinations in its office and
9 in the records of the court under which its certificate of
10 possession is filed.

11 (b) Reinsurance policy.--The department shall then use the
12 reserve fund in its custody to pay the fee for examinations by
13 the reinsuring company and to purchase as large an amount of
14 insurance as can be acquired. The blanket policy for reinsurance
15 shall contain a clause that each policyholder of the company
16 which originally issued the insurance reinsured shall be
17 entitled to recover in his own name, not according to the amount
18 of the original policy, but in the proportion that the total
19 amount of the reinsurance purchased bears to the total amount of
20 outstanding insurance determined to be in existence by the
21 department and shown by the certificates executed under this
22 section.

23 (c) Limitations on reinsurance liability.--The total
24 liability of the reinsuring company shall not exceed the amount
25 of the blanket policy issued under section 752 (relating to
26 reinsurance on liquidation of company) and shall not be enlarged
27 beyond that of the original company. Claims by policyholders
28 against the reinsuring company shall be subject to all the
29 conditions and limitations of the original insurance as respects
30 the status of the claim and claimant.

1 (d) Rights of policyholders.--Each policyholder of the
2 company which originally issued the insurance reinsured may sue
3 the reinsurance carrier, using his own name as plaintiff,
4 notwithstanding the fact that the reinsurance policy is issued
5 in the name of the Commonwealth.

6 CHAPTER 9
7 DEPOSITS OF SECURITIES TO DO INTERSTATE BUSINESS

8 Sec.

9 901. Deposit of securities with department.

10 902. State Treasurer as custodian.

11 903. Return of securities.

12 904. Actions in equity regarding deposits.

13 § 901. Deposit of securities with department.

14 Any domestic insurance entity desiring to transact business
15 in other states, where the law requires that the entity first
16 deposit securities of a designated value with the department or
17 any proper officer of this Commonwealth in trust and for the
18 benefit of all its policyholders, or any foreign or alien
19 insurance company or association desiring to make the deposit
20 required of foreign companies or associations in order to
21 transact business in the United States, may deposit with the
22 department securities for such an amount as the law of the other
23 states designates, or as the law of this Commonwealth requires
24 for foreign companies or associations. If the department is
25 satisfied that the securities are worth the required amount, it
26 shall receive them or those given in exchange therefor for the
27 purpose of this section. Upon the written request of the
28 insurance entity, the department shall further certify, under
29 its official seal to the proper officer of the other state in
30 which the insurance entity desires to transact business or the

1 official of the Federal Government, that the entity has
2 deposited securities with it, list the securities and certify
3 that it is satisfied they are worth the sum designated by the
4 law of the other state or required by the Federal Government.

5 § 902. State Treasurer as custodian.

6 Upon receipt of any deposit made under section 901 (relating
7 to deposit of securities with department), the department shall
8 immediately place them with the State Treasurer, who shall
9 receive and hold them in the name of the Commonwealth in trust
10 for the purposes for which the deposit is made. The State
11 Treasurer shall be responsible for their custody and
12 safekeeping. The entity making the deposit may from time to time
13 demand and receive from the State Treasurer, on the written
14 order of the department, all or any portion of the securities so
15 deposited, upon depositing with him other securities of at least
16 equal value and may demand, receive, sue for and recover the
17 interest and income from the securities from the payee or
18 obligee thereof as these become due and payable.

19 § 903. Return of securities.

20 Upon request of any domestic entity which has made a deposit
21 under this chapter, the department may authorize the State
22 Treasurer to return to the entity the whole or any portion of
23 the securities held by him on deposit, if the department is
24 satisfied that the securities are subject to no liability and
25 are not required to be longer held under this title, or for the
26 purpose of the original deposit. The State Treasurer may in like
27 manner return to the trustees or other representatives of a
28 foreign or alien insurance company or association authorized for
29 that purpose any deposit made by the company, if the company or
30 association has ceased to do business in this Commonwealth and

1 is under no obligation to policyholders or other persons in this
2 Commonwealth or in the United States, for whose benefit the
3 deposit was made. A deposit shall not be wholly withdrawn or
4 diminished so long as any liability to policy holders remains
5 unsatisfied, except in case of dissolution by a court of any
6 entity making the deposit, in which case the State Treasurer
7 shall, upon the written order of the court, assign and transfer
8 to the receiver all securities or funds in his possession
9 belonging to the entity.

10 § 904. Actions in equity regarding deposits.

11 An insurance entity which has made a deposit under this
12 chapter, or its trustees or resident manager in the United
13 States, or the department, may bring an action in equity against
14 the Commonwealth and other parties properly joined therein, to
15 enforce, administer or terminate the trust created by the
16 deposit. The process in the action shall be served on the State
17 Treasurer, who shall appear and answer on behalf of the
18 Commonwealth and perform such orders and decrees as the court
19 may make.

20 CHAPTER 11

21 AGENTS AND BROKERS

22 Subchapter

- 23 A. Agents
- 24 B. Termination of Agency Contracts
- 25 C. Insurance Brokers
- 26 D. Prohibited Activities
- 27 E. Managers and Exclusive General Agents
- 28 F. Public Adjusters and Solicitors
- 29 G. Motor Vehicle Physical Damage Appraisers
- 30 H. Public Remedies for Unlicensed Activity

1 SUBCHAPTER A

2 AGENTS

3 Sec.

4 1101. Definition of agent.

5 1102. Certification of agents.

6 1103. Licenses of agents.

7 1104. Penalty for doing business as agent without license.

8 1105. Personal liability of agents for unauthorized entity.

9 1106. Penalty for advertising as agent of unauthorized entity.

10 1107. Penalty for soliciting for nonexistent company.

11 1108. Licensure of nonresident agents.

12 § 1101. Definition of agent.

13 (a) General rule.--As used in this chapter, the term "agent"
14 means any of the following:

15 (1) Any person authorized in writing by an entity:

16 (i) to solicit risks and collect premiums and to
17 issue or countersign policies in its behalf; or

18 (ii) to solicit risks and collect premiums in its
19 behalf.

20 (2) A person, not a licensed insurance broker, who,
21 whether or not for compensation:

22 (i) solicits insurance on behalf of any insurance
23 entity;

24 (ii) transmits for a person other than himself an
25 application for a policy of insurance to or from the
26 entity;

27 (iii) offers or assumes to act in the negotiation of
28 such insurance; or

29 (iv) in any manner aids in transacting the insurance
30 business of any entity by negotiating for or placing

1 risks or delivering policies or collecting premiums for
2 the entity.

3 (b) Exclusions.--The term "agent" does not include:

4 (1) Nonresident salaried employees of foreign exchanges
5 which maintain no offices in this Commonwealth and pay no
6 commissions to such employees.

7 (2) Officers or salaried employees of any insurance
8 entity authorized to transact business in this Commonwealth
9 who do not solicit, negotiate or place risks.

10 (c) Applicability.--Except as provided in Chapter 67
11 (relating to title insurance), this subchapter does not apply to
12 title insurance agents.

13 § 1102. Certification of agents.

14 Insurance entities authorized by law to transact business in
15 this Commonwealth shall from time to time certify to the
16 department the names of all agents appointed by them to solicit
17 insurance in this Commonwealth.

18 § 1103. Licenses of agents.

19 (a) Power to issue license.--The department may issue, upon
20 certification under section 1102 (relating to certification of
21 agents), an agent's license to any person of at least 18 years
22 of age and to any partnership or corporation.

23 (b) Limitations.--A license as agent shall not be granted to
24 any corporation unless by provisions of its charter it is
25 authorized to engage in the business of insurance or real estate
26 and unless individual licenses are also secured for each active
27 officer of such corporation. A license shall not be granted to a
28 partnership or association unless individual licenses are also
29 secured for each active member of the partnership or
30 association.

1 (c) Requirements for licensure.--Before the license is
2 granted, the applicant shall first complete a verified
3 application in a form determined by the department. The answers
4 on the application shall be verified by the applicant and
5 vouched for by endorsement of the entity interested. The
6 application shall also be accompanied by a verified statement by
7 the entity that the applicant is of good business reputation,
8 has experience in underwriting, other than soliciting, and is
9 worthy of a license. Any applicant who has held, for any period
10 during the five years immediately preceding the application, a
11 license to transact as agent any class or kind of insurance
12 business for any entity authorized to transact business in this
13 Commonwealth may, upon proper application, receive a license to
14 transact as agent the same class or kind of insurance business
15 for any other entity which is so authorized, without submitting
16 to an examination. Agents' license fees shall be paid in full at
17 the time of issuance and shall not be apportioned pro rata over
18 the initial license period.

19 (d) License.--When the department is satisfied that the
20 applicant is worthy of license and that he is reasonably
21 familiar with provisions of the insurance law of this
22 Commonwealth, it shall issue a license. The license shall state
23 that the entity represented by the agent has complied with this
24 title and has been authorized by the department to transact
25 business in this Commonwealth and that the agent has been
26 appointed by that entity.

27 (e) Expiration.--The licenses of life insurance agents shall
28 expire annually on March 31, the licenses of fire insurance
29 agents shall expire annually on September 30, and the licenses
30 of casualty and health and accident insurance agents shall

1 expire annually on December 31. However, any such license may be
2 sooner terminated as the result of severance of business
3 relations between the entity and the agent or may be revoked by
4 the department for cause.

5 (f) Domestic mutual fire insurance companies.--This section
6 applies to domestic mutual fire insurance companies, but no
7 agent of such a company acting or authorized to act as such on
8 October 20, 1961, shall be required to take an examination for
9 licensure. This section does not require agents of domestic
10 mutual fire insurance companies, which agents write only
11 coverages other than insurance upon automobiles authorized by
12 section 3302(b)(1), (2) and (3) (relating to authorized classes
13 of insurance), to submit to the examination for licensure.

14 (g) Exemption from examination.--The examination for
15 licensure shall not be required of any person who has received
16 the designation of Chartered Life Underwriter (C.L.U.) from the
17 American College of Life Underwriters, except that the person
18 may be examined on pertinent provisions of the insurance law as
19 determined by the department.

20 § 1104. Penalty for doing business as agent without license.

21 A person commits a misdemeanor of the third degree if he
22 transacts business in this Commonwealth as the agent of an
23 insurance entity without a license as required by this chapter.
24 Prosecutions for violations under this section may be instituted
25 by the department.

26 § 1105. Personal liability of agents for unauthorized entity.

27 An insurance agent shall be personally liable on all
28 contracts of insurance or suretyship unlawfully made by or
29 through him, directly or indirectly, for or in behalf of any
30 entity not authorized to do business in this Commonwealth. This

1 section applies to any person who transacts business in this
2 Commonwealth as an agent of an insurance entity without a
3 license as required by this chapter.

4 § 1106. Penalty for advertising as agent of unauthorized
5 entity.

6 Any person who represents or advertises himself as the agent
7 of any foreign or alien insurance entity which has not complied
8 with the law of this Commonwealth commits a misdemeanor of the
9 third degree.

10 § 1107. Penalty for soliciting for nonexistent company.

11 Any individual, and the officers, managers, agents, owners or
12 representatives of and any corporation, partnership or
13 association, offering in this Commonwealth to sell, procure or
14 obtain policies, certificates, agreements, binders or
15 applications for insurance, surety or indemnity, for or on
16 behalf of any spurious, fictitious, nonexistent, dissolved,
17 inactive, liquidated, liquidating or bankrupt insurance entity,
18 society or order, commits a misdemeanor of the third degree.

19 § 1108. Licensure of nonresident agents.

20 (a) General rule.--The department may issue a license as
21 agent to a person not resident of this Commonwealth, upon
22 compliance with the applicable provisions of this chapter, if
23 the state or the province of the Dominion of Canada of the
24 person's residence accords the same privilege to a resident of
25 this Commonwealth.

26 (b) Waiver of written examination.--The department may enter
27 into reciprocal agreements with the appropriate official of any
28 such other state or province waiving the written examination of
29 any applicant resident in the other state or province if the
30 following conditions obtain:

1 (1) A written examination is required of applicants for
2 an insurance agent's license in the other state or province.

3 (2) The appropriate official certifies that the
4 applicant holds a currently valid license as an insurance
5 agent in the other state or province and either passed a
6 written examination or was the holder of an insurance agent's
7 license prior to the time a written examination was required.

8 (3) In the other state or province a resident of this
9 Commonwealth may obtain an insurance agent's license upon the
10 conditions stated in this subsection, without discrimination
11 as to fees or otherwise in favor of the residents of the
12 other state or province.

13 (c) Life insurance agents.--An applicant or licensee may not
14 have a place of business in this Commonwealth or be an officer,
15 director, stockholder or partner in any corporation or
16 partnership doing business in this Commonwealth as a life
17 insurance agency.

18 (d) Sharing of commissions.--If the law of another state or
19 province of the Dominion of Canada requires the sharing of
20 commissions with resident agents of the state or province on
21 applications for insurance written by nonresident agents, then
22 the same provisions shall apply when resident agents of that
23 state or province licensed as nonresident agents in this
24 Commonwealth write applications for insurance on residents of
25 this Commonwealth.

26 SUBCHAPTER B

27 TERMINATION OF AGENCY CONTRACTS

28 Sec.

29 1121. Definitions and applicability of subchapter.

30 1122. Cancellation of contract.

1 1123. Continuation of business.

2 1124. Agency termination agreements.

3 1125. Penalties.

4 1126. Regulations.

5 § 1121. Definitions and applicability of subchapter.

6 (a) Definitions.--The following words and phrases when used
7 in this subchapter shall have the meanings given to them in this
8 section unless the context clearly indicates otherwise:

9 "Agent." An individual, partnership or corporation, licensed
10 by the department, who contracts with an insurer to sell
11 insurance on behalf of the insurer.

12 "Insurer." An insurance entity authorized to transact and
13 transacting the business of property or casualty insurance in
14 this Commonwealth.

15 (b) Applicability of subchapter.--This subchapter applies to
16 all classes and kinds of insurance which may be written by a
17 stock or mutual property or casualty insurance entity, including
18 fidelity, surety and guaranty bonds and all other forms of motor
19 vehicle insurance except reinsurance, accident and health
20 insurance or insurance against loss of or damage to aircraft or
21 against liability arising out of the ownership, maintenance or
22 use of aircraft. This subchapter does not apply to:

23 (1) Any business owned by the insurer and not by the
24 agent, if the insurer offers to continue its policies through
25 another of its agents.

26 (2) Any agency contract in effect for less than four
27 years.

28 (3) An agent whose license has been suspended or revoked
29 by the department or whose contract has been terminated for
30 insolvency, abandonment, gross or willful misconduct or

1 failure to pay over to the insurer moneys due to the insurer
2 after receipt by the agent of a written demand therefor.

3 (4) An agent who has demonstrated gross incompetence
4 which would normally be cause for agency contract
5 termination.

6 § 1122. Cancellation of contract.

7 (a) Notice.--An insurer shall not terminate its contract
8 with an agent without first providing the agent and the
9 department with written notification at least 90 days prior to
10 the date of termination. The notification shall set forth the
11 insurer's reason for the action and shall advise the agent of
12 his right of appeal under subsection (c).

13 (b) Privileged information.--Any information, document,
14 record or statement so furnished or disclosed to the department
15 shall be absolutely privileged and shall not be admissible as
16 evidence in or as basis for any action against the appointing
17 insurer or against any representative of that insurer.

18 (c) Administrative review.--Any agent may, within 30 days of
19 receipt of notice of termination, request in writing to the
20 department that it review the action of the insurer for the
21 purpose of determining whether the termination was in compliance
22 with this subchapter.

23 (d) Restriction on termination.--Prior to termination due to
24 adverse experience, mix of business or lack of premium volume,
25 the insurer shall make a reasonable attempt to rehabilitate the
26 agent as set forth in subsection (e). No insurer shall terminate
27 its contract with an agent due solely to the adverse experience
28 for a period of less than two successive years prior to the
29 notice of rehabilitation as set forth in subsection (e).

30 (e) Rehabilitation.--The insurer shall notify the agent, in

1 writing, that the agent is placed on a rehabilitation program.
2 The notice shall specify the reasonable goals and objectives of
3 the rehabilitation program and shall inform the agent that
4 failure to attain the goals and objectives specified in the
5 rehabilitation program may result in termination of the agency.
6 The rehabilitation program shall be for a period of not less
7 than one year. Compliance with the rehabilitation program and
8 attainment of the rehabilitation goals shall bar termination of
9 the agency solely due to adverse experience, mix of business or
10 lack of premium volume. Upon request of administrative review
11 pursuant to subsection (c), the insurer shall be required to
12 demonstrate to the department that it has made a reasonable
13 attempt to rehabilitate the agent.

14 § 1123. Continuation of business.

15 (a) Policies.--If an insurer notifies an agent that its
16 contract will be terminated, the insurer shall offer to continue
17 the policies and any amendments thereto made through the agent
18 for a period of 12 months from the effective date of
19 termination, subject to the insurer's current underwriting
20 standards.

21 (b) Commissions.--The terminated agent or agent under
22 rehabilitation shall be entitled to receive commissions on
23 account of all business continued or written pursuant to this
24 section in accordance with the commission rates in the agent's
25 agreement.

26 § 1124. Agency termination agreements.

27 This subchapter does not prohibit an amendment or addendum
28 subsequent to the inception date of the original agency
29 agreement providing that the original agency agreement may be
30 terminated at a sooner time than is required by this subchapter

1 if the agent agrees in writing to the termination.

2 § 1125. Penalties.

3 (a) Summary offense.--Any person, agent or insurer who
4 willfully violates this subchapter commits a summary offense. A
5 conviction under this subsection does not bar administrative
6 action by the department under this section.

7 (b) Administrative action.--Upon satisfactory evidence of a
8 violation of this subchapter, the department may do any or all
9 of the following:

10 (1) Suspend or revoke the license of the person, agent
11 or insurer.

12 (2) Refuse, for a period not to exceed one year
13 thereafter, to issue him a new license or to renew his
14 license.

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

17 (c) Review and appeal.--Any adjudication of the department
18 under subsection (b) shall be subject to review and appeal in
19 accordance with Title 2 (relating to administrative law and
20 procedure).

21 § 1126. Regulations.

22 The department shall promulgate regulations necessary for the
23 administration of this subchapter.

24 SUBCHAPTER C

25 INSURANCE BROKERS

26 Sec.

27 1131. Definition and applicability.

28 1132. Licenses of brokers.

29 1133. Penalty for acting as broker without license.

30 1134. Doing business with unlicensed brokers.

1 1135. Payment of commissions to brokers.

2 § 1131. Definition and applicability.

3 (a) Definition.--As used in this subchapter and Subchapter D
4 (relating to prohibited activities), the term "insurance broker"
5 means a person, not an officer or agent of the entity
6 interested, who, for compensation, acts or aids in any manner in
7 obtaining insurance, other than title insurance, for a person
8 other than himself.

9 (b) Applicability.--This subchapter does not apply to title
10 insurance brokers.

11 § 1132. Licenses of brokers.

12 (a) Power to issue licenses.--The department may issue to
13 any individual of at least 18 years of age or to any partnership
14 or corporation a license to act as an insurance broker to
15 negotiate contracts of insurance or reinsurance with any
16 insurance entity or the agents thereof authorized by law to
17 transact business in this Commonwealth.

18 (b) Limitations.--A license shall not be issued to any
19 corporation to act as an insurance broker unless by its charter
20 it is authorized to engage in the business of insurance or real
21 estate.

22 (c) Application for license.--Before the license is issued,
23 the applicant shall first complete an application in a form
24 determined by the department. The application shall be verified
25 by the applicant, and the answers shall be vouched for by an
26 endorsement made by at least two agents or the officers of any
27 insurance entity acquainted with the applicant, further stating
28 that the applicant is of good business reputation, has
29 experience in underwriting, other than soliciting, and is worthy
30 of a license. Brokers' license fees shall be paid in full at the

1 time of issuance and shall not be apportioned pro rata over the
2 initial license period.

3 (d) License.--When the department is satisfied that the
4 applicant is worthy of a license and that he is reasonably
5 familiar with the insurance law of this Commonwealth, it shall
6 issue a broker's license to expire annually one year from date
7 of issue, unless sooner revoked by the department for cause.

8 § 1133. Penalty for acting as broker without license.

9 Any person transacting business as an insurance broker in
10 this Commonwealth, or soliciting insurance or transmitting for
11 another partnership, association or corporation an application
12 for a policy of insurance, or offering or assuming to act in the
13 negotiation of such insurance or in any manner aiding in
14 transacting an insurance business, or negotiating for or placing
15 risks, or delivering policies or collecting premiums for
16 policies which are effective in this Commonwealth without a
17 license as broker, or in the case of title insurance without
18 being admitted to practice as an attorney at law or being
19 licensed as a real estate broker or real estate agent, unless
20 the person is acting as a licensed agent and then only for the
21 companies the person is licensed by this Commonwealth to
22 represent, commits a misdemeanor of the third degree.

23 Prosecutions for violations under this section may be instituted
24 by the department.

25 § 1134. Doing business with unlicensed brokers.

26 Any entity or the agent of any entity accepting applications
27 or orders for insurance or securing any insurance business
28 through anyone acting without a license commits a misdemeanor of
29 the third degree. Prosecutions for violations under this section
30 may be instituted by the department.

1 § 1135. Payment of commissions to brokers.

2 Any insurance entity or the agent thereof may pay money,
3 commission or brokerage, or give or allow anything of value to a
4 duly licensed insurance broker for the solicitation or
5 negotiation of contracts for insurance on property or risks in
6 this Commonwealth.

7 SUBCHAPTER D

8 PROHIBITED ACTIVITIES

9 Sec.

10 1141. (Reserved).

11 1142. Theft offense.

12 1143. Commingling funds.

13 1144. Paying or receiving compensation for certain life
14 insurance.

15 1145. Offering rebates and inducements.

16 1146. Acceptance of rebates.

17 1147. Misrepresentation of policy terms.

18 1148. Misrepresentation to induce change of insurers.

19 1149. Penalties imposed by department.

20 1150. Lending institutions, public utilities and holding
21 companies not to be licensed.

22 § 1141. (Reserved).

23 § 1142. Theft offense.

24 An insurance agent or broker who acts in negotiating a
25 contract of insurance for an insurance entity lawfully doing
26 business in this Commonwealth and who embezzles or fraudulently
27 converts to his own use or who, with intent to use or embezzle,
28 takes, secretes or otherwise disposes of, or fraudulently
29 withholds, appropriates, lends, invests or otherwise uses or
30 applies, any money or substitutes for money received by him as

1 agent or broker, contrary to the instructions or without the
2 consent of the entity for or on account of which the same was
3 received by him, commits a theft offense and shall be punished
4 as required under 18 Pa.C.S. § 3903 (relating to grading of
5 theft offenses).

6 § 1143. Commingling funds.

7 Every insurance agent and broker acting as such in this
8 Commonwealth shall be responsible in a fiduciary capacity for
9 all funds received or collected as insurance agent or broker and
10 shall not, without the express consent of his principal, mingle
11 any such funds with his own funds or with funds held by him in
12 any other capacity. This section does not require the agent or
13 broker to maintain a separate bank deposit for the funds of each
14 principal if the funds held for each principal are reasonably
15 ascertainable from the books of account and records of the agent
16 or broker.

17 § 1144. Paying or receiving compensation for certain life
18 insurance.

19 (a) General rule.--A person, insurance agent, broker,
20 solicitor or representative shall not pay or cause to be paid
21 any commission or compensation to any attorney at law, partner,
22 clerk, servant, employee or other person, however hired or
23 employed by or with any insured or any beneficiary named in any
24 policy of life insurance. An attorney at law, partner, clerk,
25 servant, employee or any other person, however hired or employed
26 by or with any insured or any beneficiary named in any policy of
27 life insurance shall not receive, directly or indirectly, any
28 commission, compensation or other benefit by reason of the life
29 insurance being placed, sold or solicited on the life or for the
30 benefit of their respective clients, employers or masters. An

1 attorney at law, officer, clerk, servant or employee of any
2 corporation, partnership, association or individual shall not
3 receive, directly or indirectly, any commission, compensation or
4 benefit by reason of any life insurance being placed, sold or
5 solicited on the life or for the benefit of any attorney at law,
6 officer, clerk, servant or employee of the same corporation,
7 partnership, association or individual, whether or not the
8 attorney, partner, officer, clerk, servant, employee or other
9 person hired or employed by or with the insured or of any
10 beneficiary named in any policy of life insurance is duly
11 licensed by the proper authority in this Commonwealth to place,
12 sell or solicit life insurance.

13 (b) Applicability.--Every such attorney at law, partner,
14 officer, clerk, servant, employee or other person hired or
15 employed or continuing to be hired or employed in that capacity
16 within 90 days before or after the placing, selling or
17 soliciting of life insurance on the life or for the benefit of
18 their respective clients, partners, officers, employees, masters
19 or person in that capacity or any of them, shall be subject to
20 the provisions of this section.

21 (c) Penalty.--Every person participating in the payment or
22 receipt of any compensation or benefit in violation of this
23 section commits a misdemeanor of the third degree.

24 § 1145. Offering rebates and inducements.

25 An insurance agent, solicitor or broker shall not offer or
26 give, directly or indirectly, any rebate of, or part of, the
27 premium payable on the policy or the agent's commission thereon,
28 or earnings, profit, dividends or other benefit founded,
29 arising, accruing or to accrue thereon or therefrom, or any
30 special advantage in date of policy or age of issue, or any paid

1 employment or contract for services of any kind, or any other
2 valuable consideration or inducement, to or for insurance on any
3 risk in this Commonwealth, which is not specified in the policy
4 contract of insurance. An insurance agent, solicitor or broker
5 shall not personally or otherwise offer, give, option, sell or
6 purchase any stocks, bonds, securities or property, or any
7 dividends or profits accruing or to accrue thereon, or other
8 thing of value, as inducement to insurance or in connection
9 therewith. This section does not prevent the taking of a bona
10 fide obligation, with legal interest, in payment of any premium.

11 § 1146. Acceptance of rebates.

12 An insured person or party or applicant for insurance shall
13 not directly or indirectly receive or accept, or agree to
14 receive or accept, any rebate of premium or any part thereof, or
15 all or any part of any agent's, solicitor's or broker's
16 commission thereon, or any favor, advantage or share in any
17 benefit to accrue under any policy of insurance, or any valuable
18 consideration or inducement, other than those specified in the
19 policy.

20 § 1147. Misrepresentation of policy terms.

21 An agent of an insurance entity or an insurance broker shall
22 not issue, circulate, use or cause or permit to be issued,
23 circulated or used, any written or oral statement or circular
24 misrepresenting the terms of any policy issued or to be issued
25 by the entity or make an estimate, with intent to deceive, of
26 the future dividends payable under the policy.

27 § 1148. Misrepresentation to induce change of insurers.

28 An agent of an insurance entity or an insurance broker, or
29 any person in behalf of the agent, solicitor or broker, shall
30 not make any misrepresentation or incomplete comparison of

1 policies, oral, written or otherwise, to any person insured by
2 any entity for the purpose of inducing or tending to induce a
3 policyholder in the entity to lapse, forfeit or surrender his
4 insurance therein and to take out a policy of insurance in
5 another entity insuring against similar risks.

6 § 1149. Penalties imposed by department.

7 (a) General rule.--Upon satisfactory evidence of the
8 violation of section 1104 (relating to penalty for doing
9 business as agent without license), 1106 (relating to penalty
10 for advertising as agent of unauthorized entity), 1107 (relating
11 to penalty for soliciting for nonexistent company), 1133
12 (relating to penalty for acting as broker without license), 1134
13 (relating to doing business with unlicensed brokers) or 1142
14 (relating to theft offense) through 1148 (relating to
15 misrepresentation to induce change of insurers) by any agent of
16 any insurance entity or by any insurance broker or upon
17 satisfactory evidence of such conduct as would disqualify the
18 agent or broker from initial issuance of a license under section
19 1103 (relating to licenses of agents) or 1132 (relating to
20 licenses of brokers), the department may pursue any one or more
21 of the following courses of action regardless of whether the
22 agent or broker was licensed by the department:

23 (1) Suspend or revoke or refuse to renew the license of
24 offending party or parties.

25 (2) Impose a civil penalty of not more than \$1,000 for
26 each act in violation of any of the provisions listed in this
27 subsection.

28 (b) Hearing.--The department shall hold a hearing before
29 taking action under subsection (a). It shall give written notice
30 of the hearing to the person or entity accused, stating

1 specifically the nature of the alleged violation and fixing a
2 time and place, at least ten days thereafter, when the hearing
3 shall be held.

4 (c) Criminal penalty.--Any agent of any insurance entity,
5 insurance broker or other person violating section 1143
6 (relating to commingling funds), 1145 (relating to offering
7 rebates and inducements), 1146 (relating to acceptance of
8 rebates), 1147 (relating to misrepresentation of policy terms)
9 or 1148 (relating to misrepresentation to induce change of
10 insurers) commits a misdemeanor of the third degree.

11 (d) Production of evidence.--A person shall not be excused
12 from testifying, or from producing any books, papers, contracts
13 or documents, at any hearing held by the department or at the
14 trial or hearing before any magistrate or judge, of any person
15 charged with violating section 1145, 1146, 1147 or 1148 on the
16 ground that the testimony or evidence may tend to incriminate
17 himself, but no person shall be prosecuted for any act
18 concerning which he shall be compelled to testify or produce
19 evidence except for perjury committed in testifying.

20 § 1150. Lending institutions, public utilities and holding
21 companies not to be licensed.

22 (a) General rule.--No lending institution, public utility,
23 bank holding company, savings and loan holding company or any
24 subsidiary or affiliate of the foregoing, or officer or employee
25 thereof, may, directly or indirectly, be licensed or admitted as
26 an insurer or be licensed to sell insurance in this Commonwealth
27 either as a broker or as an agent except that a lending
28 institution or bank holding company, subsidiary or affiliate of
29 a lending institution may be licensed to sell credit life,
30 health and accident insurance and to sell and underwrite title

1 insurance in accordance with regulations promulgated by the
2 department.

3 (b) Authority of department.--The department is authorized
4 to promulgate regulations in order to effectuate the purposes of
5 this section, which are to help maintain the separation between
6 lending institutions and public utilities and the insurance
7 business and to minimize the possibilities of unfair competitive
8 practices by lending institutions and public utilities against
9 insurance companies, agents and brokers.

10 (c) Exclusion.--The provisions of this section do not apply
11 to any lending institution, bank holding company, savings and
12 loan holding company, public utility or public utility holding
13 company, or any subsidiary or affiliate of the foregoing, or any
14 officer, director or employee thereof licensed as an insurance
15 agent or broker or insurer in this Commonwealth on or before
16 February 28, 1975.

17 (d) Definitions.--As used in this section the following
18 words and phrases shall have the meanings given to them in this
19 subsection:

20 "Bank holding company." As defined in section 2 of the Bank
21 Holding Company Act of 1956 (70 Stat. 133, 12 U.S.C. § 1841).
22 However, if on or before February 28, 1975, a bank holding
23 company has been granted an exemption by the Board of Governors
24 of the Federal Reserve System pursuant to section 4(d) of the
25 Bank Holding Company Act of 1956 (12 U.S.C. § 1843(d)), such
26 bank holding company shall not be held to be a bank holding
27 company within the meaning of section 2 of the Bank Holding
28 Company Act of 1956 (12 U.S.C. § 1841).

29 "Credit life, health and accident insurance." Insurance on
30 the life and health of a borrower from a lending institution to

1 secure the repayment of the amount borrowed, in accordance with
2 regulations promulgated by the department.

3 "Deposits." As defined in section 2(3)(1) of the Federal
4 Deposit Insurance Act (64 Stat. 873, 12 U.S.C. § 1813(1)).

5 "Lending institution." Any institution that accepts deposits
6 and lends money in this Commonwealth, including banks and
7 savings and loan associations, but excluding insurance
8 companies.

9 "Public utility." A private employer subject to the
10 jurisdiction of the Pennsylvania Public Utility Commission and
11 engaged in the business of rendering electric, gas, water and
12 steam heat services to the public in this Commonwealth. However,
13 the term does not include rural electrification cooperatives.

14 "Public utility holding company." As defined in section
15 2(a)(7) of the Public Utility Holding Company Act of 1935 (49
16 Stat. 838, 15 U.S.C. § 79b(a)(7)), including electric, gas,
17 water and steam heat services.

18 "Savings and loan holding company." As defined in section
19 408(a)(1)(D), (E) and (F) of the act of June 27, 1934 (48 Stat.
20 1255, 12 U.S.C. § 1730a(a)(1)(D), (E) and (F)).

21 "Subsidiary" or "affiliate." As defined in the regulations
22 promulgated by the department, except that "affiliate" does not
23 apply to an entity which owns an interest in another company or
24 corporation where the ownership interest is not sufficient to
25 permit exercise of effective control, and does not involve
26 direct or indirect ownership or control of 5% or more of the
27 voting stock of such company or corporation, nor does it apply
28 to an entity whose stock is owned by another, if the amount of
29 stock owned by any one company or corporation does not permit
30 effective control and does not exceed 5% of the voting stock of

1 the entity. The term "affiliate" does, subject to the provisions
2 to invest in stock contained in this subsection, include bank
3 holding company, savings and loan holding company, and public
4 utility holding company as defined in this subsection.

5 "Title insurance." As defined in section 6701 (relating to
6 definitions).

7 SUBCHAPTER E

8 MANAGERS AND EXCLUSIVE GENERAL AGENTS

9 Sec.

10 1161. Certification.

11 1162. Licensure.

12 1163. Exclusion, sale or transfer.

13 1164. Revocation and suspension of license.

14 1165. Penalties.

15 § 1161. Certification.

16 Every domestic insurance company operating under a management
17 contract or an exclusive general agency agreement entered into
18 after December 22, 1965, shall certify to the department the
19 name of the manager or exclusive general agent within ten days
20 from the effective date of the contract or agreement and within
21 ten days after the renewal of the license of the manager or
22 exclusive general agent. Certification is not required for an
23 agent or general agent whose authority is limited primarily to
24 production of insurance business with limited underwriting
25 authority. For the purpose of this subchapter the terms
26 "manager" and "exclusive general agent" include partnerships or
27 corporations.

28 § 1162. Licensure.

29 (a) General rule.--A manager or exclusive general agent,
30 except an agent or general agent whose authority is limited

1 primarily to production of insurance business with limited
2 underwriting authority, shall not engage in any activities for
3 which the manager or exclusive general agent is authorized,
4 empowered or designated by a domestic insurance company unless
5 he has been licensed as such by the department.

6 (b) Qualifications.--Upon application filed under rules and
7 regulations prescribed by the department, a manager's license or
8 an exclusive general agent's license may be issued if the
9 department is satisfied that the applicant is of good business
10 reputation and has the responsibility, general character and
11 fitness for the business and that the applicant is worthy of the
12 license.

13 (c) Duration and fee.--Licenses issued under this section
14 shall be in effect for a period of one year from date of
15 issuance. The department shall charge and collect the annual
16 license fee.

17 § 1163. Exclusion, sale or transfer.

18 A manager or exclusive general agent operating under any
19 management contract or exclusive general agency agreement
20 entered into prior to December 22, 1965, shall not be subject to
21 section 1162 (relating to licensure). However, any sale,
22 assignment or transfer of any management contract or exclusive
23 general agency agreement, whether or not the contract or
24 agreement was entered into before December 22, 1965, shall make
25 the purchaser, assignee or transferee subject to the licensing
26 provisions of section 1162, and the companies shall make the
27 certification under section 1161 (relating to certification).

28 § 1164. Revocation and suspension of license.

29 (a) Power to discipline licensee.--The department, upon
30 satisfactory evidence of conduct that would disqualify a

1 licensed manager or exclusive general agent from initial
2 issuance of a license under section 1162 (relating to
3 licensure), may suspend or revoke or refuse to renew the license
4 of the manager or exclusive general agent.

5 (b) Hearing.--The department shall hold a hearing before
6 taking action under subsection (a). It shall give written notice
7 of the hearing to the manager or exclusive general agent,
8 stating specifically the nature of the alleged conduct and
9 fixing a time and place at least ten days thereafter when the
10 hearing shall be held.

11 § 1165. Penalties.

12 (a) Acting without license.--Any individual, partnership or
13 corporation acting as a manager or exclusive general agent of a
14 domestic insurance company without a license under this
15 subchapter commits a misdemeanor of the third degree. Each day
16 the violation continues constitutes a separate offense.

17 (b) Failure to certify.--Any domestic insurance company
18 which fails to file the certification required by section 1161
19 (relating to certification) commits a misdemeanor of the third
20 degree. Each day the violation continues constitutes a separate
21 offense.

22 (c) Authority to prosecute.--Prosecutions for violations
23 referred to in this section may be instituted by the department.

24 SUBCHAPTER F

25 PUBLIC ADJUSTERS AND SOLICITORS

26 Sec.

27 1171. Definitions.

28 1172. Licensure.

29 1173. Fees.

30 1174. Bonds.

- 1 1175. Contracts.
- 2 1176. Penalties.
- 3 1177. Violations.
- 4 1178. Regulations.
- 5 § 1171. Definitions.

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

9 "Public adjuster." Any person, advertising, soliciting
10 business or holding himself out to the public as an adjuster of
11 claims for losses or damages arising out of policies of
12 insurance, surety or indemnity upon property, persons or
13 insurable business interests in this Commonwealth, and receiving
14 any compensation or reward for the giving of advice or
15 assistance to the insured in the adjustment of claims for such
16 losses, or who for compensation or reward, whether by way of
17 salary or commission or otherwise, solicits business,
18 investigates or adjusts losses or advises the insured with
19 reference to claims for losses on behalf of any other person
20 engaged in the business of adjusting losses. The term does not
21 include an agent or employee of an insurance entity through whom
22 a policy of insurance was written, in adjusting loss or damage
23 under such policy, nor does it include a broker or agent acting
24 as an adjuster if the services of the agent or broker in the
25 adjustment are without compensation.

26 "Public adjuster solicitor." Any person who solicits for a
27 fee or in any manner aids in securing for a public adjuster a
28 contract for the adjustment of a loss.

29 "Repairs." Does not include temporary or emergency repairs
30 made for the purpose of protecting the insured property or to

1 comply with policy terms and conditions.

2 § 1172. Licensure.

3 (a) Requirement of license.--A person shall not act as a
4 public adjuster or a public adjuster solicitor without first
5 procuring from the department a license as a public adjuster or
6 public adjuster solicitor, respectively.

7 (b) Power to issue licenses.--The department may issue a
8 license as a public adjuster or public adjuster solicitor to any
9 individual of at least 18 years of age and to any corporation,
10 partnership or association which maintains a bona fide office in
11 this Commonwealth, readily accessible to the general public.

12 (c) Limitations.--A license shall not be granted to any
13 corporation unless by its charter it is authorized to engage in
14 the business of insurance claim adjusting and unless individual
15 licenses are also secured for each active officer of the
16 corporation. A license shall not be granted to a partnership or
17 association unless individual licenses are also secured for each
18 active member of the partnership or association.

19 (d) Application for license.--Before the license is granted,
20 the applicant shall first complete a verified application in a
21 form determined by the department. Any applicant who has held
22 such a license for a period of at least two years prior to
23 December 20, 1983, shall be entitled upon proper application to
24 receive a license without the necessity of submitting to an
25 examination.

26 (e) Approval of license.--When the department is satisfied
27 that the applicant is trustworthy and competent to transact
28 business as a public adjuster or public adjuster solicitor,
29 respectively, it shall issue a license.

30 (f) Nonresident public adjusters and public adjuster

1 solicitors.--The department may issue a license as public
2 adjuster or public adjuster solicitor to a person not a resident
3 of this Commonwealth, upon compliance with the applicable
4 provisions of this subchapter, if the state or the province of
5 the Dominion of Canada of his residence accords the same
6 privilege to a resident of this Commonwealth. The provisions of
7 this subsection relating to noneligibility for licensure do not
8 apply to any nonresident public adjusters and public adjuster
9 solicitors who did business in this Commonwealth as licensed
10 public adjusters or public adjuster solicitors prior to December
11 20, 1983. The department may enter into reciprocal agreements
12 with the appropriate official of the other state or province
13 waiving the written examination of any applicant resident in the
14 other state if:

15 (1) a written examination is required of applicants for
16 an insurance public adjuster or public adjuster solicitor
17 license in the other state or province;

18 (2) the appropriate official of the other state or
19 province certifies that the applicant holds a currently valid
20 license as a public adjuster or public adjuster solicitor in
21 the other state or province and either passed the written
22 examination or was the holder of an insurance agent's license
23 prior to the time a written examination was required; and

24 (3) in the other state or province a resident of this
25 Commonwealth may obtain a public adjuster or public adjuster
26 solicitor license upon the foregoing conditions and without
27 discrimination as to fees or otherwise in favor of the
28 residents of the other state or province.

29 (g) Persons ineligible for license.--A license as a public
30 adjuster or public adjuster solicitor shall not be issued to any

1 person engaged or interested in, or receiving any profit from,
2 nor shall the holder of a license engage or be interested in, or
3 receive any profit from, any salvage or similar business.

4 § 1173. Fees.

5 (a) Public adjuster's license.--The applicant shall pay the
6 fee to the department for a public adjuster's license at the
7 time application is made and annually thereafter for renewal. If
8 the applicant is a corporation, partnership or association, the
9 fee shall be paid for each individual specified in the license.

10 (b) Public adjuster solicitor's license.--The applicant
11 shall pay the fee to the department for a public adjuster
12 solicitor's license at the time application is made and annually
13 thereafter for renewal. If the applicant is a corporation,
14 partnership or association, the fee shall be paid for each
15 individual specified in the license.

16 § 1174. Bonds.

17 (a) Public adjuster's bond.--Each person receiving a public
18 adjuster's license shall before transacting any business
19 thereunder execute and deliver to the department a bond in the
20 minimum penal sum of \$40,000 with such sureties as the
21 department approves.

22 (b) Public adjuster solicitor's bond.--Each person receiving
23 a public adjuster solicitor's license shall before transacting
24 any business thereunder execute and deliver to the department a
25 bond in the minimum penal sum of \$8,000 with such sureties as
26 the department approves.

27 (c) Condition of bond.--The bond of the public adjuster and
28 the public adjuster solicitor shall be conditioned that the
29 public adjuster or public adjuster solicitor will faithfully
30 comply with all the requirements of this subchapter and shall

1 not embezzle, take, secrete or otherwise dispose of or
2 fraudulently withhold, appropriate, lend, invest or otherwise
3 use or apply any money or substitutes for money or any salvage,
4 goods or property received by him as a public adjuster or public
5 adjuster solicitor or employee of a public adjuster, contrary to
6 the instructions or without the consent of the insured or his
7 legal representative.

8 (d) Intervention in action by Commonwealth.--Any person,
9 firm or corporation who has entered into a contract with a
10 public adjuster, as provided in section 1175 (relating to
11 contracts), and who suffers loss by reason of the failure of the
12 public adjuster to comply with this subchapter or to faithfully
13 perform his duties may intervene and be made a party to any
14 action instituted by the Commonwealth on the bond of the public
15 adjuster, but his claims shall be subject to the priority of the
16 claim and judgment of the Commonwealth. If the amount of the
17 liability of the surety on the bond is sufficient to pay the
18 full amount due the Commonwealth, the remainder shall be
19 distributed pro rata among the intervenors.

20 (e) Private action.--If no action is brought by the
21 Commonwealth, upon application therefor and furnishing affidavit
22 to the department that loss has been suffered by reason of
23 failure of the public adjuster to comply with this subchapter or
24 faithfully perform his duties, the insured shall be furnished
25 with a certified copy of the bond, upon which he shall have a
26 right of action and may bring action in the name of the
27 Commonwealth for his use and benefit against the public adjuster
28 and his sureties. An action by any insureds on the bond of the
29 public adjuster shall be commenced within one year after the
30 performance and final settlement of the contract. Where an

1 action is so instituted by an insured, no other action shall be
2 brought by any other claimant, but the claimant may file his
3 claim in the action first brought and be made party thereto
4 within one year from the completion of the work under the
5 contract. If two or more actions are brought on the same day,
6 the action in which the largest claim is demanded shall be
7 regarded as the first action. Any creditor who has brought an
8 action within one year but after action brought by another
9 creditor, may intervene in the action first brought within the
10 year, notwithstanding the fact that the intervention in such
11 case is after the expiration of the year, but only within 30
12 days after the expiration of the year. If the recovery on the
13 bond is inadequate to pay the amounts found due to all of the
14 creditors, judgment shall be given to each creditor pro rata of
15 the amount of the recovery.

16 (f) Payment into court.--The surety on the bond may pay into
17 the court for distribution among the claimants and creditors,
18 the penalty named in the bond, less any amount which the surety
19 is or was required to pay to the Commonwealth by reason of the
20 execution of the bond. Upon so doing, the surety will be
21 relieved from further liability.

22 (g) Notice.--In all actions instituted under this
23 subchapter, such personal notice of the pendency of the action,
24 informing them of their right to intervene, as the court may
25 order, shall be given to all known creditors. Notice shall be
26 given by publication in newspapers of general circulation
27 published in the municipality where the contract was performed
28 once a week for at least three successive weeks; however, if the
29 action is begun within three weeks of the end of the year within
30 which action may be brought, notice by publication shall be only

1 for the period intervening between the time of instituting the
2 action and the end of the year.

3 § 1175. Contracts.

4 (a) Form of contract.--A public adjuster shall not, directly
5 or indirectly, act in this Commonwealth as a public adjuster
6 without having entered into a written contract on a form
7 approved by the department and executed in duplicate by the
8 public adjuster and the insured or a duly authorized
9 representative. One copy of this contract shall be kept on file
10 by the public adjuster and available at all times for inspection
11 without notice by the department. A public adjuster solicitor
12 shall not use any form of contract other than that approved for
13 the public adjuster for whom he is soliciting, nor shall he make
14 any contracts or agreements for himself or for the public
15 adjuster other than those specified in the approved contract.

16 (b) (Reserved).

17 (c) Rescission.--Any contract with a public adjuster may be
18 rescinded by any person signing the contract. Such action must
19 be taken within four calendar days after signature.

20 (d) Limitations on authority.--A public adjuster or public
21 adjuster solicitor shall not adjust or solicit a contract for
22 the adjustment of any claim for losses or damages on behalf of
23 any person except claims by an insured against his own insurance
24 carrier. A public adjuster or public adjuster solicitor shall
25 not act in any manner in relation to claims for personal injury
26 or automobile property damage. A public adjuster or public
27 adjuster solicitor shall not, directly or indirectly, through or
28 with any person in which it has an indirect or beneficial
29 interest, enter into any contract with any insured for the
30 repair, replacement, restoration, renovation or demolition of

1 damaged real or personal property at any time prior to the date
2 a verdict or award is entered or payment is received from the
3 insurance carrier, whichever occurs first.

4 (e) Regulations.--The department may issue regulations to
5 assure the implementation of this section.

6 § 1176. Penalties.

7 (a) Grounds.--The following acts shall be grounds for a fine
8 or suspension or revocation of a public adjuster's or public
9 adjuster solicitor's license:

10 (1) Material misrepresentation of the terms and effect
11 of any insurance contract.

12 (2) Engaging in, or attempting to engage in, any
13 fraudulent transaction with respect to a claim or loss that
14 licensee is adjusting.

15 (3) Misrepresentation of the services offered or the
16 fees or commission to be charged.

17 (4) Conviction by any court of or a plea of nolo
18 contendere to a felony under the laws of this Commonwealth,
19 any other state, the United States or any foreign country.

20 (5) Misappropriation, conversion to his own use or
21 improper withholding of moneys held on behalf of another
22 party to the contract.

23 (6) Paying or causing to be paid any commission or any
24 other compensation or thing of value to any agent, broker,
25 attorney at law, partner, employee or any other person, hired
26 by or employed by or with any insured named in any policy of
27 insurance as an inducement or solicitation to influence the
28 contracting of services for the services of public adjuster
29 or public adjuster solicitor with any insured. A public
30 adjuster may utilize the services of any person authorized by

1 the insurer to assist in connection with an insurance claim
2 if those services do not conflict with the services required
3 to be rendered by a public adjuster.

4 (7) Receiving, directly or indirectly, any compensation,
5 commission or thing of value or profit from any person
6 engaged or interested in the business of salvage, repair,
7 replacement, restoration, renovation or demolition of damaged
8 real or personal property, unless disclosed to the insured
9 and agreed to in the contract.

10 (8) Removal of a public adjuster's or a public adjuster
11 solicitor's office, accounts or records from this
12 Commonwealth.

13 (9) Closure of a licensee's office for a period in
14 excess of 30 days, unless granted permission to do so by the
15 department.

16 (10) Violation of any provision of this subchapter or
17 any rule or regulation promulgated thereunder.

18 (11) Making a material misstatement in the application
19 for any license under this subchapter.

20 (12) Commission of fraudulent practices.

21 (13) Incompetency or untrustworthiness to transact the
22 business of a public adjuster.

23 (b) Civil penalty.--Regardless of whether or not the public
24 adjuster or public adjuster solicitor was licensed, the
25 department may impose a civil penalty of not more than \$1,000
26 for each violation of this subchapter.

27 (c) Notice and hearing.--The department shall hold a hearing
28 before taking any action under this section. It shall give
29 written notice of the hearing to the person accused of violating
30 the law, stating specifically the nature of the alleged

1 violation and fixing a time and place, at least ten days
2 thereafter, when the hearing shall be held.

3 (d) Responsibility of adjusters and solicitors.--Any public
4 adjuster or public adjuster solicitor employing or using the
5 services of any person to solicit business shall be held
6 responsible for the conduct of that person in connection with
7 business dealings, including, but not limited to, making certain
8 that he has a valid license as a public adjuster or public
9 adjuster solicitor.

10 § 1177. Violations.

11 Any person violating any of the provisions of this subchapter
12 commits a misdemeanor of the third degree. Prosecutions for
13 violations under this section may be instituted by the
14 department or an authorized representative.

15 § 1178. Regulations.

16 The department shall administer and enforce this subchapter
17 and shall prescribe, publish, adopt and promulgate regulations
18 in connection with the administration and enforcement of this
19 subchapter.

20 SUBCHAPTER G

21 MOTOR VEHICLE PHYSICAL DAMAGE APPRAISERS

22 Sec.

23 1181. Short title of subchapter.

24 1182. Legislative intent.

25 1183. Definitions.

26 1184. Licensure.

27 1185. Expiration and renewal.

28 1186. Denial, suspension, revocation or refusal to renew
29 license.

30 1187. Hearings and appeals.

1 1188. Conduct of business.

2 1188.1. Regulations.

3 1189. Penalty.

4 § 1181. Short title of subchapter.

5 This subchapter shall be known and may be cited as the Motor
6 Vehicle Physical Damage Appraiser Act.

7 § 1182. Legislative intent.

8 This subchapter does not apply unless an appraisal has been
9 assigned. Recognition is given to the fact that many minor
10 damage claims do not require a formal appraisal, and to require
11 such an appraisal would be an undue burden upon the parties
12 involved.

13 § 1183. Definitions.

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

17 "Appraiser." A person who practices the appraisal of motor
18 vehicle physical damage.

19 "Insurer." Includes self-insurers.

20 § 1184. Licensure.

21 (a) General rule.--A person shall not, directly or
22 indirectly, act or hold himself out as an appraiser unless he
23 has first secured a license from the department under this
24 subchapter. The department shall issue an appraiser's license to
25 every person who applies therefor, pays the fee, passes the
26 required examinations and otherwise is found by the department
27 to possess the qualifications for licensure under this
28 subchapter.

29 (b) Qualifications.--No person shall be licensed as an
30 appraiser unless he first establishes his qualifications

1 therefor and passes the examination. The applicant for the
2 license shall be at least 18 years of age, shall be a resident
3 of this Commonwealth or a resident of any other state or country
4 which permits residents of this Commonwealth to act as
5 appraisers in that state or country, shall be trustworthy and
6 shall otherwise establish to the satisfaction of the department
7 that he has had sufficient experience or special education or
8 training with reference to appraising of physical damage to
9 motor vehicles to permit him to fulfill competently the
10 responsibilities of an appraiser.

11 (c) Applications.--Applications for the license shall be
12 made to the department upon forms prescribed and furnished by
13 the department and shall be accompanied by the fee required
14 under section 612-A(5) of the act of April 9, 1929 (P.L.177,
15 No.175), known as The Administrative Code of 1929. The fee shall
16 not be returnable upon failure to pass the examination. Each
17 applicant shall provide the department with such information
18 concerning his identity and personal history, and such other
19 information as shall be necessary to establish his
20 qualifications.

21 (d) Examinations.--The examination for licensure shall be
22 given under the supervision of the department. It shall consist
23 of a written examination that shall include the appraisal of one
24 or more damaged motor vehicles and an oral examination. At the
25 discretion of the department, an oral examination in lieu of the
26 written examination may be given, but only for reason of the
27 physical handicap of the applicant. An oral examination shall
28 include the appraisal of one or more damaged motor vehicles. The
29 examinations shall be given at reasonable times and places
30 within this Commonwealth. Any applicant who fails to pass the

1 examination may not retake the examination for 30 days from the
2 date of his failure. The department shall prepare and make
3 available to applicants a manual setting forth in general terms
4 the subject matter to be covered in the examination.

5 (e) Form of license.--The department shall prescribe the
6 form of the license, which shall contain:

7 (1) The name of the appraiser.

8 (2) The address of the appraiser's place of business.

9 (3) The date of issuance and the expiration date of the
10 license.

11 (4) Any other information which the department
12 determines is necessary.

13 § 1185. Expiration and renewal.

14 Each appraiser's license shall expire annually on June 30.
15 Subject to the right of the department to suspend, revoke or
16 refuse to renew an appraiser's license, any such license may be
17 renewed for another annual period commencing July 1 and expiring
18 on June 30 next following by filing with the department on or
19 before the expiration date a written request for renewal, by or
20 on behalf of the licensee, accompanied by payment of the renewal
21 fee required under section 612-A(5) of the act of April 9, 1929
22 (P.L.177, No.175), known as The Administrative Code of 1929. If
23 the request, accompanied by the renewal fee, is filed with the
24 department prior to the expiration of the existing license, the
25 licensee may continue to act under the license, unless sooner
26 revoked or suspended, until the issuance of the renewal license
27 or until five days after the department has refused to renew the
28 license and has mailed notice of refusal to the licensee. Any
29 request for renewal not so filed until after the date of
30 expiration may be considered by the department as an application

1 for a new license.

2 § 1186. Denial, suspension, revocation or refusal to renew
3 license.

4 (a) Grounds.--The department may deny initial issuance of,
5 suspend, revoke or refuse to renew any appraiser's license for
6 any cause specified in this subchapter, or for any of the
7 following causes:

8 (1) For any cause for which issuance of the license
9 could have been refused had it existed and been known to the
10 department.

11 (2) The licensee has willfully violated or failed to
12 comply with or has knowingly participated in the violation of
13 or failure to comply with this subchapter or any regulation
14 promulgated thereunder.

15 (3) The licensee has obtained or attempted to obtain any
16 such license through willful misrepresentation or fraud, or
17 has failed to pass any examination required under this
18 subchapter.

19 (4) The licensee has, with intent to deceive, materially
20 misrepresented the terms or effect of any insurance contract,
21 or has engaged or is about to engage in any fraudulent
22 transaction.

23 (5) The licensee has been convicted of a felony.

24 (6) In the conduct of his affairs under the license, the
25 licensee has shown himself to be, and is so deemed by the
26 department, incompetent, untrustworthy or a source of injury
27 and loss to the public.

28 (b) Period of suspension.--Any order suspending the license
29 shall specify the period during which the suspension will be
30 effective, which shall not exceed 12 months.

1 (c) Surrender of license.--The holder of any license which
2 has been revoked or suspended shall surrender the license to the
3 department at the department's request.

4 (d) Reinstatement or relicensure.--The department shall not
5 reinstate the license or relicense any person whose license has
6 been suspended or revoked or the renewal of whose license has
7 been refused while the cause for the suspension, revocation or
8 refusal of renewal persists.

9 § 1187. Hearings and appeals.

10 Except as otherwise provided in this subchapter, all actions
11 of the department shall be taken subject to the right of notice,
12 hearing and adjudication, and the right of appeal therefrom as
13 provided by law.

14 § 1188. Conduct of business.

15 (a) Display of license.--An appraiser, while engaged in
16 appraisal duties, shall carry the license and shall display it,
17 upon request, to an owner whose vehicle is being inspected, to
18 the repair shop representative involved or to any authorized
19 representative of the department.

20 (b) Appraisals.--The appraiser shall leave a legible copy of
21 his appraisal with that of the repair shop selected by the
22 consumer to make the repairs and furnish a copy to the owner of
23 the vehicle. This appraisal shall contain the name of the
24 insurance company ordering it, if any, the insurance file
25 number, the number of the appraiser's license and the
26 identification number of the vehicle being inspected. All
27 unrelated or old damage should be clearly indicated on the
28 appraisal. The appraisal shall include an itemized listing of
29 all damages, specifying those parts to be replaced or repaired.

30 Because an appraiser is charged with a high degree of regard for

1 the public safety, the operational safety of the vehicle shall
2 be paramount in considering the specification of new parts. This
3 consideration is vitally important where the parts involved
4 pertain to the drive train, steering gear, suspension units,
5 brake system or tires.

6 (c) Required acts.--Every appraiser shall do the following:

7 (1) Conduct himself in such a manner as to inspire
8 public confidence by fair and honorable dealings.

9 (2) Approach the appraisal of damaged property without
10 prejudice against, or favoritism toward, any party involved
11 in order to make fair and impartial appraisals.

12 (3) Disregard any efforts on the part of others to
13 influence his judgment in the interest of the parties
14 involved.

15 (4) Prepare an independent appraisal of damage.

16 (5) Inspect a vehicle within six working days of
17 assignment to him unless such circumstances as catastrophe,
18 death or failure of the parties to cooperate render such
19 inspection impossible.

20 (6) Promptly reinspect damaged vehicles prior to repair
21 when a supplementary allowance is requested by a repair shop
22 and the amount or extent of damage is in dispute.

23 (d) Prohibited acts.--An appraiser or employer of an
24 appraiser shall not require that repairs be made in any
25 specified repair shop. An appraiser shall not do the following:

26 (1) Receive, directly or indirectly, any gratuity or
27 other consideration in connection with his appraisal services
28 from any person except his employer or, if self-employed, his
29 customer.

30 (2) Traffic in automobile salvage if such salvage is

1 obtained as a result of appraisal services rendered by him
2 for his own benefit.

3 (3) Obtain or use repair estimates that have been
4 obtained by the use of photographs, telephone calls or in any
5 manner other than a personal inspection.

6 § 1188.1. Regulations.

7 The department shall administer and enforce this subchapter
8 and shall prescribe, adopt and promulgate regulations in
9 connection with the administration and enforcement of this
10 subchapter.

11 § 1189. Penalty.

12 Any person who violates this subchapter commits a misdemeanor
13 of the third degree.

14 SUBCHAPTER H

15 PUBLIC REMEDIES FOR UNLICENSED ACTIVITY

16 Sec.

17 1191. Injunction or other process.

18 § 1191. Injunction or other process.

19 (a) Authority to file.--The department, upon advice of the
20 Attorney General, may maintain an action in the name of the
21 Commonwealth for an injunction or other process against any
22 person to restrain and prevent him from transacting business as
23 an agent of any insurance entity or as an insurance broker,
24 manager or exclusive general agent of a domestic insurance
25 entity, or as a public adjuster or public adjuster solicitor
26 without a license, in violation of this chapter.

27 (b) Bonds and costs.--A bond shall not be required of and
28 costs shall not be taxed against the department on account of
29 any such action.

30 (c) Construction of section.--An action brought under this

1 section does not prevent the prosecution or institution of any
2 civil or criminal action otherwise provided by law for violation
3 of any licensing statute or departmental regulation promulgated
4 thereunder.

5 CHAPTER 13

6 UNLICENSED INSURERS

7 Sec.

8 1301. Purpose of chapter.

9 1302. Definitions.

10 1303. Aiding unlicensed insurers.

11 1304. Surplus lines insurance.

12 1305. Exclusions.

13 1306. Declarations.

14 1307. Eligible surplus lines insurers.

15 1308. Licensure of surplus lines agents.

16 1309. Bond of surplus lines agents.

17 1310. Penalties.

18 1311. Surplus lines tax.

19 1312. Information required on contract.

20 1313. Regulations.

21 1314. Rights of insured.

22 1315. Penalties.

23 § 1301. Purpose of chapter.

24 The purpose of this chapter is to:

25 (1) Promote the public welfare and to protect the public
26 interest by regulating, taxing, supervising and controlling
27 the placing of insurance on risks located in this
28 Commonwealth with insurers not licensed to transact insurance
29 business in this Commonwealth.

30 (2) Protect citizens of this Commonwealth purchasing

1 insurance from unlicensed insurers.

2 (3) Define and regulate the persons through whom
3 insurance may be placed.

4 (4) Protect licensed insurers from unregulated and
5 unfair competition from unlicensed insurers.

6 (5) Establish reasonable standards to be met by
7 unlicensed insurers.

8 § 1302. Definitions.

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

12 "Eligible surplus lines insurer." An unlicensed entity which
13 has been so designated by the department under this chapter.

14 "Insured." Any person who procures insurance on a subject of
15 insurance resident, located or to be performed in this
16 Commonwealth.

17 "Licensed insurer." An entity licensed and authorized by the
18 department to transact any insurance business in this
19 Commonwealth.

20 "Producing broker." A person licensed as an insurance broker
21 under this title, who is acting as a representative of the
22 insured or prospective insured in a transaction involving
23 placement of insurance coverage with an unlicensed insurer and
24 who may receive a commission therefor.

25 "Surplus lines activity." Any business activity incident to
26 the placement of insurance with an unlicensed insurer, except
27 the performance of routine accounting or clerical tasks.

28 "Surplus lines agent." A person who is licensed as such by
29 the department to effect placement of insurance coverage with an
30 unlicensed insurer and who may receive a commission therefor.

1 "Unlicensed insurer." An entity which is not a licensed
2 insurer.

3 § 1303. Aiding unlicensed insurers.

4 (a) General rule.--A person in this Commonwealth shall not
5 directly or indirectly act as agent for, or otherwise represent
6 or aid on behalf of another, any insurer not licensed to
7 transact insurance in this Commonwealth in the solicitation,
8 negotiation, procurement, effectuation or renewal of insurance,
9 forwarding of applications, delivery of policies or contracts or
10 inspection of risks, fixing of rates, investigation or
11 adjustment of claims or losses, collection or forwarding of
12 premiums, or in any other manner represent or assist the insurer
13 in the transaction of insurance.

14 (b) Exceptions.--Subsection (a) does not apply to:

15 (1) Surplus lines insurance effected and written under
16 this chapter.

17 (2) Transactions subsequent to issuance of a policy not
18 covering domestic risks at time of issuance and lawfully
19 solicited, written or delivered outside this Commonwealth.

20 § 1304. Surplus lines insurance.

21 (a) Requirements for placement.--Insurance shall not be
22 placed with an unlicensed insurer by a surplus lines agent
23 unless the insurance meets each of the following requirements:

24 (1) The full amount of insurance required is not
25 procurable, after the producing broker has made a diligent
26 effort to do so, from licensed insurers authorized to
27 transact the class of insurance involved and which actually
28 do accept in the usual course of business insurance on risks
29 of the same class as the particular risk proposed.

30 (2) The surplus lines agent handling the transaction is

1 not aware of any licensed insurer satisfactory to the insured
2 from which the desired coverage may be obtained.

3 (3) The premium rate at which insurance is placed in an
4 unlicensed insurer is not lower than the lowest published
5 rate which has been approved by the department for use by any
6 licensed insurer.

7 (4) The policy or contract form used by the insurer does
8 not differ materially from policies or contracts customarily
9 used by licensed insurers for the class of insurance for the
10 class of insurance involved. However, coverage may be placed
11 with an unlicensed insurer using a unique form of policy
12 designed for the particular subject of insurance if a copy of
13 the form is first filed with the department by the surplus
14 lines agent desiring to use it. The form shall be deemed
15 approved by the department unless within ten days after
16 receipt the department finds that the use of the form will be
17 contrary to law or public policy.

18 (b) Diligent effort.--The requirements for the diligent
19 effort to procure insurance from licensed insurers under
20 subsection (a)(1) shall be as follows:

21 (1) At least three licensed insurers, all of which
22 actually issue insurance on the class in question in their
23 normal course of business, refuse to insure the particular
24 risk or refuse to increase the amount of insurance on the
25 risk.

26 (2) This refusal is made by a full-time employee of the
27 insurer in question, or a full-time employee of a firm acting
28 in the capacity of underwriting manager for the insurer;
29 refusal by the producing broker in his capacity as an agent
30 of an insurer, or by any other "local agent," as the term is

1 generally used in the insurance business, shall not be deemed
2 a refusal for the purpose of this section.

3 (c) Renewals.--Any insurance which has been placed
4 continuously with an unlicensed insurer for a period of not less
5 than three consecutive years immediately preceding the current
6 placement may be placed with the unlicensed insurer. In this
7 case, neither the producing broker nor the surplus lines agent
8 shall be required to execute the declaration required by section
9 1306(a) (relating to declarations).

10 § 1305. Exclusions.

11 The provisions of this chapter do not apply to the following:

12 (1) Life insurance and annuities.

13 (2) Reinsurance.

14 (3) Insurance on the property and operation of railroads
15 or aircraft engaged in interstate or foreign commerce,
16 insurance of vessels, crafts or hulls, cargoes, marine
17 builders' risks, marine protection and indemnity, lessees and
18 charterers' liability or other risks, including strikes and
19 war risks commonly insured under ocean or wet marine forms of
20 policies.

21 (4) Insurance on subjects located, resident or to be
22 performed wholly outside this Commonwealth.

23 (5) Title insurance.

24 § 1306. Declarations.

25 (a) Initial placements.--In the case of each placement of
26 insurance with an unlicensed insurer under section 1304(a) or

27 (b) (relating to surplus lines insurance), both the producing
28 broker and surplus lines agent shall execute written
29 declarations in a form prescribed by the department, the
30 producing broker as to his having made a diligent effort to

1 procure the desired coverage from licensed insurers, and the
2 surplus lines agent as to his lack of knowledge as to how the
3 coverage can be obtained from licensed insurers. If the
4 producing broker and surplus lines agent are one and the same
5 entity, he shall execute both declarations. Within 21 days after
6 insurance which has been placed with an unlicensed insurer
7 becomes effective, the surplus lines agent shall file with the
8 department his own written declaration and the written
9 declaration of the producing broker, as set forth in this
10 subsection, and shall at that time advise the department of the
11 identity of any unlicensed insurer from which he has obtained
12 the insurance and other information in such form as the
13 department shall prescribe.

14 (b) Continuation of placement.--In the case of each
15 placement of insurance with an unlicensed insurer under the
16 provisions of section 1304(c) within 21 days after insurance
17 which has been placed with an unlicensed insurer becomes
18 effective, the surplus lines agent shall file with the
19 department his written declaration setting forth the identity of
20 each unlicensed insurer with which the insurance has been placed
21 for the three years immediately preceding the current placement,
22 the identity of each unlicensed insurer with which the current
23 placement is made and the fact that the current placement is the
24 renewal or replacement of prior existing coverage on the same
25 subject of insurance.

26 (c) Perjury.--Declarations wherever required by this section
27 shall be made subject to the penalties provided for perjury and
28 are to be construed in the same way as affidavits.

29 (c.1) Maintenance of records.--With respect to any
30 placements described in subsection (a) or (b), the surplus lines

1 agent shall maintain in his office written records showing the
2 exact amount of insurance placed, the name of the insured, the
3 subject of the insurance, a description of the coverage, the
4 gross premium, the name of the insurer and the number, effective
5 date and term of the policy, cover note or other instrument of
6 insurance.

7 (d) Availability of records.--Records required under this
8 section shall be made available at any time during normal
9 business hours to the department and shall be kept in the office
10 of the surplus lines agent for not less than three years after
11 the expiration or cancellation of the insurance.

12 (e) Notice of change of insurer.--If there is any change in
13 the insurer or in the distribution of the risk among two or more
14 insurers during the term of an insurance policy or contract, the
15 surplus lines agent shall notify the insured and the department
16 to that effect within ten days of his knowledge thereof.

17 § 1307. Eligible surplus lines insurers.

18 (a) Prohibition on placement.--A surplus lines agent shall
19 not place any insurance with any unlicensed insurer who is not
20 then an eligible surplus lines insurer.

21 (b) Determination of eligibility.--An unlicensed insurer
22 shall not be an eligible surplus lines insurer unless declared
23 eligible by the department in accordance with the following
24 conditions:

25 (1) A licensed surplus lines agent shall request the
26 department, in writing, to declare the particular unlicensed
27 insurer eligible.

28 (2) The insurer shall be currently a licensed insurer in
29 the state or country of its domicile as to the kind or kinds
30 of insurance which it proposes to provide and shall have been

1 so currently licensed for a period of time sufficient for the
2 department to ascertain that the other requirements of this
3 chapter have been met, including operational procedures and
4 claims practices.

5 (3) The surplus lines agent requesting such declaration
6 shall furnish the department with duly authenticated copies
7 of the insurer's current annual financial statement, one in
8 the language and currency of the country of its domicile and
9 the other in the English language and United States currency
10 at the current exchange rate, and such additional information
11 relative to the insurer as the department may require.

12 (4) The insurer shall have a surplus as to policyholders
13 of not less than the amount required of a like foreign
14 insurer licensed in this Commonwealth and, if an alien
15 insurer, shall have and maintain, in a bank or trust company
16 which is a member of the United States Federal Reserve
17 System, a trust fund established under terms reasonably
18 adequate for the protection of all of its policyholders in
19 the United States in an amount of not less than \$400,000. In
20 the case of a group of individual unincorporated insurers,
21 the trust fund shall be not less than \$50,000,000. The
22 department may require larger trust funds than those required
23 under this paragraph if the volume of business being
24 transacted or proposed to be transacted warrants larger
25 amounts. To the extent of these minimum amounts, the trust
26 funds shall consist of United States currency, public
27 obligations of the United States or a political subdivision
28 thereof, or other investments of the same general character
29 and quality as are required for like funds of the same class
30 of insurers licensed in this Commonwealth.

1 (5) The insurer shall be of good reputation as to the
2 providing of service to its policyholders and the payment of
3 losses and claims.

4 (6) An insurer shall not be eligible if its management
5 is considered by the department to be incompetent,
6 untrustworthy or lacking in sufficient managerial experience,
7 or if the department has reason to believe the insurer is
8 affiliated directly or indirectly through ownership, control,
9 reinsurance transactions or other insurance or business
10 relationships, with any entity whose business operations may
11 be or have been detrimental to the interests of
12 policyholders, stockholders, investors, creditors or the
13 public.

14 (c) List of eligible insurers.--The department shall from
15 time to time publish a list of all currently eligible surplus
16 lines insurers and shall mail a copy thereof to each licensed
17 surplus lines agent at his last office of record with the
18 department.

19 (d) Determination of ineligibility.--An eligible surplus
20 lines insurer shall furnish at least annually to the department
21 the information required by subsection (b)(3). If the department
22 has reason to believe that any unlicensed insurer then on the
23 list of eligible surplus lines insurers is impaired financially
24 or no longer meets the requirements for eligibility, it shall
25 declare the insurer ineligible as a surplus lines insurer. If,
26 after a hearing of which reasonable notice is given to all
27 licensed surplus lines agents, the department determines that an
28 insurer currently eligible as a surplus lines insurer has
29 willfully violated the law or has failed to make reasonably
30 prompt settlement of just claims for losses or return premiums,

1 it may declare the insurer no longer an eligible surplus lines
2 insurer. The department shall promptly mail notice of all such
3 declarations to each surplus lines agent at his last address of
4 record with the department.

5 (e) Significance of eligibility.--This section does not
6 impose on the department any duty or responsibility to determine
7 the actual financial condition or claims practices of any
8 unlicensed insurer. The status of eligible surplus lines
9 insurer, if granted by the department, shall mean only that the
10 insurer appears to be sound financially and to have satisfactory
11 claims practices and that the department has no credible
12 evidence to the contrary.

13 § 1308. Licensure of surplus lines agents.

14 (a) Individuals.--Any individual licensed insurance broker
15 who is a resident of this Commonwealth and who is found by the
16 department to have had sufficient experience in the insurance
17 business to be competent for the purpose, may be licensed as a
18 surplus lines agent upon passing a written examination on his
19 knowledge of this chapter and his general knowledge of surplus
20 lines activity, the content of such examination to be prescribed
21 by the department.

22 (b) Partnerships and corporations.--Any partnership or
23 corporation licensed insurance broker resident of this
24 Commonwealth may become licensed as a surplus lines agent if all
25 members of the partnership or all officers of the corporation,
26 as the case may be, who are actively engaged in the surplus
27 lines activity of the partnership or corporation possess the
28 requisite experience and pass the written examination described
29 in subsection (a). The department shall issue a certificate of
30 eligibility to all such partners or officers who so qualify to

1 handle surplus lines activity. Partners or officers not holding
2 the certificate of eligibility shall not engage in any phase of
3 the partnership's or corporation's surplus lines activity.

4 (c) Exemption from examination.--Any person who held a valid
5 excess insurance broker's license on March 1, 1966, shall be
6 deemed qualified for a license as a surplus lines agent without
7 the necessity of passing an examination. Partners of
8 partnerships and officers of corporations who were certified to
9 the department as having been actively engaged in the surplus
10 lines activity of the partnership or corporation on March 1,
11 1966, shall be considered qualified for a certificate of
12 eligibility without the necessity of passing an examination.

13 (d) Forms.--Initial and renewal applications for the
14 licenses and certificates shall be made to the department on
15 forms prescribed and furnished by it.

16 (e) Renewal.--The licenses and certificates shall be issued
17 for a term of 12 months and shall be renewable upon written
18 request therefor filed with the department and accompanied by
19 payment of the license fee prior to expiration.

20 (f) Payment of fees.--The fees required by the department to
21 administer this section, including the surplus lines agent's
22 annual license fee, the fee for the annual certificate of
23 eligibility and the examination fee, shall be paid in advance.

24 § 1309. Bond of surplus lines agents.

25 Prior to the issuance of a license, the applicant shall
26 furnish the department and shall keep in force for as long as
27 any such license remains in effect a bond in favor of the
28 Commonwealth in the amount of not less than \$25,000 aggregate
29 liability, such bond to be issued by a licensed and authorized
30 corporate surety or sureties approved by the department. The

1 bond shall be conditioned that the surplus lines agent will
2 comply with all the requirements of section 1311 (relating to
3 surplus lines tax). The department may require a bond in a
4 larger amount if the volume of business transacted or to be
5 transacted by a particular surplus lines agent warrants a larger
6 amount. The aggregate liability of the surety for any and all
7 claims on any such bond shall not exceed the amount thereof. The
8 bond shall not be terminated except upon not less than 30 days'
9 prior written notice thereof given to the licensee, the
10 department and the Department of Revenue.

11 § 1310. Penalties.

12 (a) Surplus lines agents.--The department may suspend,
13 revoke or refuse to renew the license of a surplus lines agent
14 or impose a fine of not more than \$1000 for each violation of
15 this chapter upon any one or more of the following grounds:

16 (1) Removal of the licensee's office or of the accounts
17 and records of his surplus lines activity from this
18 Commonwealth.

19 (2) Closure of the licensee's office for a period in
20 excess of 30 consecutive days, unless granted permission by
21 the department to close the office for a longer period.

22 (3) Failure to file reports when due or to remit taxes
23 under section 1311 (relating to surplus lines tax).

24 (4) Failure to maintain the bond under section 1309
25 (relating to bond of surplus lines agents).

26 (5) Failure to remit premiums due insurers or return
27 premiums due insureds in the normal course of business and
28 within reasonable time limits.

29 (6) Suspension, revocation or refusal to renew any other
30 license or certificate issued by the department to the

1 licensee.

2 (7) Violation of any provision of this chapter.

3 (b) Other agents.--When any licensed insurance agent, broker
4 or licensed insurer violates this chapter, the department may
5 suspend, revoke or refuse to renew the license of the agent or
6 broker or impose a fine of not more than \$1000 upon the agent,
7 broker or licensed insurer for each violation of this chapter.

8 (c) Notice and hearing.--The department shall hold a hearing
9 before taking any action under subsections (a) and (b). It shall
10 give written notice of the hearing to the person charged with
11 the violation, stating specifically the nature of the alleged
12 violation and fixing a time and place at least ten days
13 thereafter when the hearing shall be held.

14 § 1311. Surplus lines tax.

15 (a) Imposition.--A tax of 3% shall be levied on all premiums
16 charged for insurance which is placed with an unlicensed insurer
17 under this chapter, based on the gross premiums charged less any
18 return premiums. This tax shall be in addition to the full
19 amount of the gross premium charged by the insurer for the
20 insurance, except that the tax on any unearned portion of the
21 premium shall be returned to the insured.

22 (b) Payment.--A surplus lines agent or producing broker
23 shall not directly or indirectly pay the tax or any portion
24 thereof, either as an inducement to the insured to purchase the
25 insurance or for any other reason. In the case where a
26 transaction is handled by a licensed surplus lines agent for
27 another licensed surplus lines agent, the surplus lines agent
28 dealing directly with the insurer is responsible to the
29 Commonwealth for reporting the transaction and paying the tax.

30 (c) Return by agent.--The surplus lines agent shall collect

1 from the insured or the producing broker the amount of the tax
2 at the time of delivery of the initial policy, cover note or
3 other instrument of insurance or at such time thereafter as is
4 reasonably consistent with normal credit terms customary in the
5 business. Each surplus lines agent shall, on or before January
6 31 of each year, file with the Department of Revenue on forms
7 prescribed and furnished by the Department of Revenue a report
8 of all transactions involving the placement of insurance with
9 unlicensed insurers during the previous calendar year. This
10 report shall set forth the name of the insured, the
11 identification of the insurer, the type of insurance, the gross
12 premiums charged less any return premiums allowed and the tax
13 due as provided in this section. The remittance for the taxes
14 due shall accompany this report. A copy of the report shall be
15 filed with the department by the surplus lines agent.

16 (d) Return by insured.--The tax provided by subsection (a)
17 shall be imposed upon an insured who procures insurance on a
18 subject of insurance which is resident, located or to be
19 performed in this Commonwealth from an unlicensed insurer or
20 continues or renews such insurance, other than insurance
21 procured through a surplus lines agent in accordance with this
22 chapter. The insured shall, within 30 days after the date when
23 the insurance was procured, continued or renewed, report the
24 transaction on forms prescribed by the Department of Revenue.
25 This report shall set forth the information required of surplus
26 lines agents as required in subsection (c). The tax shall be
27 paid on the date the report is due under this section. A copy of
28 the report shall be filed with the department by the insured.

29 (e) Risks related in other states.--In the case where a
30 placement of insurance, either by a surplus lines agent or by

1 the insured himself, involves subjects of insurance resident,
2 located or to be performed in one or more other states the
3 premium taxes shall be levied only on that portion of the
4 premium reasonably ascribable to that portion of the risk
5 situated in this Commonwealth.

6 (f) Applicability of Fiscal Code.--The settlement and
7 resettlement of taxes under this section, including the granting
8 of extensions of time to file reports and the rights of the
9 taxpayers to present and prosecute a petition for resettlement,
10 a petition for review or an appeal to court or to file a
11 petition for refund and the imposition of interest and
12 penalties, shall be governed by the act of April 9, 1929
13 (P.L.343, No.176), known as The Fiscal Code, as approved in the
14 case of capital stock and franchise taxes.

15 § 1312. Information required on contract.

16 Every policy, cover note or other instrument of insurance
17 delivered to the insured and placed with an unlicensed insurer
18 in accordance with this chapter shall have printed, typed or
19 stamped on it, in not less than ten-point print, the following
20 legend: "This insurance contract is issued by an insurer neither
21 licensed by nor under the jurisdiction of the Pennsylvania
22 Insurance Department and is written pursuant to the Pennsylvania
23 Surplus Lines Law. Placed by (name and office address of surplus
24 lines agent)." This legend shall not be concealed by a policy
25 label or sticker or in any other manner.

26 § 1313. Regulations.

27 The department may make and enforce such regulations as it
28 deems necessary for the administration of this chapter.

29 § 1314. Rights of insured.

30 This chapter does not prevent an insured from enforcing his

1 rights under the terms and conditions of a contract of insurance
2 entered into in violation of this chapter.

3 § 1315. Penalties.

4 Any person who in this Commonwealth violates any provision of
5 this chapter commits a misdemeanor of the third degree.

6 CHAPTER 15

7 UNFAIR INSURANCE PRACTICES

8 Sec.

9 1501. Short title of chapter.

10 1502. Purpose of chapter.

11 1503. Definitions.

12 1504. Unfair practices.

13 1505. Immunity for statements or information.

14 1506. Powers of department.

15 1507. Administrative action.

16 1508. Injunction.

17 1509. Civil penalties.

18 1510. Exclusions.

19 § 1501. Short title of chapter.

20 This chapter shall be known and may be cited as the Unfair
21 Insurance Practices Act.

22 § 1502. Purpose of chapter.

23 The purpose of this chapter is to regulate trade practices in
24 the business of insurance in accordance with the intent of
25 Congress as expressed in the Federal act of March 9, 1945
26 (Public Law 79-15, 15 U.S.C. § 1011 et seq.) by defining or
27 providing for the determination of all practices in this
28 Commonwealth which constitute unfair methods of competition or
29 unfair or deceptive acts or practices and by prohibiting those
30 practices.

1 § 1503. Definitions.

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

5 "Insurance policy" or "insurance contract." Any contract of
6 insurance, indemnity, health care, suretyship, title insurance
7 or annuity issued, proposed for issuance or intended for
8 issuance by any person.

9 "Person." Includes any reciprocal exchange, inter-insurer,
10 Lloyds insurer, fraternal benefit society as defined in section
11 4502 (relating to definitions), beneficial society or
12 association, health maintenance organization as defined in
13 section 7303 (relating to definitions), hospital plan
14 corporation as defined in section 7501 (relating to definitions)
15 and professional health service corporation as defined in
16 section 7702 (relating to definitions) and any other legal
17 entity engaged in the business of insurance, including agents,
18 brokers and adjusters. For the purposes of this chapter, health
19 care plans, fraternal benefit societies and beneficial societies
20 shall be deemed to be engaged in the business of insurance.

21 "Renewal" or "to renew." The issuance and delivery by an
22 insurer of a policy superseding at the end of the policy period
23 a policy previously issued and delivered by the same insurer,
24 such renewal policy to provide types and limits of coverage at
25 least equal to those contained in the policy being superseded,
26 or the issuance and delivery of a certificate or notice
27 extending the term of a policy beyond its policy period or term
28 with types and limits of coverage at least equal to those
29 contained in the policy being extended. Any policy with a policy
30 period or term of less than 12 months or any period with no

1 fixed expiration date shall for the purpose of this chapter be
2 considered as if written for successive policy periods or terms
3 of 12 months.

4 § 1504. Unfair practices.

5 (a) General rule.--A person shall not engage in this
6 Commonwealth in any trade practice which is defined or
7 determined to be an unfair method of competition or an unfair or
8 deceptive act or practice in the business of insurance pursuant
9 to this chapter.

10 (b) Unfair practices defined.--An unfair method of
11 competition or an unfair or deceptive act or practice in the
12 business of insurance is defined to be:

13 (1) Making, publishing, issuing or circulating any
14 estimate, illustration, circular, statement, sales
15 presentation or omission comparison which does any of the
16 following:

17 (i) Misrepresents the benefits, advantages,
18 conditions or terms of any insurance policy.

19 (ii) Misrepresents the premium overcharge commonly
20 called dividends or share of the surplus to be received
21 on any insurance policy.

22 (iii) Misrepresents the facts regarding the
23 dividends or share of surplus previously paid on any
24 insurance policy.

25 (iv) Misleads or misrepresents as to the financial
26 condition of any person or as to the legal reserve system
27 upon which any insurer operates.

28 (v) Uses any name or title of any insurance policy
29 or class of insurance policies misrepresenting the true
30 nature thereof.

1 (vi) Misrepresents for the purpose of inducing or
2 tending to induce the lapse, forfeiture, exchange,
3 conversion or surrender of any insurance policy.

4 (vii) Misrepresent for the purpose of effecting a
5 pledge or assignment of or effecting a loan against any
6 insurance policy.

7 (viii) Misrepresents any insurance policy as being
8 shares of stock.

9 (2) Making, issuing, publishing or circulating in any
10 manner an advertisement, announcement or statement containing
11 any representation or statement with respect to the business
12 of insurance or with respect to any person in the conduct of
13 his insurance business which is untrue, deceptive or
14 misleading.

15 (3) Making, issuing, publishing or circulating any oral
16 or written statement which is false or maliciously critical
17 of or derogatory to the financial condition of any person and
18 which is calculated to injure the person.

19 (4) Entering into any agreement to commit, or by any
20 concerted action committing, any act of boycott, coercion or
21 intimidation resulting in or tending to result in
22 unreasonable restraint of, or monopoly in, the business of
23 insurance.

24 (5) Knowingly filing with any supervisory or other
25 public official, or knowingly making, issuing, publishing or
26 circulating any false material statement of fact as to the
27 financial condition of a person, or knowingly making any
28 false entry of a material fact in any book, report or
29 statement of any person or knowingly omitting to make a true
30 entry of any material fact pertaining to the business of such

1 person in any book, report or statement of such person.

2 (6) Issuing or delivering or permitting agents, officers
3 or employees to issue or deliver agency company stock or
4 other capital stock, or benefit certificates or shares in any
5 corporation, or securities or any special or advisory board
6 contracts or other contracts of any kind promising returns
7 and profits as an inducement to insurance.

8 (7) Unfairly discriminating in any of the following
9 ways:

10 (i) Making or permitting any unfair discrimination
11 between individuals of the same class and equal
12 expectation of life in the rates charged for any contract
13 of life insurance or of life annuity or in the dividends
14 or other benefits payable thereon, or in any other of the
15 terms and conditions of such contract.

16 (ii) Making or permitting any unfair discrimination
17 between individuals of the same class and of essentially
18 the same hazard in the amount of premium, policy, fees or
19 rates charged for any policy or contract of insurance or
20 in the benefits payable thereunder, in any of the terms
21 or conditions of the contract or in any other manner.

22 (iii) Making or permitting any unfair discrimination
23 between individuals of the same class and essentially the
24 same hazard with regard to underwriting standards and
25 practices or eligibility requirements by reason of race,
26 religion, nationality or ethnic group, age, sex, family
27 size, occupation, place of residence or marital status.
28 The terms "underwriting standards and practices" and
29 "eligibility rules" do not include the promulgation of
30 rates if made or promulgated under Chapter 19 (relating

1 to insurance rates).

2 (8) Except as otherwise provided by law, knowingly
3 permitting or offering to make or making any contract of
4 insurance or agreement as to such contract other than as
5 plainly expressed in the insurance contract issued thereon,
6 or paying or allowing or giving or offering to pay, allow or
7 give, as inducement to such insurance, any rebate of premiums
8 payable on the contract, or any special favor or advantage in
9 the dividends or other benefits thereon, or any valuable
10 consideration, inducement or anything of value which is not
11 specified in the contract.

12 (9) Canceling any policy of insurance covering owner-
13 occupied private residential properties or personal property
14 of individuals that has been in force for 60 days or more or
15 refusing to renew any policy unless:

16 (i) the policy was obtained through material
17 misrepresentation, fraudulent statements or omissions or
18 concealment of fact material to the acceptance of the
19 risk or to the hazard assumed by the company;

20 (ii) there has been a substantial change or increase
21 in hazard in the risk assumed by the company subsequent
22 to the date the policy was issued;

23 (iii) there is a substantial increase in hazards
24 insured against by reason of willful or negligent acts or
25 omissions by the insured;

26 (iv) the insured has failed to pay any premium when
27 due whether the premium is payable directly to the
28 company or its agent or indirectly under any premium
29 finance plan or extension of credit; or

30 (v) the policy may be canceled on other grounds

1 under regulations promulgated by the department.

2 (10) Any of the following acts in connection with the
3 compromise or settlement of claims by insured arising under
4 insurance policies, if committed or performed with such
5 frequency as to indicate a business practice:

6 (i) Misrepresenting pertinent facts or policy or
7 contract provisions relating to coverages at issue.

8 (ii) Failing to acknowledge and act promptly upon
9 written or oral communications with respect to the
10 claims.

11 (iii) Failing to adopt and implement reasonable
12 standards for the prompt investigation of the claims.

13 (iv) Refusing to pay the claims without conducting a
14 reasonable investigation based upon all available
15 information.

16 (v) Failing to affirm or deny coverage of the claims
17 within a reasonable time after proof of loss statements
18 have been completed and communicated to the company or
19 its representative.

20 (vi) Not attempting in good faith to effectuate
21 prompt, fair and equitable settlements of the claims in
22 which the liability of the company under the policy has
23 become reasonably clear.

24 (vii) Compelling persons to institute litigation to
25 recover amounts due under an insurance policy by offering
26 substantially less than the amounts due and recovered in
27 actions brought by such persons.

28 (viii) Attempting to settle a claim for less than
29 the amount to which a reasonable man would have believed
30 he was entitled by reference to written or printed

1 advertising material accompanying or made part of an
2 application.

3 (ix) Attempting to settle or compromise claims on
4 the basis of an application which was altered without
5 notice to or knowledge or consent of the insured of the
6 alteration at the time the alteration was made.

7 (x) Making claims payments to insureds or
8 beneficiaries not accompanied by a statement setting
9 forth the coverage under which payments are being made.

10 (xi) Making known to insureds or claimants a policy
11 of appealing from arbitration awards in favor of insureds
12 or claimants to induce or compel them to accept
13 settlements or compromises less than the amount awarded
14 in arbitration.

15 (xii) Delaying the investigation or payment of
16 claims by requiring the insured, claimant or the
17 physician of either to submit a preliminary claim report
18 and then requiring the subsequent submission of formal
19 proof of loss forms, both of which submissions contain
20 substantially the same information.

21 (xiii) Failing to promptly settle claims, where
22 liability has become reasonably clear, under one portion
23 of the insurance policy coverage in order to influence
24 settlements under other portions of the insurance policy
25 coverage or under other policies of insurance.

26 (xiv) Failing to promptly provide a reasonable
27 explanation of the basis in the insurance policy in
28 relation to the facts or applicable law for denial of a
29 claim or for the offer of a compromise settlement.

30 (xv) Refusing payment of a claim solely on the basis

1 of an insured's request to do so unless:

2 (A) the insured claims sovereign, diplomatic,
3 military service or other immunity from suit or
4 liability with respect to the claim;

5 (B) the insured is granted the right under the
6 policy of insurance to consent to settlement of
7 claims; or

8 (C) the refusal of payment is based upon the
9 insurer's independent evaluation of the insured's
10 liability based upon all available information.

11 (11) Failure of any person to maintain a complete record
12 of all the complaints which it has received during the
13 preceding four years. This record shall indicate the total
14 number of complaints, their classification by line of
15 insurance, the nature of each complaint, the disposition of
16 these complaints and the time it took to process each
17 complaint. For the purposes of this paragraph, the term
18 "complaint" means any written communication primarily
19 expressing a grievance.

20 (12) Making false or fraudulent statements or
21 representations on or relative to an application for an
22 insurance policy for the purpose of obtaining a fee,
23 commission, money or other benefit from any insurer, agent,
24 broker or individual.

25 (13) Making, issuing, publishing or circulating an
26 advertisement, announcement or statement offering permanent
27 life insurance to persons 50 years of age or older without
28 accompanying disclosures of any applicable reduction in the
29 face amount payable and the period thereof.

30 (c) Exclusions.--

1 (1) Subsection (b)(7) or (8) does not include within the
2 definition of discrimination or rebates any of the following
3 practices:

4 (i) In the case of any contract of life insurance or
5 life annuity, paying bonuses to policyholders or
6 otherwise abating their premiums out of surplus
7 accumulated from nonparticipating insurance if any such
8 bonuses or abatement of premiums are fair and equitable
9 to policyholders and for the best interests of the
10 company and its policyholders.

11 (ii) In the case of life insurance policies issued
12 on the industrial or debit plan, making allowance to
13 policyholders who have continuously for a specified
14 period made premium payments directly to an office of the
15 insurer in an amount which fairly represents the saving
16 in collection expense.

17 (iii) Readjustment of the rate of premium for a
18 group insurance policy based on the loss or expense
19 experience thereunder, at the end of the first or any
20 subsequent policy year of insurance thereunder, which may
21 be made retroactive only for such policy year.

22 (2) Subsections (b)(9) and (d) do not apply under any of
23 the following circumstances:

24 (i) If the insurer has manifested its willingness to
25 renew by issuing or offering to issue a renewal policy,
26 certificate or other evidence of renewal, including the
27 mailing of a renewal premium notice to the insured not
28 less than 30 days in advance of the expiration date of
29 the policy.

30 (ii) If the named insured has demonstrated by some

1 overt action to the insurer or its agent other than mere
2 nonpayment of premium that he wishes the policy to be
3 canceled or that he does not wish the policy to be
4 renewed.

5 (iii) To any policy of insurance which has been in
6 effect less than 60 days, including any notice of
7 termination period, unless it is a renewal policy. Any
8 declination of coverage within the 60-day period provided
9 in this clause shall, for purposes of review by the
10 department, be deemed a refusal to write and shall not be
11 subject to the provisions of subsections (b)(9) and (d).

12 (d) Cancellation or nonrenewal of certain policies.--In the
13 case of any policy of insurance covering owner-occupied private
14 residential properties or personal property of individuals, the
15 insured may, within ten days of the receipt by the insured of
16 notice of cancellation or notice of intention not to renew,
17 request in writing to the department that it review that action
18 of the insurer. A cancellation or refusal to renew by any person
19 shall not be effective unless a written notice of the
20 cancellation or refusal to renew the policy is received by the
21 insured either at the address shown in the policy or at a
22 forwarding address. The notice shall:

23 (1) Be approved as to form by the department prior to
24 use.

25 (2) State the date, not less than 30 days after the date
26 of delivery or mailing, on which such cancellation or refusal
27 to renew shall become effective.

28 (3) State the specific reason or reasons of the insurer
29 for cancellation or refusal to renew.

30 (4) Advise the insured of his right to file a written

1 request for review under this subsection, within ten days of
2 the receipt of the notice.

3 (5) Advise the insured of his possible eligibility for
4 insurance under Chapter 57 (relating to Pennsylvania Fair
5 Plan) or the Pennsylvania Assigned Risk Plan.

6 (6) Advise the insured in a form commonly understandable
7 of the provisions of paragraphs (2), (3) and (4) as they
8 limit permissible time and reasons for cancellation.

9 (7) Advise the insured of the procedures to be followed
10 in prosecuting an appeal.

11 § 1505. Immunity for statements or information.

12 There shall be no liability on the part of and no cause of
13 action of any nature shall arise against the commissioner, any
14 insurer, the authorized representatives, agents and employees of
15 the department or the insurer, or of any firm or person
16 furnishing to the insurer information as to reasons for
17 cancellation or refusal to renew for any statement made by them
18 in complying with this chapter or for providing information
19 pertaining thereto.

20 § 1506. Powers of department.

21 The department may examine and investigate the affairs of
22 every person engaged in the business of insurance in this
23 Commonwealth in order to determine whether such person has been
24 or is engaged in any unfair method of competition or in any
25 unfair or deceptive act or practice prohibited by this chapter.

26 § 1507. Administrative action.

27 (a) Notice and hearing.--If, as a result of investigation,
28 the department has good cause to believe that any person is
29 violating any provision of this chapter, the department shall
30 send notice of the violation by registered mail to the person

1 believed to be in violation. The notice shall state the time and
2 place for hearing which shall not be less than 30 days from the
3 date of the notice. At the hearing, the person shall have an
4 opportunity to be heard and to show cause why an order should
5 not be made by the department to cease and desist from acts
6 constituting a violation of this chapter and why administrative
7 penalties should not be assessed.

8 (b) Intervention.--Upon good cause shown, the department
9 shall permit any person to intervene, appear and be heard at the
10 hearing, either in person or by counsel.

11 (c) Procedure.--The department may administer oaths, examine
12 and cross-examine witnesses, receive oral and documentary
13 evidence and subpoena witnesses, compel their attendance and
14 require the production of books, papers, records or other
15 documents which it deems relevant to the hearing. The department
16 shall cause a record of all evidence and all proceedings at the
17 hearing to be kept.

18 (d) Order.--Following the hearing, the department shall
19 issue a written order resolving the factual issues presented at
20 the hearing and stating what remedial action, if any, is
21 required of the person charged. The department shall send a copy
22 of the order to those persons participating in the hearing.

23 (e) Administrative penalty.--Upon a determination that this
24 chapter has been violated, the department may issue an order
25 requiring the person to cease and desist from engaging in the
26 violation or, if such violation is a method of competition, act
27 or practice defined in section 1504 (relating to unfair
28 practices), the department may suspend or revoke the person's
29 license.

30 § 1508. Injunction.

1 If the alleged violator fails to comply with an order of the
2 department following hearing to cease and desist from unfair
3 methods of competition or an unfair or deceptive act or
4 practice, the department may cause an action for injunction to
5 be filed in the Commonwealth Court or the court of the county in
6 which the violation occurred.

7 § 1509. Civil penalties.

8 In addition to any penalties imposed pursuant to this
9 chapter, the court may, in an action filed by the department,
10 impose the following civil penalties:

11 (1) For each method of competition, act or practice
12 referred to in section 1504 (relating to unfair practices) or
13 otherwise in violation of this chapter which the person knew
14 or reasonably should have known was such a violation, a
15 penalty of not more than \$5,000 for each violation but not to
16 exceed an aggregate penalty of \$50,000 in any six-month
17 period.

18 (2) For each such method of competition, act or practice
19 which the person did not know nor reasonably should have
20 known was a violation, a penalty of not more than \$1,000 for
21 each violation but not to exceed an aggregate penalty of
22 \$10,000 in any six-month period.

23 (3) For each violation of an order issued by the
24 department pursuant to section 1507(e) (relating to
25 administrative action) while such order is in effect, a
26 penalty of not more than \$10,000.

27 § 1510. Exclusions.

28 Health care plans administered by joint boards of trustees
29 pursuant to section 302 of the Labor Management Relations Act of
30 1947 (61 Stat. 157, 29 U.S.C. § 186) and health care plans

1 administered by the employer pursuant to collective bargaining
2 agreements which pay benefits from the assets of the trust or
3 the funds of the employer as opposed to payments through an
4 insurance company are not subject to this chapter.

5 CHAPTER 17

6 REPORTING REQUIREMENTS

7 Sec.

8 1701. Definitions.

9 1702. Disposal of assets.

10 1703. Ceding or reinsurance.

11 1703.1 Regulations.

12 1704. Business operations.

13 1705. Reports of financial condition.

14 1706. Additional reports from foreign or alien entities.

15 § 1701. Definitions.

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

19 "Assets." All the property and rights of every kind held by
20 the entity.

21 "Disposal." Any sale, transfer, exchange, assignment,
22 alienation or other conveyance of an interest in assets. The
23 term does not include a ceding of policies pursuant to a
24 reinsurance contract.

25 "Total assets." The dollar amount of the entity's total
26 assets as reported in its most recent convention statement.

27 § 1702. Disposal of assets.

28 Any domestic insurance entity which within any period of 30
29 days, by one or more transactions, disposes of assets which, in
30 the aggregate, amount to more than 10% of its total assets,

1 shall send written notification thereof to the department. The
2 notification shall be given within ten business days prior to
3 the making of the disposal, specify the nature and amount
4 thereof and identify all of the parties thereto.

5 § 1703. Ceding or reinsurance.

6 Any domestic insurance entity, except a domestic life
7 insurance company, which during any period of 12 consecutive
8 months, by any contract of reinsurance, cedes an amount of its
9 insurance on which the total gross reinsurance premiums are more
10 than 50% of the unearned premiums on the net amount of its
11 insurance in force at the beginning of such period, shall give
12 written notification thereof to the department. Any domestic
13 life insurance company which reinsures its whole risk on any
14 individual life or joint lives or reinsures policies which,
15 during any period of 12 consecutive months, in the aggregate,
16 amount to more than 50% of its insurance in force shall give
17 written notification thereof to the department. The notification
18 required hereunder shall be given at least ten business days
19 before the date the reinsurance takes effect and shall specify
20 the nature and amount thereof and identify the parties thereto.
21 The requirements of this section do not apply to reinsurance
22 made in the ordinary course of business covering reinsurance of
23 specified individual risks under agreements relating to current
24 business and shall be in addition to the requirements contained
25 in section 3512 (relating to reinsurance).

26 § 1703.1. Regulations.

27 The department shall prescribe the regulations necessary for
28 the administration of sections 1701 (relating to definitions)
29 through 1703 (relating to ceding or reinsurance).

30 § 1704. Business operations.

1 (a) General rule.--Each stock or mutual insurance entity or
2 employers mutual liability association and organization,
3 including the State Workmen's Insurance Fund, which is subject
4 to Chapter 19 (relating to insurance rates) or section 5523
5 (relating to rating plans) shall maintain uniform
6 classifications of accounts and records as may be prescribed by
7 the department and shall file such uniform reports relative to
8 their business and transactions as the department deems
9 necessary. These reports, except when otherwise provided by law,
10 shall be filed on the date and in the form determined by the
11 department.

12 (b) Penalties.--Any insurance entity or organization which
13 violates subsection (a) shall pay a sum not to exceed \$100 per
14 day for each day during which the violation continues and, upon
15 notice by the department, its authority to do new business shall
16 cease during that time. For willfully making false reports, any
17 insurance entity or organization subject to this section and the
18 persons making oath to or subscribing the same shall severally
19 be punished by a fine of not less than \$500 nor more than
20 \$5,000. A person who willfully makes oath to such false report
21 commits perjury.

22 (c) Procedures.--An action shall not be taken by the
23 department under subsection (b) except after a hearing held upon
24 ten days' written notice to the parties concerned.

25 Classifications of accounts and records or reports shall be
26 prescribed by the department under subsection (a) only upon
27 notice and after hearing to all parties affected thereby and
28 regulations relating thereto shall be promulgated by the
29 department at least six months before the effective date
30 thereof.

1 § 1705. Reports of financial condition.

2 (a) General rule.--Every stock and mutual insurance entity,
3 if subject to Part III (relating to organization of insurance
4 entities), shall annually, by March 1, file with the department
5 a statement showing its financial condition on December 31 of
6 the previous year and its business of that year. These entities
7 shall, within 30 days after requested by the department, render
8 any additional statement concerning its affairs and financial
9 condition which the department may require. The department shall
10 prescribe and furnish forms to each of the entities for their
11 statements. Any alien insurance company, if subject to Part III
12 and doing business in this Commonwealth, shall disclose only the
13 business done in the United States and the assets held by and
14 for it within the United States for the protection of
15 policyholders in the United States.

16 (b) Failure to file.--Any entity which neglects to timely
17 file a statement required under subsection (a) in the required
18 form shall pay to the department a sum not to exceed \$100 for
19 each day during which the neglect continues. Upon notice by the
20 department, its authority to do new business shall cease while
21 the default continues.

22 (c) False statements.--For willfully making false entries in
23 a statement filed under subsection (a), the entity and the
24 individuals making oath to or subscribing to the oath shall
25 severally be subject to a fine of not less than \$500 nor more
26 than \$5,000.

27 § 1706. Additional reports from foreign or alien entities.

28 (a) General rule.--Every foreign or alien stock or mutual
29 insurance entity authorized to do business in this Commonwealth,
30 if subject to Part III (relating to organization of insurance

1 entities), shall annually report to the Department of Revenue by
2 March 15 under oath of its president, secretary or attorney. The
3 report shall show the gross premiums of every character and
4 description received from business transacted in this
5 Commonwealth during the year ending the preceding December 31,
6 whether the premiums were received in money or in the form of
7 notes, credits or any other substitute for money and whether
8 they were collected in this Commonwealth or elsewhere.

9 (b) Taxation.--The entity shall pay to the State Treasury
10 the requisite tax upon all these premiums. In making the report,
11 the entities may deduct, from the gross premiums received, all
12 premiums returned on policies canceled or not taken and all
13 premiums actually received for reinsurances. Stock companies
14 with participating features may also deduct that portion of the
15 premiums returned to the policyholders. Life insurance companies
16 may deduct dividends declared and actually used by policyholders
17 in payment of renewal premiums. Mutual entities may deduct that
18 proportion of the advance premium or deposit returned to members
19 upon the expiration of termination of their contracts. To the
20 extent the provisions of this section supply provisions of the
21 act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
22 Code, relating to amounts which foreign entities may deduct from
23 gross premiums received from business transacted in this
24 Commonwealth in making reports with the Department of Revenue,
25 the provisions of this section shall supersede those provisions
26 of The Fiscal Code.

27 (c) (Reserved).

28 (d) Definition.--As used in this section the term "gross
29 premium" means the amount of dues, fees and premiums stated in
30 the policy contracts.

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CHAPTER 19

INSURANCE RATES

Sec.

- 1901. General provisions.
- 1902. Scope of chapter.
- 1903. Ratemaking.
- 1904. Rate filings.
- 1905. Disapproval of filings.
- 1906. Rating organizations.
- 1907. Deviations.
- 1908. Appeal by minority.
- 1909. Information to be furnished insureds.
- 1910. Hearings and appeals of insureds.
- 1911. Advisory organizations.
- 1912. Joint underwriting or joint reinsurance.
- 1913. Examinations.
- 1914. Recording and reporting of loss and expense experience.
- 1915. False or misleading information.
- 1916. Assigned risks.
- 1916.1. Regulations.
- 1916.2. Consultation with other states.
- 1917. Penalties.
- 1918. Hearing procedure and judicial review.

§ 1901. General provisions.

(a) Short title of chapter.--This chapter shall be known and may be cited as the Insurance Rate Regulatory Act.

(b) Purpose of chapter.--The purpose of this chapter is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, to enable authorized insurers to meet all

1 requirements of the insuring public of this Commonwealth, and to
2 authorize and regulate cooperative action among insurers in
3 ratemaking and in other matters within the scope of this
4 chapter. This chapter is not intended to prohibit or discourage
5 reasonable competition or prohibit or encourage uniformity in
6 insurance rates, rating systems, rating plans or practices. This
7 chapter shall be liberally interpreted to carry into effect its
8 purposes as set forth in this section.

9 § 1902. Scope of chapter.

10 (a) Casualty insurance.--This chapter applies to all classes
11 and kinds of insurance which may be written by stock or mutual
12 casualty insurance entities, including fidelity, surety and
13 guaranty bonds and all other forms of motor vehicle insurance,
14 and to title insurance on risks or operations in this
15 Commonwealth.

16 (b) Fire and marine insurance.--This chapter also applies to
17 all classes and kinds of insurance which may be written by stock
18 or mutual fire, marine or fire and marine insurance entities on
19 risks located in this Commonwealth. Inland marine insurance
20 shall be deemed to include insurance defined by law or by ruling
21 of the department or as established by general custom of the
22 business as inland marine insurance.

23 (c) Exclusions relating to casualty insurance.--With respect
24 to insurance described in subsection (a), this chapter does not
25 apply to:

26 (1) Reinsurance, other than joint reinsurance to the
27 extent stated in section 1912 (relating to joint underwriting
28 or joint reinsurance).

29 (2) Accident and health insurance.

30 (3) Insurance against loss or damage to aircraft or

1 against liability arising out of the ownership, maintenance
2 or use of aircraft.

3 (4) Workmen's compensation insurance.

4 (5) Insurance covering loss in excess of at least
5 \$10,000 from any one event issued to self-insurers as defined
6 in regulations which the department shall promulgate where
7 the rate is not made by a rating organization.

8 (d) Exclusions relating to fire and marine insurance.--With
9 respect to insurance described in subsection (b), this chapter
10 does not apply to:

11 (1) Reinsurance, other than joint reinsurance to the
12 extent stated in section 1912.

13 (2) Insurance of vessels or craft, their cargoes, marine
14 builders' risks, marine protection and indemnity, or other
15 risks commonly insured under marine as distinguished from
16 inland marine insurance policies.

17 (3) Insurance of hulls of aircraft, including their
18 accessories and equipment, or against liability arising out
19 of the ownership, maintenance or use of aircraft.

20 (4) Motor vehicle insurance or insurance against
21 liability arising out of the ownership, maintenance or use of
22 motor vehicles.

23 (5) Perpetual policies of insurance issued in
24 consideration of an initial deposit of moneys with the
25 insurer to be held by it during the time such policies are in
26 force and to be returned to the insureds, in whole or in
27 part, upon cancellation of the policies.

28 (e) Conflicting regulation.--If any kind of insurance,
29 subdivision or combination thereof, or type of coverage subject
30 to this chapter, is also subject to regulation by any other

1 provision of this title which regulates rates, an insurer to
2 which both provisions are otherwise applicable shall file with
3 the department a designation as to which set of provisions shall
4 be applicable to it with respect to the kind of insurance,
5 subdivision or combination thereof, or type of coverage.

6 § 1903. Ratemaking.

7 All rates shall be made in accordance with the following
8 provisions:

9 (1) Due consideration shall be given to past and
10 prospective loss experience in and outside this Commonwealth;
11 to physical hazards; to safety and loss prevention factors;
12 to underwriting practice and judgment to the extent
13 appropriate; to conflagration and catastrophe hazards, if
14 any; to a reasonable margin for underwriting profit and
15 contingencies; to dividends, savings or unabsorbed premium
16 deposits allowed or returned by insurers to their
17 policyholders, members or subscribers; to past and
18 prospective expenses in and outside this Commonwealth; and to
19 all other relevant factors in and outside this Commonwealth.
20 In the case of fire insurance rates, consideration shall be
21 given to the experience of the fire insurance business during
22 a period of not less than the most recent five-year period
23 for which such experience is available.

24 (2) In the case of insurance described in section
25 1902(a) (relating to scope of chapter), the systems of
26 expense provisions included in the rates for use by any
27 insurer or group of insurers may differ from those of other
28 insurers or groups of insurers to reflect the requirements of
29 the operating methods of any such insurer or group with
30 respect to any kind of insurance, or with respect to any

1 subdivision or combination thereof for which subdivision or
2 combination separate expense provisions are applicable.

3 (3) In the case of insurance described in section
4 1902(a), risks may be grouped by classifications for the
5 establishment of rates and minimum premiums. Classification
6 rates may be modified to produce rates for individual risks
7 in accordance with rating plans which establish standards for
8 measuring variations in hazards or expense provisions, or
9 both. These standards may measure any differences among risks
10 that can be demonstrated to have a probable effect upon
11 losses or expenses.

12 (4) In the case of insurance described in section
13 1902(b), manual, minimum, class rates, rating schedules or
14 rating plans shall be made and adopted, except in the case of
15 specific inland marine rates on risks specially rated, and
16 except in the case of special rates on other than inland
17 marine risks where manual, minimum, class rates, rating
18 schedules or rating plans are not applicable.

19 (5) Rates shall not be excessive, inadequate or unfairly
20 discriminatory.

21 (6) No rate shall be held to be unfairly discriminatory
22 unless, allowing for practical limitations, it clearly fails
23 to reflect with reasonable accuracy the differences in
24 expected losses and expenses. A rate is not unfairly
25 discriminatory because different premiums result for
26 policyholders with like loss exposures but different expense
27 factors, so long as the rate reflects the differences with
28 reasonable accuracy. A rate is not unfairly discriminatory if
29 it is averaged broadly among persons insured under a group,
30 franchise or blanket policy. This paragraph applies to

1 insurance described in section 1902(a).

2 (7) This section does not prohibit rates for automobile
3 insurance which are based, in whole or in part, on factors,
4 including, but not limited to, sex, if the use of such a
5 factor is supported by sound actuarial principles or is
6 related to actual or reasonable anticipated experience;
7 however, such factors shall not include race, religion or
8 national origin.

9 § 1904. Rate filings.

10 (a) General rule.--Every insurer shall file with the
11 department, except as to inland marine risks which by general
12 custom of the business are not written according to manual rates
13 or rating plans, every manual, minimum, class rate, rating
14 schedule or rating plan, every other rating rule and every
15 modification of any of the foregoing which it proposes to use,
16 and shall file every special rate on other than inland marine
17 risks as mentioned in section 1903(4) (relating to ratemaking).
18 Every such filing shall state the proposed effective date
19 thereof and shall indicate the character and extent of the
20 coverage contemplated. When a filing is not accompanied by
21 supporting information and the department lacks sufficient
22 information to determine whether the filing meets the
23 requirements of this chapter, it may require the insurer to
24 furnish that information. Any filing may be supported by the
25 experience or judgment of the insurer or rating organization
26 making the filing, the experience of other insurers or rating
27 organizations, or any other factors which the insurer or rating
28 organization deems relevant. A filing and any supporting
29 information shall be open to public inspection after the filing
30 becomes effective. Specific inland marine rates on risks

1 specially rated, made by a rating organization, shall be filed
2 with the department. An insurer shall not make or issue a
3 contract or policy except in accordance with filings or rates
4 which are in effect for the insurer under this chapter, unless
5 permitted to do so under this chapter.

6 (b) Rating organization.--An insurer may satisfy its
7 obligations to make the required filings by becoming a member
8 of, or a subscriber to, a licensed rating organization which
9 makes such filings, and by authorizing the department to accept
10 the organization's filings on its behalf.

11 (c) Review.--The department shall review such of the filings
12 as may be necessary to review in order to carry out the purposes
13 of this chapter.

14 (d) Effect of filing.--Subject to the exceptions under
15 subsections (e) and (f), each filing shall be on file for a
16 waiting period of 30 days before it becomes effective, which
17 period may be extended by the department for an additional
18 period not to exceed 30 days upon written notice within the
19 waiting period to the insurer or rating organization which made
20 the filing. Upon written application by the insurer or rating
21 organization, the department may authorize a filing or a part
22 thereof which it has reviewed to become effective before the
23 expiration of the waiting period or any extension thereof. A
24 filing shall be deemed to meet the requirements of this chapter
25 and to become effective unless disapproved by the department
26 within the waiting period or any extension thereof.

27 (e) Special filings.--With respect to insurance described in
28 section 1902(a) (relating to scope of chapter), any filing with
29 respect to a surety or guaranty bond required by law or by court
30 or executive order or by order, rule or regulation of a public

1 body, not covered by a previous filing, or any filing with
2 respect to a contract or a policy covering any risk or kind of
3 insurance or subdivision thereof for which classification rates
4 do not generally exist in the industry, or which by reason of
5 rarity or peculiar characteristics does not lend itself to
6 normal classification or rating procedure, shall become
7 effective when filed and shall be deemed to meet the
8 requirements of this chapter.

9 (f) Fire and marine insurance.--With respect to insurance
10 described in section 1902(b), specific inland marine rates on
11 risks specially rated by a rating organization shall become
12 effective when filed and shall be deemed to meet the
13 requirements of this chapter until such time as the department
14 reviews the filing and so long thereafter as the filing remains
15 in effect. Any special rate mentioned in section 1903(4) on a
16 contract or policy covering other than inland marine risks shall
17 be deemed to meet the requirements of this chapter until such
18 time as the department reviews the filing and so long thereafter
19 as the filing remains in effect.

20 (g) Waiver or modification.--Under such rules and
21 regulations as it shall adopt, the department may by written
22 order suspend or modify the requirement of filing as to any kind
23 of insurance, subdivision or combination thereof, or as to
24 classes of risks, the rates for which cannot practicably be
25 filed before they are used. These orders, rules and regulations
26 shall be made known to insurers and rating organizations
27 affected thereby. The department may make such examination as it
28 may deem advisable to ensure that any rates affected by the
29 order are not excessive, inadequate or unfairly discriminatory.

30 (h) Modification for specific risks.--Upon the written

1 consent of the insured stating his reasons therefor, filed with
2 and approved by the department, a rate in excess of that
3 provided by a filing otherwise applicable may be used on any
4 specific risk. The rate shall become effective when the consent
5 is filed and shall be deemed to meet the requirements of this
6 chapter until such time as the department reviews the filing and
7 so long thereafter as the filing remains in effect.

8 § 1905. Disapproval of filings.

9 (a) Standard of review.--A filing or modification thereof
10 shall not be disapproved if the rates in connection therewith
11 meet the requirements of this chapter.

12 (b) Hearing for insurer.--Upon the review at any time by the
13 department of a filing, it shall, before issuing an order of
14 disapproval, hold a hearing upon not less than ten days' written
15 notice, specifying the matters to be considered at the hearing,
16 to every insurer and rating organization which made the filing.
17 An insurer or organization may at any time withdraw a filing or
18 a part thereof, subject to the provisions of section 1907
19 (relating to deviations) in the case of a deviation filing.

20 (c) Hearing for aggrieved parties.--Any person or
21 organization aggrieved with respect to any filing which is in
22 effect, except the insurer or rating organization which made the
23 filing, may make written application to the department for a
24 hearing thereon. The application shall specify the grounds to be
25 relied upon. If the department finds that the application may
26 justify relief it shall, within 30 days after receipt of the
27 application, hold a hearing upon not less than ten days' written
28 notice to the applicant and to every insurer and rating
29 organization which made the filing.

30 (d) Decision of department.--If, after the hearing, the

1 department finds that the filing or a part thereof does not meet
2 the requirements of this chapter, it shall issue an order
3 specifying in what respects it is found that the filing or part
4 thereof fails to meet those requirements. If the filing has
5 become effective under section 1904 (relating to rate filings)
6 or otherwise, the order shall state a time within a reasonable
7 period thereafter, at which the filing or part thereof shall be
8 deemed no longer effective. Copies of the order shall be sent to
9 the applicant and to every insurer and rating organization
10 affected. The order shall not affect any contract or policy made
11 or issued prior to the expiration of the period set forth in the
12 order.

13 § 1906. Rating organizations.

14 (a) General rule.--Any person located in or outside this
15 Commonwealth may apply to the department for a license as a
16 rating organization for the kinds of insurance or subdivisions,
17 classes of risk or part or combination thereof specified in its
18 application. The application shall include:

19 (1) A copy of the applicant's constitution, its articles
20 of agreement or association, or its certificate of
21 incorporation, and of its bylaws, rules and regulations
22 governing the conduct of its business.

23 (2) A list of its members and subscribers.

24 (3) The name and address of a resident of this
25 Commonwealth upon whom notices or orders of the department or
26 process affecting the rating organization may be served.

27 (4) A statement of its qualifications as a rating
28 organization.

29 If the department finds that the applicant is competent,
30 trustworthy and otherwise qualified to act as a rating

1 organization and that the documents submitted under paragraph
2 (1) conform to the requirements of law, it shall issue a license
3 specifying the kinds of insurance or subdivisions, classes of
4 risk or part or combination thereof for which the applicant is
5 authorized to act as a rating organization. The application
6 shall be granted or denied in whole or in part by the department
7 within 60 days of the date of its filing with it. Licenses
8 issued under this section shall remain in effect for three years
9 unless sooner suspended or revoked by the department. The fee
10 for the license shall be \$25. Licenses may be suspended or
11 revoked by the department after hearing upon notice, if the
12 rating organization ceases to meet the requirements for
13 licensure under this section. Every rating organization shall
14 notify the department promptly of every change in the items
15 listed in paragraph (1), (2) or (3).

16 (b) Subscribers.--Subject to rules and regulations approved
17 by the department, each rating organization shall permit any
18 insurer, not a member, to be a subscriber to its rating services
19 for any kind of insurance, subdivision, class of risk or part or
20 combination thereof for which it is authorized to act as a
21 rating organization. Notice of proposed changes in its rules and
22 regulations shall be given to subscribers. Each rating
23 organization shall furnish its rating services without
24 discrimination to its members and subscribers. The
25 reasonableness of any rule or regulation in its application to
26 subscribers or the refusal of any rating organization to admit
27 an insurer as a subscriber shall, at the request of any
28 subscriber or any such insurer, be reviewed by the department at
29 a hearing held upon at least ten days' written notice to the
30 rating organization and to the subscriber or insurer. If the

1 department finds that the rule or regulation is unreasonable in
2 its application to subscribers, it shall order that the rule or
3 regulation shall not apply to the subscribers. If the rating
4 organization fails to grant or reject an insurer's application
5 for subscribership within 30 days after it is made, the insurer
6 may request a review by the department as if the application had
7 been rejected. If the department finds that the insurer has been
8 refused admittance to the rating organization as a subscriber
9 without justification, it shall order the rating organization to
10 admit the insurer as a subscriber. If the department finds that
11 the action of the rating organization was justified, it shall
12 make an order affirming its action.

13 (c) Limitations on certain payments.--A rating organization
14 shall not adopt any rule the effect of which would be to
15 prohibit or regulate the payment of dividends, savings or
16 unabsorbed premium deposits allowed or returned by insurers to
17 their policyholders, members or subscribers.

18 (d) Cooperative activities.--Cooperation among rating
19 organizations or among rating organizations and insurers, and
20 concert of action among insurers under the same general
21 management and control in ratemaking or in other matters within
22 the scope of this chapter is permitted, but the filings
23 resulting therefrom are subject to this chapter. The department
24 may review these activities and practices and, if after a
25 hearing it finds that any activity or practice is unfair,
26 unreasonable or otherwise inconsistent with this chapter, it may
27 issue a written order specifying its objections and requiring
28 the discontinuance thereof.

29 (e) Fire and marine insurance.--With respect to activities
30 of rating organizations relating to insurance described in

1 section 1902(b) (relating to scope of chapter):

2 (1) The rating organization may provide for the
3 examination of policies, daily reports, binders, renewal
4 certificates, endorsements or other evidences of insurance,
5 or the cancellation thereof and may make reasonable rules
6 governing their submission. The rules shall contain a
7 provision that if any insurer does not within 60 days furnish
8 satisfactory evidence to the rating organization of the
9 correction of any error or omission previously called to its
10 attention by the rating organization, the rating organization
11 shall notify the department thereof. All information so
12 submitted for examination shall be confidential.

13 (2) The rating organization may subscribe for or
14 purchase actuarial, technical or other services, which shall
15 be available to all members and subscribers without
16 discrimination.

17 § 1907. Deviations.

18 Every member of or subscriber to a rating organization shall
19 adhere to the filings made on its behalf by the organization
20 except as follows:

21 (1) In the case of insurance described in section
22 1902(a) (relating to scope of chapter), the insurer may file
23 with the department a uniform percentage decrease or increase
24 to be applied to the premiums produced by the rating system
25 so filed for a kind of insurance, or for a class of insurance
26 which is found by the department to be a proper rating unit
27 for the application of such uniform percentage decrease or
28 increase, or for a subdivision of a kind of insurance either
29 comprised of a group of manual classifications which is
30 treated as a separate unit for ratemaking purposes or for

1 which separate expense provisions are included in the filings
2 of the rating organization. The deviation filing shall
3 specify the basis for the modification and shall be
4 accompanied by the data upon which the applicant relies. A
5 copy of the filing and data shall be sent simultaneously to
6 the rating organization.

7 (2) In the case of insurance described in section
8 1902(b) the insurer may file with the department a deviation
9 from the class rates, schedules, rating plans or rules,
10 respecting any kind of insurance, or class of risk within a
11 kind of insurance or combination thereof. The deviation
12 filing shall specify the basis for the modification, and a
13 copy thereof shall be sent to the rating organization at the
14 time of filing.

15 Each deviation filing shall be on file for 30 days before it
16 becomes effective, unless the department reviews and authorizes
17 the filing to become effective sooner, and shall be subject to
18 the provisions of section 1905 (relating to disapproval of
19 filings). Each deviation shall be effective for a period of not
20 less than one year from the date the deviation is filed unless
21 terminated sooner with the approval of the department or under
22 section 1905.

23 § 1908. Appeal by minority.

24 (a) Right of appeal.--Any member of or subscriber to a
25 rating organization may appeal to the department from any action
26 or decision of the rating organization approving or rejecting
27 any proposed change in or addition to the filings of the rating
28 organization. The failure of a rating organization to take
29 action or make a decision within 30 days after submission to it
30 of a proposal under this section shall be deemed a rejection of

1 the proposal.

2 (b) Decision by department.--The department shall, after a
3 hearing held upon not less than ten days' written notice to the
4 appellant and to the rating organization, issue an order
5 approving the decision of the rating organization or directing
6 it to give further consideration to the proposal and to take
7 action upon it within 30 days. If the appeal is from a decision
8 of the rating organization rejecting a proposed addition to its
9 filings, the department may issue an order directing the rating
10 organization to make an addition to its filings on behalf of its
11 members and subscribers consistent with its findings within a
12 reasonable time. If the appeal is from a decision of the rating
13 organization with regard to a rate on a proposed change in or
14 addition to its filings relating to the character and extent of
15 coverage, it shall approve the rate applied by the rating
16 organization or the rate suggested by the appellant if either
17 rate is in accordance with this chapter.

18 (c) Casualty insurance.--In the case of insurance described
19 in section 1902(a) (relating to scope of chapter), if the appeal
20 is based upon the failure of the rating organization to make a
21 filing on behalf of the member or subscriber which is based on a
22 system of expense provisions which differs, in accordance with
23 section 1903(2) (relating to ratemaking), from the system of
24 expense provisions included in a filing made by the rating
25 organization, the department shall, if it grants the appeal,
26 order the rating organization to make the requested filing for
27 use by the appellant. In deciding the appeal, the department
28 shall apply the standards set forth in section 1903.

29 § 1909. Information to be furnished insureds.

30 Every rating organization and every insurer which makes its

1 own rates shall, within a reasonable time after receiving
2 written request therefor and upon payment of such reasonable
3 charge as it may make, furnish all pertinent information as to
4 the rate to any insured affected by a rate made by it or to the
5 authorized representative of such an insured. Any rating
6 organization or insurer which makes its own rate, with respect
7 to rates of fire insurance on property located in this
8 Commonwealth, is subject to section 12 of the act of April 27,
9 1927 (P.L.450, No.291), referred to as the State Fire Marshal
10 Law.

11 § 1910. Hearings and appeals of insureds.

12 Every rating organization and every insurer which makes its
13 own rates shall provide, within this Commonwealth, reasonable
14 means whereby any person aggrieved by the application of its
15 rating system may be heard, in person or by his authorized
16 representative, on his written request to review the manner in
17 which the rating system has been applied in connection with the
18 insurance afforded him. If the rating organization or insurer
19 fails to grant or reject such request within 30 days after it is
20 made, the applicant may proceed as if his application had been
21 rejected. Any party affected by the action of the rating
22 organization or insurer on the request may, within 30 days after
23 written notice of the action, appeal to the department, which,
24 after a hearing held upon not less than ten days' written notice
25 to the appellant and to the rating organization or insurer, may
26 affirm or reverse the action.

27 § 1911. Advisory organizations.

28 (a) Filing with department.--Every advisory organization
29 shall file with the department:

30 (1) A copy of its constitution, its articles of

1 agreement or association or its certificate of incorporation
2 and of its bylaws, rules and regulations governing its
3 activities.

4 (2) A list of its members.

5 (3) The name and address of a resident of this
6 Commonwealth upon whom notices or orders of the department or
7 process issued at his discretion may be served.

8 (4) An agreement that the department may examine the
9 advisory organization in accordance with section 1913
10 (relating to examinations).

11 (b) Unreasonable practices.--If, after a hearing, the
12 department finds that the furnishing of such information or
13 assistance involves any act or practice which is unfair or
14 unreasonable or otherwise inconsistent with the provisions of
15 this chapter, it may issue a written order specifying in what
16 respects the act or practice is unfair or unreasonable or
17 otherwise inconsistent with the provisions of this chapter and
18 requiring the discontinuance of the act or practice.

19 (c) Violation of orders.--An insurer which makes its own
20 filings or rating organization shall not support its filings by
21 statistics or adopt ratemaking recommendations furnished to it
22 by an advisory organization if the organization has failed to
23 comply with this section or with an order under subsection (b)
24 involving its statistics or recommendations. If the department
25 finds the insurer or rating organization to be in violation of
26 this subsection, it may issue an order requiring the
27 discontinuance of the violation.

28 (d) Definition.--As used in this section the term "advisory
29 organization" means any group, association or other organization
30 of insurers, located in or outside this Commonwealth, which

1 assists insurers which make their own filings or rating
2 organizations in ratemaking, by the collection and furnishing of
3 loss or expense statistics or by the submission of
4 recommendations, but does not make filings under this chapter.

5 § 1912. Joint underwriting or joint reinsurance.

6 (a) Applicability.--Every group, association or other
7 organization of insurers which engages in joint underwriting or
8 joint reinsurance shall be subject to this section and shall be
9 subject, with respect to joint underwriting, to all provisions
10 of this chapter and, with respect to joint reinsurance, to
11 sections 1913 (relating to examinations), 1917 (relating to
12 penalties) and 1918 (relating to hearing procedure and judicial
13 review). This section does not apply to the group action of
14 insurers under the same general management and control.

15 (b) Administrative action.--If, after a hearing, the
16 department finds that any activity or practice of any such
17 group, association or other organization is unfair or
18 unreasonable or otherwise inconsistent with the provisions of
19 this chapter, it may issue a written order specifying its
20 objections and requiring the discontinuance of the activity or
21 practice.

22 § 1913. Examinations.

23 The department shall, at least once in five years, make an
24 examination of each rating organization licensed in this
25 Commonwealth under section 1906 (relating to rating
26 organizations), and may, as often as necessary, make an
27 examination of each advisory organization referred to in section
28 1911 (relating to advisory organizations) and of each group,
29 association or other organization referred to in section 1912
30 (relating to joint underwriting or joint reinsurance). The

1 reasonable costs of any examination shall be paid by the
2 organization examined upon presentation to it of a detailed
3 account of these costs. The officers, managers, agents and
4 employees of any such organization may be examined at any time
5 under oath and shall exhibit all books, records, accounts,
6 documents or agreements governing its method of operation. The
7 department shall furnish two copies of the examination report to
8 the organization examined and shall notify it that it may,
9 within 20 days thereafter, request a hearing on the report or on
10 any facts or recommendations therein. Before filing a report for
11 public inspection, the department shall grant a hearing to the
12 organization examined. The report of any examination, when filed
13 for public inspection, shall be admissible in evidence in any
14 action or proceeding brought by the department against the
15 organization examined or its officers or agents and shall be
16 prima facie evidence of the facts stated therein. The department
17 may withhold the report of any examination from public
18 inspection for such time as it deems proper. In lieu of an
19 examination, the department may accept the report of an
20 examination made by the insurance supervisory official of
21 another state pursuant to the laws of that state.

22 § 1914. Recording and reporting of loss and expense experience.

23 The department shall promulgate reasonable rules and
24 statistical plans, reasonably adapted to each of the rating
25 systems on file with it, which may be modified from time to time
26 and which shall be used by each insurer in the recording and
27 reporting of its loss and countrywide expense experience, in
28 order that the experience of all insurers may be made available
29 at least annually in such form and detail as necessary to aid it
30 in determining whether rating systems comply with the standards

1 set forth in this chapter. These rules and plans may also
2 provide for the recording and reporting of expense experience
3 items which are specifically applicable to this Commonwealth and
4 are not susceptible of determination by a prorating of
5 countrywide expense experience. In promulgating the rules and
6 plans, the department shall give due consideration to the rating
7 systems on file with it and, in order that the rules and plans
8 may be as uniform as practicable among the several states, to
9 the rules and the form of the plans used for rating systems in
10 other states. The rules and plans shall be drafted so as not to
11 place an unreasonable burden of expense on any insurer. An
12 insurer shall not be required to record or report its loss
13 experience on a classification basis that is inconsistent with
14 the rating system filed by it, nor shall any insurer be required
15 to report its experience to any agency of which it is not a
16 member or subscriber. The department may designate one or more
17 rating organizations or other agencies to assist it in making
18 compilations of experience information; these compilations shall
19 be made available, subject to reasonable regulations promulgated
20 by the department, to insurers and rating organizations.

21 § 1915. False or misleading information.

22 A person or organization shall not willfully withhold
23 information from, or knowingly give false or misleading
24 information to, the department, any statistical agency
25 designated by the department, any rating organization or any
26 insurer, which will affect the rates or premiums chargeable
27 under this chapter.

28 § 1916. Assigned risks.

29 With respect to insurance described in section 1902(a)
30 (relating to scope of chapter), agreements may be made among

1 insurers with respect to the equitable apportionment among them
2 of insurance which may be afforded applicants who are in good
3 faith entitled to but who are unable to procure such insurance
4 through ordinary methods, and the insurers may agree among
5 themselves on the use of reasonable rate modifications for such
6 insurance. These agreements and rate modifications shall be
7 subject to the approval of the department.

8 § 1916.1. Regulations.

9 (a) General rule.--The department shall enforce and carry
10 out this chapter by regulations, orders or otherwise. The
11 department may make such reasonable regulations, not
12 inconsistent with this chapter, as may be necessary or proper in
13 the exercise of its powers or for the performance of its duties
14 under this chapter.

15 (b) Interchange of rating plan data.--Reasonable regulations
16 and plans may be promulgated by the department for the
17 interchange of data necessary for the application of rating
18 plans.

19 § 1916.2. Consultation with other states.

20 In order to further uniform administration of rate regulatory
21 laws, the department and every insurer and rating organization
22 may exchange information and experience data with insurance
23 supervisory officials, insurers and rating organizations in
24 other states and may consult with them with respect to
25 ratemaking and the application of rating systems.

26 § 1917. Penalties.

27 (a) Fines.--The department may, if it finds that any person
28 or organization has violated this chapter, impose a penalty of
29 not more than \$50 for each violation, but, if it finds the
30 violation to be willful, it may impose a penalty of not more

1 than \$500 for the violation. These penalties may be in addition
2 to any other penalty provided by law.

3 (b) Suspension of license.--The department may suspend the
4 license of any rating organization or insurer which fails to
5 comply with an order of the department within the time limited
6 by the order or any extension thereof granted by the department.
7 The department shall not suspend the license of any rating
8 organization or insurer for failure to comply with an order
9 until the time prescribed for an appeal therefrom has expired
10 or, if an appeal has been taken, until the order has been
11 affirmed. The department may determine when a suspension of
12 license shall become effective, and it shall remain in effect
13 for the period fixed by it, unless it modifies or rescinds the
14 suspension, or until the order upon which suspension is based is
15 modified, rescinded or reversed by a court.

16 (c) Procedure.--A penalty shall not be imposed or a license
17 shall not be suspended or revoked except upon a written order of
18 the department, stating its findings, made after a hearing held
19 upon not less than ten days' written notice to the person or
20 organization specifying the alleged violation.

21 § 1918. Hearing procedure and judicial review.

22 (a) Right to hearing.--Any insurer, rating organization or
23 other person aggrieved by any action of the department, except
24 disapproval of a filing or a part thereof under section 1905
25 (relating to disapproval of filings), or by any rule or
26 regulation promulgated by the department, may file a complaint
27 with the department and have a hearing thereon before it.
28 Pending the hearing and the decision thereon, the department may
29 suspend or postpone the effective date of its previous action,
30 rule or regulation.

1 (b) Procedure.--All such hearings and all hearings provided
2 for in section 1905 shall be conducted, and the decision of the
3 department on the issue or filing involved shall be rendered,
4 under Title 2 (relating to administrative law and procedure).

5 (c) Right to appeal.--Any insurer, rating organization or
6 person aggrieved by any adjudication, including a disapproval of
7 a filing or portion thereof under section 1905, may appeal to
8 the court therefrom.

9 CHAPTER 21

10 RECIPROCAL AND INTER-INSURANCE EXCHANGES

11 Sec.

12 2101. General provisions.

13 2102. Authority to exchange.

14 2103. Declarations.

15 2104. Certificates of attorney.

16 2105. Statements to be filed by attorney.

17 2106. Examination by department.

18 2107. Reserves.

19 2108. Fees and taxes.

20 2109. Penalty.

21 § 2101. General provisions.

22 (a) Definitions.--The following words and phrases when used
23 in this chapter shall have the meanings given to them in this
24 subsection unless the context clearly indicates otherwise:

25 "Attorney." The attorney, agent or other representative
26 authorized by the subscribers to perform the duties set forth in
27 this chapter on their behalf.

28 "Subscriber." Any person who exchanges reciprocal or inter-
29 insurance contracts.

30 (b) Applicability.--This chapter does not apply to title

1 insurance agents and brokers or to the business of title
2 insurance.

3 § 2102. Authority to exchange.

4 (a) General rule.--Persons of this Commonwealth may exchange
5 reciprocal or inter-insurance contracts with each other, or with
6 persons of other states and countries, providing indemnity among
7 themselves from any loss on any insurance under this title,
8 except life insurance.

9 (b) Corporations.--Any corporation organized under the laws
10 of this Commonwealth shall, in addition to the rights, powers
11 and franchises specified in its articles of incorporation, have
12 full power and authority to exchange insurance contracts of the
13 kind and character mentioned in this chapter.

14 (c) Execution of contracts.--Contracts authorized by this
15 chapter may be executed by the attorney.

16 § 2103. Declarations.

17 The subscribers shall, through their attorney, file with the
18 department a declaration verified by the attorney, setting forth
19 the following:

20 (1) The name of the office at which the subscribers
21 propose to exchange the indemnity contracts. This name shall
22 not be so similar to any other name previously adopted by a
23 similar exchange or association or by any insurance company
24 as, in the opinion of the department, to result in confusion
25 or deception.

26 (2) The kind or kinds of insurance to be effected or
27 exchanged.

28 (3) A copy of the form of policy, contract or agreement
29 by which the insurance is to be effected or exchanged.

30 (4) A copy of the form of power of attorney, or other

1 authority of the attorney, under which the insurance is to be
2 effected or exchanged, and which shall provide that the
3 liability of the subscribers, exchanging contracts of
4 indemnity, shall make provision for contingent liability
5 equal to not less than one additional annual premium or
6 deposit charged. If an exchange has a surplus equal to the
7 minimum capital and surplus required of a stock insurance
8 company transacting the same kind or kinds of business, its
9 power of attorney need not provide for contingent liability
10 of subscribers, and the exchange, so long as it maintains the
11 surplus, may issue to its subscribers policies or contracts
12 without contingent liability.

13 (5) The location of each office from which the contracts
14 or agreements are to be issued.

15 (6) A statement that applications have been made for
16 indemnity upon at least 100 separate risks, aggregating not
17 less than \$1,500,000, as represented by executed contracts or
18 bona fide applications to become concurrently effective, or,
19 in the case of employees' liability or workmen's compensation
20 insurance, covering a total payroll of not less than
21 \$1,500,000.

22 (7) A statement that there is in the possession of the
23 attorney, available for the payment of losses, a sum of not
24 less than \$100,000.

25 § 2104. Certificates of attorney.

26 Each attorney shall annually obtain from the department a
27 certificate of authority stating that all the requirements of
28 this chapter have been complied with. Upon the payment of the
29 fees required, the department shall issue the certificate. The
30 department may revoke or suspend any certificate of authority.

1 § 2105. Statements to be filed by attorney.

2 (a) Indemnity.--The attorney shall file with the department
3 his verified statement showing the maximum amount of indemnity
4 upon any single risk. Whenever required by the department, the
5 attorney shall file his verified statement to the effect that he
6 has examined the commercial rating of the subscribers, as shown
7 by the reference book of a commercial agency having at least
8 100,000 subscribers, and that, from his examination or from
9 other information in his possession, it appears that no
10 subscriber has assumed on any single risk an amount greater than
11 10% of the net worth of such subscriber.

12 (b) Statement of conditions.--The attorney shall make a
13 report to the department for each calendar year, on or before
14 March 1, showing the financial condition of the office where the
15 contracts are issued, and shall furnish such additional
16 information and reports as the department requires. The attorney
17 shall not be required to furnish the names and addresses of any
18 subscribers, nor the loss ratio of any particular subscriber.

19 § 2106. Examination by department.

20 The business affairs and assets of organizations under this
21 chapter shall be subject to examination by the department.

22 § 2107. Reserves.

23 There shall at all times be maintained as a reserve a sum in
24 cash, or in securities of the character permitted by the law of
25 the state under which the exchange is organized for the
26 investment of the capital and funds of an insurance company,
27 equal to 50% of the aggregate net annual deposits collected and
28 credited to the account of the subscribers on policies having
29 one year or less to run, and pro rata on those for longer
30 periods. As used in this section the term "net annual deposits"

1 shall mean the advance payments of subscriber, after deducting
2 therefrom the amounts specifically provided in the subscribers'
3 agreements for expenses. If the reserves at any time do not
4 amount to \$100,000, then there shall be maintained on deposit at
5 the exchange at all times additional funds in cash or such
6 securities which together with the reserves will equal \$100,000.
7 In calculating the foregoing reserves, the funds or amounts
8 provided for under section 2103(7) (relating to declarations)
9 shall be included. There shall also be maintained as a claim or
10 loss reserve, cash or such securities, as authorized, sufficient
11 to discharge all liabilities on all outstanding losses arising
12 under policies issued. If at any time the amounts on hand are
13 less than the foregoing requirements, the subscribers or their
14 attorney shall make up the deficiency under penalty of
15 revocation of the license. These advances shall be repaid only
16 out of the surplus funds of the exchange.

17 § 2108. Fees and taxes.

18 The attorney shall pay to the Commonwealth the same fees and
19 taxes as are now required by law to be paid by stock and mutual
20 companies transacting like kinds of business in this
21 Commonwealth. In the payment of taxes, he may deduct from the
22 gross premiums or deposits received during the calendar year,
23 all amounts returned to subscribers or credited to their
24 accounts, other than for losses.

25 § 2109. Penalty.

26 Any attorney who, except for the purpose of applying for a
27 certificate of attorney under section 2104 (relating to
28 certificates of attorney), exchanges any contracts of indemnity
29 of the kind specified in this chapter, or directly or indirectly
30 solicits or negotiates any applications therefor, without first

1 complying with this chapter, commits a misdemeanor of the third
2 degree.

3 CHAPTER 23

4 LLOYDS ASSOCIATIONS

5 Sec.

6 2301. Definition.

7 2302. Authorization.

8 2303. Declarations.

9 2304. Certification to do business.

10 2305. Examination by department.

11 2306. Deposits by alien underwriters.

12 2307. Return of deposits.

13 2308. Additional and substituted underwriters.

14 2309. Information to be furnished to department.

15 2310. Maximum amount of risks.

16 2311. Applicability of other provisions.

17 2312. Penalties.

18 § 2301. Definition.

19 As used in this chapter, the term "underwriter" means any
20 individual, partnership or association of individuals which
21 engages in the business of insurance as insurers on the Lloyds
22 plan.

23 § 2302. Authorization.

24 (a) General rule.--Individuals, partnerships or associations
25 of individuals are authorized to engage in the business of
26 insurance as insurers on the Lloyds plan in accordance with this
27 chapter.

28 (b) Authorized classes of insurance.--Underwriters, when
29 authorized under this chapter, may insure the following classes
30 of risks:

1 (1) On dwelling houses, stores and all kinds of
2 buildings and household furniture and other property, against
3 loss or damage, including loss of use or occupancy, by fire,
4 lightning and explosion, except by explosion on risks
5 specified in section 3302(c)(5) (relating to authorized
6 classes of insurance), and by storms, earthquakes, hail,
7 frost, sleet, snow or flood; against loss or damage by water
8 to any goods or premises arising from the breakage, leakage
9 of sprinklers, pumps or other apparatus erected for
10 extinguishing fires and of water pipes; against accidental
11 injury to sprinklers, pumps or other apparatus; against loss
12 or damage caused by the caving in of the surface of the earth
13 above coal mines; against loss or damage caused by
14 bombardment, invasion, insurrection, riot, civil war or
15 commotion, and military or usurped power; and to effect
16 reinsurance of any risk provided for in this paragraph.

17 (2) The risks listed in section 3302(b)(2).

18 (3) The risks listed in section 3302(b)(3).

19 (4) Any form of insurance other than life insurance, not
20 included in this section, if the insurance is not contrary to
21 law and is allied or in harmony with the classes of insurance
22 listed in this section. This insurance shall be transacted
23 only on express license by the department and upon the terms
24 and conditions prescribed by it.

25 § 2303. Declarations.

26 The underwriters shall file with the department a
27 declaration, verified by their duly authorized attorney-in-fact,
28 setting forth:

29 (1) The name or title under which the business is to be
30 conducted, which name shall not be so similar to any existing

1 association of insurers on the Lloyds or inter-insurance plan
2 or insurance corporation as to result in confusion or
3 deception, in the opinion of the department.

4 (2) The location of the principal office at which the
5 business is to be conducted.

6 (3) A copy of the form of power of attorney, agreement
7 or other authority of the attorney-in-fact, setting forth the
8 character of their representatives and their authority and
9 the agreement between the underwriters.

10 (4) Copies of the forms of policy, contracts or
11 agreements under which insurance is to be effected.

12 (5) The names and addresses of all the underwriters
13 proposing to engage in the business.

14 (6) If a foreign association, the designation and
15 appointment of the department for service of legal process.

16 (7) Each kind of insurance to be written.

17 (8) That a fund for the protection of policyholders is
18 in the possession, within the United States, of the attorney-
19 in-fact or a committee for the underwriters and is either in
20 cash or invested as required by the law of the state in which
21 the principal office of the underwriters is located in
22 respect to securities deposited by the insurance corporations
23 authorized to transact similar kinds of insurance. The fund
24 shall be in an amount not less than \$100,000 if the
25 applicants desire to be authorized to insure any single class
26 of risk mentioned in section 2302(b)(1), (2) or (3) (relating
27 to authorization), respectively, or in section 2302(b)(1) and
28 (3) only or section 2302(b)(2) and (3) only. The fund shall
29 be in an amount not less than \$200,000 if the applicants
30 desire to be authorized to insure all the classes of risk

1 mentioned in section 2302(b)(1), (2) and (3) or those classes
2 mentioned in section 2302(b)(1) and (2) only.

3 (9) The number of underwriters, which shall not be less
4 than 25, and that each underwriter is worth, in his own
5 right, not less than \$20,000 over and above all his debts and
6 liabilities.

7 (10) A statement showing a list of all cash and invested
8 assets owned by the associated underwriters as such, and
9 their estimated value.

10 § 2304. Certification to do business.

11 Upon the filing of the documents specified in section 2303
12 (relating to declarations), the department shall examine them,
13 and, if it appears that all the statements made in the
14 declaration are true and that the rights of the policyholders
15 will be protected thereunder, it may issue a certificate of
16 authority to the underwriters, under the name chosen and
17 approved, stating that they are authorized to transact the
18 business of insurance specified in the declaration. The
19 certificate of authority shall be renewed annually. An
20 underwriter, attorney-in-fact, agent or other person shall not
21 transact the business of insurance in this Commonwealth for the
22 underwriters until the certificate has been issued, nor during
23 its suspension or revocation.

24 § 2305. Examination by department.

25 Prior to the issuance of the certificate of authority, the
26 department may cause an examination to be made of the affairs
27 and assets of the underwriters applying for the certificate.

28 § 2306. Deposits by alien underwriters.

29 If any of the underwriters applying for a certificate of
30 authority is not a citizen of the United States, each alien

1 underwriter shall, at the time of the making of the application
2 for certificate of authority, deposit with the department \$5,000
3 in cash or in the kinds of securities required for the
4 investment of the capital of insurance corporations authorized
5 to do similar kinds of insurance business in this Commonwealth,
6 or in the kinds of securities approved by it. The provisions of
7 this section as to deposits shall not apply if the alien
8 underwriter:

9 (1) is one of an association of underwriters having on
10 deposit with the insurance department of any state, or in the
11 hands of a bank or trust company as trustee, a cash deposit
12 or approved securities, worth not less than \$100,000, held in
13 trust for the benefit of all their policyholders in the
14 United States; or

15 (2) is one of an association of underwriters 90% of whom
16 are at all times citizens of the United States and who have
17 complied with all other provisions of this chapter.

18 § 2307. Return of deposits.

19 After the conditions of any deposits made under this chapter
20 have been fulfilled and the certificate of authority granted to
21 the underwriters has been canceled or they have voluntarily
22 withdrawn from and have ceased doing business in this
23 Commonwealth, the department shall return to the underwriters,
24 or their authorized representative for this purpose specifically
25 designated by them or their principal attorney-in-fact, all
26 securities and cash so deposited in this Commonwealth.

27 § 2308. Additional and substituted underwriters.

28 Whenever underwriters applying for certificates of authority
29 under this chapter, after the issue of the certificate, are
30 joined by additional or substituted underwriters, the additional

1 or substituted underwriters shall comply with the provisions of
2 this chapter and shall be bound by the documents on file with
3 the department concerning such authorized underwriters, to the
4 same extent as though they had been original applicants for the
5 certificates of authority.

6 § 2309. Information to be furnished to department.

7 Any association of underwriters authorized under this chapter
8 shall from time to time furnish to the department, under oath of
9 their attorney-in-fact, such information as the department
10 requires respecting the conduct of their affairs, changes in the
11 name under which the business is done, the establishment of
12 branch offices and their location and any change in the
13 membership of the underwriters and their attorney-in-fact,
14 including any amendment to the power of attorney, agreements or
15 articles of association of underwriters.

16 § 2310. Maximum amount of risks.

17 An association of underwriters authorized to do business in
18 this Commonwealth under this chapter shall not expose themselves
19 to loss on any one risk in an amount in excess of 20% of their
20 cash and invested assets, including therein the underwriting
21 liability of the individual underwriters, unless any excess is
22 promptly reinsured by the underwriters.

23 § 2311. Applicability of other provisions.

24 (a) General rule.--All associations of underwriters
25 authorized under this chapter and their representatives shall be
26 subject to the same supervision by and shall be required to make
27 the same reports to the department and shall pay the same taxes
28 and license fees as are required of foreign insurance companies
29 and their representatives transacting the same or similar kinds
30 of insurance in this Commonwealth.

1 (b) Inter-insurers or reciprocal underwriters.--This chapter
2 does not apply to inter-insurers or reciprocal underwriters.

3 § 2312. Penalties.

4 (a) Certificate of authority.--Upon violation of any
5 provision of this chapter, the department may revoke or suspend
6 any certificate of authority issued under this chapter.

7 (b) Criminal penalty.--Any person who, as principal,
8 attorney, agent, broker or other representatives, engages in the
9 business contemplated by this chapter, or any variety or part
10 thereof, without complying with the requirements thereof, or who
11 violates any provision of this chapter commits a misdemeanor of
12 the third degree and, upon conviction, shall be sentenced to pay
13 a fine not exceeding \$500.

14 PART III

15 ORGANIZATION OF INSURANCE ENTITIES

16 Chapter

17 31. General Provisions

18 33. Incorporation of Insurance Companies

19 35. Corporate Operations

20 37. International Operations

21 39. Suspension of Business and Dissolution

22 41. Beneficial Societies

23 43. (Reserved)

24 45. Fraternal Benefit Societies

25 47. Mutual Companies

26 CHAPTER 31

27 GENERAL PROVISIONS

28 Sec.

29 3101. Scope of part.

30 3102. Acceptance of part.

1 3103. Exemption from part.

2 3104. Power of General Assembly regarding charters.

3 3105. Persons prohibited from insurance business.

4 3106. Judicial proceedings.

5 § 3101. Scope of part.

6 (a) Applicability.--Except as provided in this part, this
7 part applies to all of the following:

8 (1) Domestic insurance companies incorporated under the
9 provisions of this part.

10 (2) Domestic insurance companies incorporated under
11 general or special laws since October 13, 1857.

12 (3) Domestic insurance corporations which have accepted
13 the provisions of the Constitution of Pennsylvania and the
14 general insurance laws enacted since October 13, 1857.

15 (4) Domestic insurance corporations incorporated prior
16 to October 13, 1857, which, by the terms of their charters or
17 the statutes under which they were incorporated hold charters
18 subject to alteration or revocation.

19 (5) Other domestic insurance corporations incorporated
20 prior to October 13, 1857, which accept the provisions of
21 this part.

22 (6) Foreign insurance companies doing business in this
23 Commonwealth.

24 (7) Domestic and foreign associations and exchanges
25 doing insurance business in this Commonwealth.

26 (b) Authority.--All insurance companies to which this part
27 applies and which have the required capital and reserve may
28 transact any one or more of the classes of insurance authorized
29 by section 3302 (relating to authorized classes of insurance) in
30 the same manner and to the same extent as insurance companies

1 incorporated under the provisions of this part.

2 (c) Exemptions.--An insurance company created before May 21,
3 1921, to which this part applies, shall not be deprived of any
4 right which it enjoys under its charter to engage in any
5 business other than insurance. This title shall not interfere
6 with the charter provisions or operations of any domestic mutual
7 fire insurance company organized before May 21, 1921, under any
8 general or special law of this Commonwealth.

9 (d) Business Corporation Law.--The act of May 5, 1933
10 (P.L.364, No.106), known as the Business Corporation Law, does
11 not apply to corporations organized under Chapter 33 (relating
12 to incorporation of insurance companies), except for section
13 1014B of that act and except as provided in section 6723
14 (relating to mergers and consolidations).

15 § 3102. Acceptance of part.

16 Any insurance company organized before May 21, 1921, under
17 any general or special law of this Commonwealth to transact any
18 of the classes of insurance authorized in this part and to which
19 this part does not apply may transact any one or more of the
20 classes of insurance authorized by section 3302 (relating to
21 authorized classes of insurance) and become subject to the
22 provisions of this part, by providing the capital and reserve
23 required for such companies organized under this title and by
24 filing with the department a resolution of the board of
25 directors or trustees, approved by the stockholders or members
26 at a meeting specially called for that purpose, accepting the
27 provisions of the Constitution and of this part, and agreeing to
28 be governed thereby as fully as though organized hereunder. The
29 charters of all insurance companies accepting the provisions of
30 this part shall, after such acceptance, be repealed and of no

1 effect insofar as these are inconsistent with this part. Any
2 domestic mutual fire company or association may elect to become
3 subject to the provisions of this part, in lieu of any acts
4 previously governing the company or association, by resolution
5 of its board of directors, duly approved by a majority of the
6 members present at any annual meeting or special meeting called
7 for that purpose, of which all members shall be given at least
8 two weeks notice by mail. These resolutions and the vote
9 approving them certified to by the president and secretary shall
10 be filed with the department, and, when approved by it, the
11 company shall become subject to the provisions of this part.

12 § 3103. Exemption from part.

13 Except for Chapters 41 (relating to beneficial societies) and
14 45 (relating to fraternal benefit societies), this part does not
15 apply to assessment associations or to fraternal benefit
16 societies, orders or associations having a lodge system with
17 ritualistic form of work and representative form of government;
18 or to beneficial and relief associations formed by churches or
19 societies, partnerships, associations or corporations, with or
20 without ritualistic form of work, the privileges and membership
21 in which are confined to the members of those churches or
22 societies, and to members and employees of those partnerships,
23 associations or corporations.

24 § 3104. Power of General Assembly regarding charters.

25 The General Assembly may alter, revoke or annul any charter
26 granted or accepted under this part whenever, in the opinion of
27 the General Assembly, the charter provisions may be injurious to
28 the citizens of this Commonwealth, in such manner that no
29 injustice shall be done to the incorporators or their
30 successors.

1 § 3105. Persons prohibited from insurance business.

2 (a) General rule.--Except as provided in this part, the
3 doing of any insurance business in this Commonwealth as
4 prescribed in this part, for insurance companies by any private
5 individual, association or partnership is prohibited.

6 (b) Enforcement--Any person who solicits or obtains in this
7 Commonwealth applications for insurance by any such private
8 individual, association or partnership, in violation of this
9 part shall be liable to pay \$100 for the use of the Commonwealth
10 for every application obtained. This penalty shall be sued for
11 and recovered by the Attorney General or district attorney of
12 the proper county, either by civil action or by criminal
13 prosecution. Any person who has paid to any agent of an
14 unauthorized individual, association or partnership any premiums
15 for insurance granted or to be granted may recover them by an
16 action at law from such agent or from the person for which he
17 acted.

18 (c) Exemptions.--This section does not prohibit the doing of
19 insurance business by Lloyds associations or the exchange of
20 inter-insurance or reciprocal contracts of insurance authorized
21 by Chapter 21 (relating to reciprocal and inter-insurance
22 exchanges), nor does this part prohibit anyone from becoming or
23 being accepted as personal surety or guarantor. This section
24 does not apply to title insurance companies or to the business
25 of title insurance.

26 § 3106. Judicial proceedings.

27 Any person transacting business under this title may maintain
28 or defend judicial proceedings.

29

CHAPTER 33

30

INCORPORATION OF INSURANCE COMPANIES

- 1 Subchapter
- 2 A. Formation of Corporations
- 3 B. (Reserved)
- 4 C. Authorization
- 5 D. Valuation of Securities
- 6 E. Conversion of Mutual Companies to Corporations

7 SUBCHAPTER A

8 FORMATION OF CORPORATIONS

9 Sec.

- 10 3301. Classes of insurance companies.
- 11 3302. Authorized classes of insurance.
- 12 3303. Articles of agreement.
- 13 3304. Name of company.
- 14 3305. Capital stock.
- 15 3306. Minimum capital stock and financial requirements.
- 16 3307. Officers and directors.
- 17 3308. Subscriptions.

18 § 3301. Classes of insurance companies.

19 Subject to this title, insurance companies of any of the
20 following classes may be incorporated:

- 21 (1) Stock life insurance companies.
- 22 (2) Mutual life insurance companies.
- 23 (3) Stock fire, stock marine, and stock fire and marine
24 insurance companies.
- 25 (4) Stock casualty insurance companies.
- 26 (5) Mutual insurance companies of any kind other than
27 mutual life insurance companies.

28 § 3302. Authorized classes of insurance.

29 (a) Life insurance companies.--Stock or mutual life
30 insurance companies may be incorporated for any or all of the

1 following purposes:

2 (1) To insure the lives of persons and every insurance
3 appertaining thereto; to grant and dispose of annuities,
4 variable life insurance contracts and variable annuity
5 contracts under which values or payments or both vary in
6 relation to the investment experience of the issuer or a
7 separate account or accounts maintained by the issuer; and to
8 insure against the risks listed in paragraph (2) when written
9 as a part of a policy of life insurance.

10 (2) To insure against personal injury, disability or
11 death resulting from traveling or general accidents and
12 against disability resulting from sickness and every
13 insurance appertaining thereto, but no life insurance company
14 may be incorporated for the purposes mentioned in this
15 paragraph unless it is also incorporated for the purposes
16 mentioned in paragraph (1).

17 (b) Fire and marine insurance companies.--Stock fire
18 insurance companies may be incorporated for any or all of the
19 purposes mentioned in paragraphs (1) and (2); stock marine
20 insurance companies may be incorporated for any or all of the
21 purposes mentioned in paragraphs (2) and (3); and stock fire and
22 marine insurance companies may be incorporated for any or all of
23 the purposes mentioned in paragraphs (1), (2) and (3). The
24 permissible subjects and risks under this subsection are:

25 (1) Insuring dwelling houses, stores and all kinds of
26 buildings and household furniture and other property against
27 loss or damage, including loss of use or occupancy, by any or
28 all risks, and effecting reinsurance of any such risk.

29 (2) Insuring vessels, boats, cargoes, goods, personal
30 property, merchandise, freight and other property, against

1 loss or damage by all or any of the risks of lake, river,
2 canal and inland navigation and transportation, including all
3 personal property floater risks, upon automobiles or
4 aircraft, whether stationary, in operation or in transit,
5 against loss or damage by fire, explosion, transportation,
6 collision, burglary, larceny or theft, not including, in any
7 case, insurances against loss by reason of bodily injury; and
8 effecting reinsurance of any such risk.

9 (3) Insuring vessels, freight, goods, wares,
10 merchandise, specie, bullion, jewels, profits, commissions,
11 bank notes, bills of exchange and other evidence of debt,
12 bottomry and respondentia interests; providing insurance upon
13 or connected with marine risks and risks of transportation
14 and navigation; and effecting reinsurance of any such risk.

15 (c) Casualty insurance.--Stock casualty insurance companies
16 may be incorporated for any or all of the following purposes:

17 (1) To guarantee the fidelity of persons holding places
18 of public or private trust; to guarantee the performance of
19 contracts other than insurance policies; to guarantee the
20 performance of insurance contracts where surety bonds are
21 accepted from insurance companies by states or municipalities
22 in lieu of actual deposits; to execute or guarantee bonds and
23 undertakings required or permitted in all actions or
24 proceedings or permitted by law; and to indemnify banks,
25 bankers, brokers, financial associations or financial
26 corporations against the loss of any bills of exchange,
27 notes, drafts, acceptances of drafts, bonds, securities,
28 evidences of debt, deeds, mortgages, warehouse receipts,
29 bills of lading, documents, currency, money, gold, platinum,
30 silver and other precious metals and articles made therefrom;

1 jewelry, watches, necklaces, bracelets, gems and precious and
2 semi-precious stones, and also against loss resulting from
3 damage, except by fire, to the insured's premises,
4 furnishings, fixtures, equipment, safes and vaults therein,
5 caused by burglary, robbery, theft or larceny, or attempt
6 thereat, except against loss caused by marine risks or risks
7 of transportation or navigation, but indemnification against
8 the loss of such property may include loss occurring during
9 transportation by an armored motor vehicle accompanied by one
10 or more armed guards.

11 (2) To insure against injury, disability or death
12 resulting from traveling or general accident, and against
13 disability resulting from sickness, and every insurance
14 appertaining thereto, including a funeral benefit to an
15 amount not exceeding \$100.

16 (3) To insure against loss of and damage to glass,
17 including lettering and ornamentation thereon, and the frame
18 in which the glass is set, resulting from breakage of the
19 insured glass.

20 (4) To insure against loss or damage resulting from
21 accident to, or injury, fatal or nonfatal, suffered by any
22 person for which the person insured is liable; to insure
23 against medical, hospital, surgical and funeral expenses
24 incurred by or on behalf of the persons accidentally injured,
25 including the person insured; to insure against loss or
26 damage to property caused by horses, or by any vehicle drawn
27 by animal power, for which loss or damage the person insured
28 is liable; and to insure against loss or damage to property,
29 for which loss or damage the person insured is liable, but
30 not including any kind of property damage insurance specified

1 in other paragraphs. This paragraph does not apply to any
2 kind of insurance against loss or damage resulting from the
3 ownership, maintenance or use of a motor vehicle. This
4 paragraph does not apply to workmen's compensation insurance
5 against loss or damage resulting from accident to, or injury,
6 fatal or nonfatal, suffered by an employee for which the
7 person insured is liable or against medical, hospital,
8 surgical and funeral expenses incurred by or on behalf of the
9 employe accidentally injured as provided for in paragraph
10 (14).

11 (5) To insure steam boilers, pipes and machinery
12 connected therewith or operated thereby, against loss caused
13 by explosion or accident, against loss of or damage to life,
14 person or property resulting therefrom and against loss of
15 use and occupancy caused thereby; and to make inspection of,
16 and issue certificates of inspection upon, such boilers,
17 pipes and machinery.

18 (6) To insure against loss or damage by burglary,
19 larceny, theft, robbery, forgery, fraud, vandalism or
20 malicious mischief; to insure against loss or damage to
21 moneys, securities, currencies, scrip, coins, bullion, bonds,
22 notes, drafts, acceptance drafts, bills of exchange and other
23 valuable papers or documents, except while in the custody or
24 possession of, and being transported by, a carrier for hire
25 or in the mail; and to insure against loss or damage to
26 automobiles and aircraft by burglary, larceny, theft,
27 vandalism or malicious mischief, confiscation or wrongful
28 conversion, disposal or concealment, whether held under
29 conditional sale contract or subject to a security interest
30 or otherwise.

1 (7) To carry on the business of credit insurance or
2 guaranty, either by agreeing to purchase uncollectible debts
3 or otherwise; and to insure against loss or damage from the
4 failure of persons indebted to the insured to meet their
5 liabilities.

6 (8) To insure any goods or premises against loss or
7 damage by water or other fluid, caused by the breakage or
8 leakage of sprinklers, pumps or other apparatus erected for
9 extinguishing fires, or of other conduits or containers, or
10 of water pipes, or caused by casual water entering through
11 leaks or openings in buildings; and to insure them against
12 accidental injury from causes other than fire or lightning to
13 sprinklers, pumps, water pipes, conduits, containers or other
14 apparatus; and to insure them against damage from use or
15 occupancy of premises by reason of such loss or damage.

16 (9) To insure against loss or damage to elevators or
17 other property, except loss or damage by fire, caused by the
18 maintenance, operation or use of elevators and machinery; and
19 to insure against legal liability for damage to property
20 resulting from such operation, maintenance or use of
21 elevators.

22 (10) To insure livestock.

23 (11) To insure against loss or damage to motor vehicles
24 or aircraft, except loss or damage by fire or while being
25 transported in any conveyance by land or water, including
26 loss by legal liability for damage to property resulting from
27 the maintenance and use of motor vehicles or aircraft; to
28 insure against loss or damage resulting from accident to, or
29 injury, fatal or nonfatal, suffered by another person, for
30 which the person insured is liable resulting from the

1 ownership, maintenance or use of a motor vehicle; and to
2 insure against medical, hospital, surgical and funeral
3 expenses incurred by or on behalf of the persons accidentally
4 injured as a result of the ownership, maintenance or use of a
5 motor vehicle, including the person insured, and, in the case
6 of motor vehicle liability insurance, including also an
7 obligation of the insurer to pay disability benefits to
8 injured persons and death benefits to dependents,
9 beneficiaries or personal representatives of persons who are
10 killed, irrespective of the legal liability of the insured
11 when such insurance is issued with and supplemental to such
12 liability insurance.

13 (12) To insure against loss or damage to machinery,
14 pumps, transporting, hoisting and ventilating apparatus, and
15 equipment of mines while located underground, and loss or
16 damage to underground passageways, gangways, airways, drifts,
17 slopes, shafts, overcasts and stoppings in the mines. An
18 authorized casualty company shall not expose itself to any
19 loss or hazard on any one risk authorized by this paragraph
20 in an amount exceeding 10% of its capital and surplus unless
21 it is protected in excess of that amount by reinsurance.

22 (13) To insure by means of an all-risk type of policy,
23 commonly known as the "personal property floater policy,"
24 against all risks of loss of or damage to personal property
25 owned by any individual other than merchandise, motor
26 vehicles, aircraft, watercraft (except canoes, rowboats,
27 sailboats less than 21 feet in length and outboard motor
28 boats) or personal property pertaining to the business, trade
29 or profession of the insured, except professional books,
30 instruments and other professional equipment owned by the

1 insured.

2 (14) To insure against loss or damage resulting from
3 accident to, or injury, fatal or nonfatal, suffered by an
4 employee for which the person insured is liable and to insure
5 against medical, hospital, surgical and funeral expenses
6 incurred by or on behalf of the employee accidentally
7 injured, including the person insured.

8 (d) Mutual companies.--Mutual insurance companies of any
9 kind, other than life insurance companies, may be incorporated
10 to make contracts of insurance, or to reinsure and accept
11 reinsurance, for any and all kinds of insurance, other than life
12 insurance, which are not prohibited by statute or at common law
13 from being the subject of insurance, but no such mutual company
14 may transact any kind of insurance other than those which may be
15 transacted by a corporation writing the same kinds of insurance.
16 A mutual company possessing charter powers set forth in
17 subsection (b)(2) or (c)(11) shall not write assessable bodily
18 injury and property damage liability insurance policies upon
19 automobiles or motor vehicles, except insurance coverage
20 providing for collision damage or other direct loss or damage to
21 the insured automobile or motor vehicle; or a mutual company
22 possessing the charter powers set forth in subsection (c)(14)
23 shall not write assessable workmen's compensation policies. All
24 assessable policies shall have the words "This is an assessable
25 policy" printed prominently on the backer or policy panel, as
26 well as on the face of the policy in letters not less than
27 sixteen point in size.

28 (e) Other forms of insurance.--Domestic stock and mutual
29 insurance companies, other than life, and, if their charters
30 permit, foreign or alien companies may transact any form of

1 insurance not included in this section if the insurance is not
2 contrary to law and is allied or in harmony with the classes of
3 insurance provided in this section. This additional insurance
4 shall be transacted only on express license by the department
5 and upon such terms and conditions as are from time to time
6 prescribed by it.

7 (f) Fire, marine and casualty insurance.--Domestic stock and
8 mutual insurance companies, other than life or title, and, if
9 their charters permit, foreign or alien companies may transact
10 any or all of the kinds of insurance included in subsections (b)
11 and (c) upon compliance with all of the financial and other
12 requirements prescribed by the law of this Commonwealth for
13 fire, marine, fire and marine, and casualty insurance companies
14 transacting those kinds of insurance. Stock fire, stock marine,
15 stock fire and marine, and stock casualty insurance companies
16 may be incorporated for any or all of the purposes mentioned in
17 subsections (b) and (c).

18 § 3303. Articles of agreement.

19 Any ten or more individuals of full age and either sex,
20 married or single, at least two-thirds of whom are citizens of
21 the United States or its territories or possessions, may
22 associate in accordance with this part and form a corporation of
23 any of the classes enumerated in section 3301 (relating to
24 classes of insurance companies). The persons shall associate by
25 written articles of agreement, which shall specify:

26 (1) The name by which the company shall be known.

27 (2) The class of insurance for the transaction of which
28 it is constituted.

29 (3) The plan or principle upon which the business is to
30 be conducted.

1 (4) The place in which it is to be established or
2 located.

3 (5) In the case of a stock company, the amount of its
4 capital.

5 (6) The general objects of the company.

6 (7) The proposed duration of the company, which may be
7 limited or perpetual.

8 (8) The powers it proposes to have and exercise.

9 § 3304. Name of company.

10 The subscribers to the articles of agreement of any company
11 to be incorporated under this part may adopt any name not
12 previously used by any existing company, but the name must
13 clearly designate the object and purpose of the company. In the
14 case of a mutual company, the word "mutual" shall appear in its
15 name. The department may prohibit the use of any name when, in
16 its judgment, it too closely resembles that of any existing
17 company or is likely to confuse or mislead the public.

18 § 3305. Capital stock.

19 (a) Par value.--The capital stock of all stock insurance
20 companies shall be divided into shares with par value of not
21 less than \$1 a share.

22 (b) Payment of subscriptions.--All payments on accounts of
23 capital stock in any stock insurance company, except for stock
24 issued in connection with an authorized merger or consolidation
25 or as consideration for the purchase or acquisition of
26 authorized investments or as a stock dividend, shall be made in
27 lawful money. A note or obligation given by a stockholder,
28 whether secured by pledge or otherwise, shall not be considered
29 as a payment of any part of the capital stock. Ten percent of
30 the total subscription price shall be paid on each share at the

1 time of subscribing, and the balance on such shares shall be
2 paid at such times as the company may direct, but full payments
3 on all shares shall be made within a period of nine months from
4 the date of organization.

5 (c) Forfeitures.--Any stock insurance company may prescribe
6 rules with regard to the forfeiture of partial payments on
7 subscriptions, which rules shall be binding upon subscribers if
8 made known at the time of the subscription.

9 § 3306. Minimum capital stock and financial requirements.

10 (a) Life insurance companies.--Stock life insurance
11 companies organized under section 3302(a)(1) (relating to
12 authorized classes of insurance) shall have a paid-up capital
13 stock of at least \$1,000,000. Stock life insurance companies
14 organized under this part for all of the purposes mentioned in
15 section 3302(a) shall have a paid-up capital stock of at least
16 \$1,100,000. Every such company shall, in addition thereto, have
17 a surplus paid in at least equal to 50% of the subscribed
18 capital stock.

19 (b) Fire and marine insurance companies.--Stock fire, stock
20 marine and stock fire and marine insurance companies organized
21 under this part for any of the purposes mentioned in section
22 3302(b)(1) or (2) shall have paid-up capital stock of at least
23 \$100,000; if organized for all the purposes mentioned in section
24 3302(b)(1) and (2) or in section 3302(b)(3), at least \$200,000;
25 and, if organized for all of the purposes mentioned in section
26 3302(b)(1), (2) and (3), at least \$400,000. Every such company
27 shall, in addition thereto, have a surplus paid in at least
28 equal to 50% of the subscribed capital stock.

29 (c) Casualty insurance companies.--

30 (1) Stock casualty companies organized under this part

1 for any of the purposes of insurance mentioned in section
2 3302(c) shall have a paid-up capital stock of at least
3 \$100,000, except:

4 (i) Companies organized for the purpose of credit
5 insurance, which shall have a paid-up capital stock of at
6 least \$200,000.

7 (ii) Companies organized for the purposes mentioned
8 in section 3302(c)(11), which shall have a paid-up
9 capital stock of at least \$500,000.

10 (iii) Companies organized for the purpose of
11 workmen's compensation insurance as provided for in
12 section 3302(c)(14), which shall have a paid-up capital
13 stock of at least \$750,000.

14 (iv) Companies organized to guarantee the fidelity
15 of persons and contracts of suretyship, which shall have
16 a paid-up capital stock of at least \$250,000.

17 (2) Stock casualty companies organized under this part
18 may undertake two or more classes of insurance mentioned in
19 section 3302(c) by providing at least \$50,000 additional
20 paid-up capital stock for each additional class of insurance,
21 except as follows:

22 (i) If credit or fidelity and surety insurance is
23 added to any other line or lines, in which case the
24 additional paid-up capital stock for credit insurance
25 shall be at least \$100,000, and the additional paid-up
26 capital stock for fidelity and surety insurance shall be
27 at least \$200,000.

28 (ii) If insurance for the purposes mentioned in
29 section 3302(c)(11) is added to any other line or lines,
30 in which case the additional paid-up capital stock shall

1 be at least \$500,000.

2 (iii) If workmen's compensation insurance as
3 provided for in section 3302(c)(14) is added to any other
4 line or lines, in which case the additional paid-up
5 capital stock shall be at least \$750,000.

6 (3) Any such stock casualty company with a paid-up
7 capital stock of at least \$300,000 may transact all of the
8 classes of insurance mentioned in section 3302(c) except
9 credit, livestock and fidelity and surety insurance, and
10 except insurance for the purposes mentioned in section
11 3302(c)(11) and except workmen's compensation insurance as
12 provided for in section 3302(c)(14). A company with a paid up
13 capital stock of at least \$1,950,000 may transact all of the
14 classes of insurance mentioned in section 3302(c).

15 (4) Every such company shall, in addition to the paid-up
16 capital stock required under this subsection, have a surplus
17 paid in at least equal to 50% of the subscribed capital
18 stock.

19 (d) Mutual companies generally.--Companies organized under
20 this part to insure lives on the mutual plan must have
21 applications for insurance, in the amount of at least
22 \$1,000,000, by not less than 400 individuals. Companies
23 organized under this part to insure lives on the mutual plan
24 shall also have a guarantee capital before commencing business
25 of at least \$500,000 and shall maintain unimpaired a
26 policyholders' surplus of at least \$250,000 out of guarantee
27 capital, surplus or any combination thereof.

28 (e) Certain mutual companies.--Mutual companies, other than
29 mutual life companies and title insurance companies, organized
30 under this part, and mutual companies which determine to add a

1 line or lines of insurance business shall comply with the
2 following conditions:

3 (1) The company shall hold bona fide applications for at
4 least 20 policies, to be issued promptly and simultaneously
5 to at least 20 policyholders or members upon not less than
6 200 separate risks, each within the maximum single risk
7 described in this paragraph upon the granting of the
8 certificate of authority to do business. The maximum single
9 risk shall not exceed three times the average risk or 1% of
10 the total insurance applied for, whichever is greater.

11 (2) It shall have collected at least an annual cash
12 premium upon each of such applications, which shall be held
13 in cash or securities in which such insurance companies are
14 authorized to invest. In the case of companies organized for
15 any of the purposes mentioned in section 3302(b)(1), (2) or
16 (3), the cash premiums, together with any amounts advanced
17 under section 4710 (relating to loans to companies), shall be
18 at least \$25,000 for the purpose mentioned in each paragraph
19 of section 3302(b). If organized for all of the purposes
20 mentioned in section 3302(b)(1), (2) and (3), the cash
21 premiums, together with any amounts advanced under section
22 4710, shall be at least \$50,000. In the case of companies
23 organized for any one of the purposes mentioned in section
24 3302(c), except paragraphs (1), (4), (11) and (14), the cash
25 premiums collected, together with any amounts advanced under
26 section 4710, shall be at least \$10,000 for the purpose
27 mentioned in each paragraph of section 3302(c). In the case
28 of companies authorized to issue nonassessable policies of
29 insurance for the purposes mentioned in section 3302(c)(11)
30 or (14), the cash premiums collected, together with any

1 amounts advanced under section 4710, shall be \$750,000. For
2 the purpose mentioned in section 3302(c)(1) or (4) the cash
3 premiums collected, together with any amounts advanced under
4 section 4710, shall be at least \$25,000. A company shall not
5 be organized for any of the purposes mentioned in section
6 3302(c) unless the cash premiums collected, together with the
7 amounts advanced under section 4710, are at least \$50,000;
8 nor shall a company be organized for all of the purposes
9 mentioned in section 3302(c), except paragraph (11) or (14),
10 unless the cash premiums collected together with the amounts
11 advanced under section 4710 are at least \$350,000.

12 (3) In the case of companies hereafter organized under
13 this part for the purposes mentioned in section 3302(b) and
14 (c), the company shall meet the requirements of paragraphs
15 (1) and (2) of this subsection, and the cash premiums
16 collected, together with any amounts advanced under section
17 4710, shall be at least the aggregate of the sums required
18 under this paragraph for the purposes for which the company
19 is to be incorporated.

20 (4) For the purpose of transacting employers' liability
21 and workmen's compensation insurance, the application shall
22 cover not less than 5,000 employees, and each employee shall
23 be considered a separate risk for determining the maximum
24 single risk.

25 (5) A company writing nonassessable policies shall
26 maintain unimpaired so much of its surplus as is equal to the
27 minimum capital required for stock companies authorized to
28 transact the same class or classes of insurance. A company
29 writing assessable policies shall maintain unimpaired 50% of
30 its required surplus.

1 (f) Fire, marine and casualty companies.--A stock fire,
2 stock marine, stock fire and marine or stock casualty company,
3 organized under this part for any or all of the purposes
4 mentioned in both section 3302(b) and (c), shall have paid-up
5 capital and paid-in surplus of not less than the aggregate
6 amount of paid-up capital and paid-in surplus required for such
7 purpose or purposes of a stock fire, stock marine and stock fire
8 and marine insurance company in subsection (b) and of a stock
9 casualty insurance company in subsection (c).

10 § 3307. Officers and directors.

11 The subscribers to the articles of agreement shall choose
12 from their number a president, a secretary and a treasurer. The
13 subscribers shall also choose from their number the number of
14 directors or trustees they deem advisable, but not less than
15 seven. Any person chosen, elected or appointed as director,
16 trustee, president, secretary or treasurer by the subscribers
17 shall continue in office unless the department, after such
18 investigation as it deems proper, determines that his
19 responsibility, character and general fitness for the business
20 are not such as to command the confidence of the public and to
21 warrant the belief that the business of the company will be
22 honestly and efficiently conducted in accordance with this
23 title. The officers and directors so chosen shall continue in
24 office until the first annual meeting of the stockholders or, in
25 the case of a mutual company, of the members, and until their
26 successors are duly chosen and qualified. Any adjudication by
27 the department under this section shall be subject to Title 2
28 (relating to administrative law and procedure).

29 § 3308. Subscriptions.

30 (a) Stock companies.--In any case where a stock insurance

1 company is to be organized, the subscribers shall open books for
2 the subscription to stock in the company at such times and
3 places as they deem convenient and proper and shall keep them
4 open until the full amount of capital stock specified in the
5 articles of agreement is subscribed.

6 (b) Mutual companies.--In any case where any mutual
7 insurance company is to be organized, the subscribers to the
8 articles of agreement shall open books to receive applications
9 for insurance at such times and places as they shall deem
10 convenient and proper and shall keep them open until
11 applications for insurance have been obtained in sufficient
12 number and amount to comply with the requirements of this title.
13 In the case of mutual life insurance companies, the subscribers
14 shall also, in the same manner as in the case of a stock
15 company, open books to receive subscriptions to the guarantee
16 capital as provided for in this title.

17 SUBCHAPTER B

18 (Reserved)

19 SUBCHAPTER C

20 AUTHORIZATION

21 Sec.

22 3341. Certification to department.

23 3342. Approval of articles of agreement and letters patent.

24 3343. Recording of articles of agreement and letters patent.

25 3344. Information filed with the Auditor General.

26 3345. Certificate of authority.

27 § 3341. Certification to department.

28 (a) Corporations.--Whenever one-half of the capital stock
29 and paid-in surplus of any stock insurance company mentioned in
30 the articles of agreement has been subscribed and 20% of the

1 total subscription price on each share has been paid to the
2 treasurer of the company, the president, treasurer and a
3 majority of the directors shall, under their respective oaths,
4 make a certificate to the department stating:

5 (1) The number and par value of the shares of stock in
6 the company.

7 (2) The names and residences of the subscribers.

8 (3) The number of shares subscribed by each.

9 (4) The amount paid in on each share.

10 (5) The amount of money in the hands of the treasurer on
11 account of such payments.

12 (6) Where the amount is deposited.

13 (b) Mutual companies prior to subscription.--In the case of
14 a mutual insurance company, whenever applications for insurance
15 have been received in sufficient number and amount, the
16 president, treasurer and the majority of the directors of the
17 company shall, under their respective oaths, make a certificate
18 to the department stating:

19 (1) The names and residences of the persons applying for
20 insurance in the company.

21 (2) The amount agreed to be taken by each.

22 (3) The amount of money in the hands of the treasurer.

23 (c) Mutual companies after subscription.--In the case of
24 mutual life insurance companies, in addition to the certificate
25 required under subsection (b), as soon as the guarantee capital
26 has been subscribed and 50% thereof has been paid in lawful
27 money to the treasurer and the subscribers' obligations given
28 for the remaining 50% thereof, the president, treasurer and a
29 majority of the directors shall, under their respective oaths,
30 make a certificate to the department stating the following:

- 1 (1) The number and par value of the shares of guaranty
- 2 stock in the company.
- 3 (2) The names and residences of the subscribers.
- 4 (3) The number of shares subscribed by each.
- 5 (4) The amount paid in on each share.
- 6 (5) The form of obligations taken for the unpaid amount.
- 7 (6) The amount of money in the hands of the treasurer.
- 8 (7) Where the amount is deposited.

9 § 3342. Approval of articles of agreement and letters patent.

10 The subscribers to the articles of agreement of any insurance
11 company shall acknowledge the articles in duplicate before a
12 person empowered to take acknowledgments of deeds and forward
13 the articles in duplicate to the department. If it approves the
14 articles, the department shall certify in duplicate that the
15 requirements of this chapter in relation to the incorporation of
16 insurance companies have been complied with. The department
17 shall submit the articles of agreement to the Attorney General
18 for examination, and, if the Attorney General finds the same
19 articles in accordance with the law, he shall endorse his
20 approval thereon and certify them in duplicate to the Governor.
21 Upon receipt of the articles of agreement the Governor shall, if
22 he approves them, endorse his approval thereon in duplicate and
23 cause letters patent to issue. The letters patent shall
24 designate the subscribers to the articles and their associates
25 as a body corporate, with succession under the name designated
26 in the articles. A company receiving letters patent may not
27 engage in the business of insurance until all provisions of this
28 chapter have been complied with.

29 § 3343. Recording of articles of agreement and letters patent.

30 In any incorporation of an insurance company, the Department

1 of State shall cause the articles of agreement, together with
2 the proceedings thereon, and the certificate of the Governor to
3 be recorded. The Department of State shall return one of the
4 articles and the letters patent to the company, which shall have
5 them recorded in the county of the company's principal place of
6 business. The Department of State shall furnish the department
7 with a certified copy of the letters patent and shall certify
8 the duplicate articles of agreement, with all endorsements
9 thereon, and file the articles with the department.

10 § 3344. Information filed with the Auditor General.

11 (a) General rule.--A stock or mutual insurance company
12 incorporated under the law of this Commonwealth shall not go
13 into operation without first having the following registered in
14 the office of the Auditor General:

15 (1) The name of the company.

16 (2) The date of incorporation.

17 (3) The statute or authority under which incorporated or
18 organized.

19 (4) The place of business.

20 (5) The post office address and names of the president,
21 secretary and treasurer.

22 (6) The amount of capital stock, if any, authorized by
23 its charter.

24 (7) The amount of capital stock and paid-in surplus paid
25 into the treasury of the company.

26 (b) Penalty.--A company which neglects or refuses to comply
27 with this section shall be subject to a penalty of \$500, which
28 shall be collected on an account settled by the Auditor General
29 and State Treasurer in the same manner as taxes on stock are
30 settled and collected.

1 § 3345. Certificate of authority.

2 (a) Corporations.--When the entire amount of the authorized
3 capital of a stock insurance company incorporated under this
4 chapter has been paid in, certificates shall be issued therefor
5 to the persons entitled to receive the certificates,
6 transferable upon the books of the company. The president or
7 secretary of the company shall at that time notify the
8 department that the entire capital stock and paid-in surplus of
9 the company has been paid in and that it is ready to commence
10 business. Upon receipt of this notice, the department shall
11 examine the company. If it finds that it has complied with the
12 provisions and meets the requirements of this chapter and is
13 possessed of funds, invested in accordance with this title,
14 equal to the amount of its capital stock and paid in surplus,
15 the department shall issue to the company a certificate showing
16 that it has been organized in accordance with this chapter and
17 that it has the requisite amount of capital stock and paid in
18 surplus for the transaction of business in this Commonwealth.
19 The certificate shall be required to authorize the company to
20 issue policies and otherwise transact the business of insurance
21 for which it was incorporated.

22 (b) Mutual companies.--In the case of a mutual life
23 insurance company incorporated under this title, upon the
24 receipt of a notice from the president or secretary of the
25 company, the department shall make an examination. If it finds
26 that the necessary amount of insurance has been applied for and
27 that 50% of the guarantee capital has been paid in and invested,
28 less the necessary expenses of organization, and that
29 obligations have been given for the remaining 50% of the
30 guarantee capital, it shall issue a certificate authorizing the

1 company to commence business. The department shall, upon the
2 receipt of a notice from the president or secretary of any
3 mutual company, other than a mutual life insurance company,
4 incorporated under this subchapter, make an examination of the
5 company, and if it finds that the company has complied with the
6 provisions of this subchapter, it shall issue a certificate
7 authorizing the company to commence business.

8 (c) Examination by department.--In addition to its other
9 powers under this section, the department may conduct such
10 examination of any proposed company as it deems necessary to
11 determine whether the responsibility, character and general
12 fitness for the business of the incorporators and directors are
13 such as to command the confidence of the public and to warrant
14 the belief that the business of the proposed company will be
15 conducted honestly, efficiently and in accordance with this
16 title.

17 SUBCHAPTER D

18 VALUATION OF SECURITIES

19 Sec.

20 3351. Valuation of securities.

21 § 3351. Valuation of securities.

22 All bonds or other evidences of debt held by any domestic or
23 foreign stock or mutual insurance entity authorized to do
24 business in this Commonwealth shall, if amply secured and if not
25 in default as to principal or interest, be valued:

26 (1) If purchased at par, at the par value.

27 (2) If purchased above or below par, either:

28 (i) on the basis of the purchase price adjusted so
29 as to bring the value to par at maturity and so as to
30 yield, meantime, the effective rate of interest at which

- 1 3366. Approval of plan of conversion by policyholders.
2 3367. Recording plan of conversion.
3 3368. Legal effect of conversion.
4 3369. Subscriptions to capital stock of company.
5 3370. Survival of mutual policies.
6 3370.1. Regulations.
7 3371. Laws applicable to converted companies.
8 3372. Commencement of business.
9 § 3361. Definitions.

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

13 "Company." A mutual insurance company organized by or under
14 any law of this Commonwealth, other than a mutual life insurance
15 company or a company which operates exclusively on the basis of
16 perpetual policies issued in consideration of an initial deposit
17 of moneys with the insurer to be held by it during the time the
18 policies are in force and to be returned to the insureds, in
19 whole or in part, upon cancellation of the policies.

20 "Owner." A policyholder of the company or the holder of a
21 certificate issued by the company pursuant to section 4710
22 (relating to loans to companies).

23 § 3362. Valuation of interest of owner.

24 In valuing the interest of each owner in the surplus of the
25 company, surplus shall be allocated:

26 (1) To holders of certificates issued under section 4710
27 (relating to loans to companies) to the full extent of the
28 face value thereof.

29 (2) The balance of the surplus, if any, remaining after
30 the allocation provided in paragraph (1), to policyholders on

1 the basis of the ratio which the net premium which each
2 policyholder has paid to the company during the three years
3 ending with the fiscal year of the company immediately
4 preceding that in which the allocation is made bears to the
5 total net premiums received by the company during that three-
6 year period. As used in this paragraph the term "net premium"
7 means gross premium less return premium and dividends
8 received.

9 § 3363. Documentation filed with department.

10 Any company intending a conversion pursuant to this
11 subchapter shall file with the department:

12 (1) A resolution passed by the board of directors of the
13 company to the effect that the conversion of the company to a
14 stock insurance company is advisable, and stating the reasons
15 therefor.

16 (2) A comprehensive plan of conversion of the company
17 into a stock insurance company, which shall contain the
18 following information:

19 (i) A statement of all the assets and liabilities of
20 the company, setting forth the current fair market value
21 of each of the assets.

22 (ii) A list of the owners of the company together
23 with the value of the interest of each owner in the
24 surplus of the company determined as set forth in section
25 3362 (relating to valuation of interest of owner).

26 (iii) The number of shares of capital stock to be
27 issued and the manner of converting the interest in the
28 surplus of each owner of the company into shares of the
29 company under the stock plan.

30 (iv) The manner of making payment in cash to owners

1 of the company who fail or refuse within a specified
2 period of time to convert their interest in the surplus
3 into stock and the amount of the payment.

4 (v) The amount of the new capital stock for which
5 each owner may subscribe and how and when the
6 subscriptions are payable, including the procedure for
7 buying or selling rights to subscribe to less than a full
8 share so that no fractional shares of capital stock will
9 be issued.

10 (vi) The manner of providing for paid-in surplus and
11 appropriate reserves in amounts at least sufficient to
12 comply with the requirements of section 3306 (relating to
13 minimum capital stock and financial requirements).

14 (vii) A list of all persons who are directors or
15 executive officers of the company or who perform similar
16 functions, and all persons who have been chosen to become
17 directors or executive officers or to perform similar
18 functions after the conversion, but who have not yet
19 assumed their positions.

20 (viii) Such plans and arrangements as the company
21 may have for its future business and management,
22 including those with respect to total or partial
23 liquidation, sale of assets, merger, material change in
24 business, corporate structure, management or composition
25 of the board of directors.

26 (ix) Information as to any contracts or arrangements
27 with respect to any securities of the company, including,
28 but not limited to, contracts or arrangements with
29 respect to transfer of any securities, joint ventures,
30 loan or option agreements, puts or calls, guaranties of

1 loans, guaranties against loss or guaranties of profits,
2 division of losses or profits, or the giving or
3 withholding of proxies, naming the parties to such
4 contracts or arrangements and giving the details thereof.

5 (x) Such proposed amendments to the charter of the
6 company as may be necessary for the purpose of changing
7 its name, changing the location of its principal office
8 or place of conducting its business, changing its purpose
9 or purposes or for any other purpose.

10 (xi) Such additional information as the department
11 may require to enable it to make a determination under
12 section 3364 (relating to determination by department).

13 § 3364. Determination by department.

14 (a) General rule.--The department after making an
15 examination of the company and holding a hearing shall determine
16 if:

17 (1) The plan of conversion is fair to the owners and
18 creditors of the company and complies with the requirements
19 of section 3363 (relating to documentation filed with
20 department).

21 (2) The department has any reason to believe that after
22 the conversion the company will not continue to comply in all
23 respects with the laws and regulations of this Commonwealth
24 governing insurance.

25 (b) Notice.--The department shall notify the company of its
26 determination.

27 § 3365. Hearing on approval.

28 (a) Notice.--Notice of the hearing required by section 3364
29 (relating to determination by department) shall be served as
30 follows:

1 (1) By publication not less than three times in one
2 newspaper of general circulation published in the county in
3 which the principal office of the company is located, and in
4 the legal periodical, if any, designated by the rules of
5 court of the county for the publication of legal notices.

6 (2) By written or printed notice addressed and mailed by
7 certified mail, with return receipt requested, to each owner
8 at his address as shown on the books of the company at least
9 ten days before the hearing date. The form of the notice
10 shall be approved in advance of mailing by the department and
11 shall be accompanied by a copy of the plan of conversion.

12 (b) Procedure.--Any hearing held pursuant to this subchapter
13 shall be conducted, and the determination of the department
14 shall be rendered, in accordance with Title 2 (relating to
15 administrative law and procedure).

16 § 3366. Approval of plan of conversion by policyholders.

17 (a) Submission of plan.--If an approving determination is
18 made by the department, and not otherwise, the plan of
19 conversion shall be submitted to the policyholders of the
20 company for approval at the regular annual meeting of the
21 company or at a meeting specially called for the purpose of
22 approval. At least four weeks' previous notice of this meeting
23 shall be given by publication not less than three times in a
24 newspaper of general circulation, published in the county in
25 which the principal office of the company is located, and by
26 written or printed notice addressed and mailed by certified
27 mail, with return receipt requested, to each policyholder at his
28 address as shown on the books of the company.

29 (b) Approval of plan.--If a quorum is present at the special
30 meeting and the majority of the policyholders who attend the

1 meeting, either in person or by proxy, approve the plan of
2 conversion following due proof of the adequacy of the notice and
3 the results of the meeting being made to the department in a
4 form satisfactory to it, the directors of the company shall, at
5 such times and places as they deem convenient and proper, open
6 books and receive subscriptions to the stock of the company and
7 shall keep the books open until the full amount of capital stock
8 specified in the plan of conversion is subscribed.

9 § 3367. Recording plan of conversion.

10 Upon approval of the plan of conversion by the policyholders,
11 the fact of approval shall be set forth in duplicate
12 certificates to be executed by the secretary of the company
13 under the seal thereof. The certificates, with a copy of the
14 approved plan of conversion attached to each, shall be filed
15 with the department which shall then certify in duplicate that
16 all of the requirements of this subchapter have been complied
17 with. The department shall submit the certified plan of
18 conversion to the Department of State for recording. The
19 certified plan shall be recorded by the company in the office of
20 the recorder of deeds in the county in which the principal
21 office of the company is located.

22 § 3368. Legal effect of conversion.

23 When the plan of conversion has been recorded as provided in
24 section 3367 (relating to recording plan of conversion):

25 (1) Any amendments to the charter of the company set
26 forth in the plan of conversion shall be deemed to form part
27 of the charter of the company.

28 (2) All rights of the policyholders of the company to
29 vote at any meeting of the company or to retain any interest
30 in the company or in the property or assets thereof shall

1 absolutely cease and determine.

2 The company shall at that time become a stock insurance company
3 under the corporate name adopted under the plan of conversion.

4 The Department of State shall issue to the company a certificate
5 evidencing the right of the company to use the corporate name.

6 § 3369. Subscriptions to capital stock of company.

7 Owners of the company may subscribe to its capital stock at
8 par value in proportion to their respective interests in the
9 surplus of the company, as set forth in the plan of conversion
10 approved by the department. No share of stock shall be disposed
11 of or a certificate issued therefor unless the actual par value
12 thereof has been paid to the company in cash, except stock
13 issued to owners of the company in conversion of their
14 respective interests in its surplus. Subscriptions shall be made
15 in writing and filed with the proper officer of the company in
16 accordance with the plan of conversion. Stock issued to the
17 owners of the company in conversion of their respective
18 interests in its surplus pursuant to this section shall not be
19 subject to the act of December 5, 1972 (P.L.1280, No.284), known
20 as the Pennsylvania Securities Act of 1972, or to regulation by
21 the Pennsylvania Securities Commission.

22 § 3370. Survival of mutual policies.

23 The issued and outstanding mutual policies of the company and
24 all the rights and liabilities attached thereto, and all the
25 powers and obligations of the company with reference to them,
26 shall survive and be powers and obligations of the stock
27 insurance company so long as the policies remain in force,
28 except that the stock insurance company shall have no power to
29 levy any assessment against any policyholder.

30 § 3370.1. Regulations.

1 The department may make, amend and rescind such regulations
2 as may be necessary to carry out this subchapter.

3 § 3371. Laws applicable to converted companies.

4 Except as otherwise specified in this subchapter, a company
5 converted into a stock insurance company under this subchapter
6 shall have all the rights and privileges and shall be subject to
7 all the requirements and regulations imposed upon stock
8 insurance companies formed under this title, but it shall
9 exercise no rights or privileges which other stock insurance
10 companies may not exercise.

11 § 3372. Commencement of business.

12 A company may not engage in the business of insurance as a
13 stock insurance company until this subchapter has been complied
14 with.

15 CHAPTER 35

16 CORPORATE OPERATIONS

17 Subchapter

18 A. Conduct of Business

19 B. Election of Directors and Officers

20 C. Fundamental Changes

21 D. Merger, Consolidation and Voluntary Dissolution

22 E. Foreign or Alien Companies

23 F. Violations and Penalties

24 SUBCHAPTER A

25 CONDUCT OF BUSINESS

26 Sec.

27 3501. Use of company name.

28 3502. Stock and stockholders.

29 3503. Ownership of stock.

30 3504. Bylaws and seal.

- 1 3505. Administrative affairs.
- 2 3506. Salaries of employees in military service.
- 3 3507. Pensions.
- 4 3508. Execution of insurance policies.
- 5 3509. Joint policies.
- 6 3510. Incorporation of documents in policy.
- 7 3511. Lost insurance policies.
- 8 3512. Reinsurance.
- 9 3513. Reinsurance credits.
- 10 3514. Reinsurance among affiliates.
- 11 3515. Approval of contracts by department.
- 12 3516. Mortgage insurance.
- 13 3517. Distribution of dividends on group insurance.
- 14 § 3501. Use of company name.

15 The department may prohibit the use, by any domestic stock or
16 mutual insurance company or association and the use in this
17 Commonwealth by any foreign or alien stock or mutual insurance
18 company or association, of any name adopted on or after December
19 30, 1959, when, in its judgment, the name too closely resembles
20 that of an existing company or association authorized to do
21 business in this Commonwealth or is likely to confuse or mislead
22 the public.

23 § 3502. Stock and stockholders.

24 (a) Rights of stockholders.--Any stockholder shall be
25 entitled to receive a certificate of the number of shares
26 standing to his credit on the books of the company. This
27 certificate shall be signed by the president, vice president or
28 other officer designated by the board of directors,
29 countersigned by the treasurer and sealed with the seal of the
30 company which may be a facsimile, engraved or printed. This

1 certificate or evidence of stock ownership may be transferred
2 upon the books of the company in person or by attorney in such a
3 manner as the bylaws prescribe, subject to all payments to
4 become due thereon.

5 (b) Certificate.--If a certificate is signed by a transfer
6 agent or by a transfer clerk of the company and a registrar, the
7 signature of any company officer upon the certificate may be a
8 facsimile, engraved or printed. In case any officer who has
9 signed or whose facsimile signature has been placed upon any
10 share certificate has ceased to be an officer for any reason
11 before the certificate is issued, it may nevertheless be issued
12 by the company.

13 (c) Limitations on rights.--Stock shall not be transferred
14 until all previous calls on it have been fully paid in. Stock
15 which has been declared forfeited for nonpayment of calls shall
16 not be transferable. The assignee or party to whom the stock is
17 transferred shall be a member of the company and enjoy the
18 rights and be subject to the liabilities thereof. Upon a sale of
19 stock in satisfaction of any debt for which it is pledged, the
20 purchaser may compel a transfer of the stock upon the books of
21 the company and the delivery of the proper certificate.

22 § 3503. Ownership of stock.

23 (a) Filing of statement.--Every person who is directly or
24 indirectly the beneficial owner of more than 10% of any class of
25 any equity security of a domestic stock insurance company, or
26 who is a director or an officer of such a company, shall file a
27 statement with the department in such form as the department
28 shall prescribe. The statement shall be filed within ten days
29 after the person becomes a beneficial owner, director or
30 officer, listing the amount of all equity securities of the

1 company of which he is the beneficial owner. A statement in such
2 form as the department shall prescribe shall also be filed
3 within ten days after the close of each calendar month, if there
4 has been a change in ownership during that month, indicating
5 each person's ownership at the close of the calendar month and
6 such changes in his ownership as have occurred during the
7 calendar month.

8 (b) Limitations on short-term transactions.--For the purpose
9 of preventing the unfair use of information which may have been
10 obtained by a beneficial owner, director or officer by reason of
11 his relationship to the company, any profit realized by him from
12 any purchase and sale, or any sale and purchase, of any equity
13 security of the company within any period of less than six
14 months, unless the security was acquired in good faith in
15 connection with a debt previously contracted, shall inure to and
16 be recoverable by the company. This is the case irrespective of
17 any intention on the part of the beneficial owner, director or
18 officer in entering into the transaction of holding the security
19 purchased or of not repurchasing the security sold for a period
20 exceeding six months. An action to recover this profit may be
21 instituted at law or in equity in any court of competent
22 jurisdiction by the company, or by the owner of any security of
23 the company in the name and on behalf of the company, if the
24 company fails or refuses to bring the action within 60 days
25 after request or fails to prosecute the suit diligently.
26 However, no action shall be brought more than two years after
27 the date the profit was realized. This subsection does not cover
28 any transaction where the beneficial owner was not such at the
29 time of the purchase and sale, or the sale and purchase, of the
30 security, or any transaction which the department by regulation

1 exempts as not within the purpose of this subsection.

2 (c) Sale of securities.--A beneficial owner, director or
3 officer shall not sell, directly or indirectly, any equity
4 security of the company if the person selling the security or
5 his principal does not own the security sold or, if owning the
6 security, he fails to deliver it against the sale within 20 days
7 after the sale or fails within five days after the sale to
8 deposit it in the mail or another usual channel of
9 transportation. However, a person shall not be deemed to have
10 violated this subsection if, notwithstanding the exercise of
11 good faith, he was unable to make the delivery or deposit within
12 the required time or if doing so would have caused undue
13 inconvenience or expense.

14 (d) Dealers.--Subsection (b) does not apply to any purchase
15 and sale, or sale and purchase, and subsection (c) does not
16 apply to any sale, of an equity security of a domestic stock
17 insurance company not then or theretofore held by him in an
18 investment account, by a dealer in the ordinary course of his
19 business and incident to the establishment or maintenance by him
20 of a primary or secondary market, other than on an exchange as
21 defined in section 3 of Securities Exchange Act of 1934 (48
22 Stat. 882, 15 U.S.C. § 78c(a)(1)) for the security. The
23 department may by regulation define and prescribe terms and
24 conditions with respect to securities which shall be held in an
25 investment account and transactions made in the ordinary course
26 of business and incident to the establishment or maintenance of
27 a primary or secondary market.

28 (e) Arbitrage transactions.--Subsections (a), (b) and (c) do
29 not apply to foreign or domestic arbitrage transactions unless
30 made in contravention of any regulations the department

1 promulgates in order to carry out the purposes of this section.

2 (f) Limitation on the applicability of section.--The
3 provisions of subsections (a), (b) and (c) do not apply to
4 equity securities of a domestic stock insurance company if:

5 (1) the securities are registered or are required to be
6 registered pursuant to the Securities Exchange Act of 1934
7 (48 Stat. 881, 15 U.S.C. § 78 et seq.); or

8 (2) the domestic stock insurance company does not have
9 any class of its equity securities held of record by 100 or
10 more persons on the last business day of the year next
11 preceding the year in which equity securities of the company
12 would be subject to the provisions of subsections (a), (b)
13 and (c) except for the provisions of this paragraph.

14 (g) Regulations.--The department may make such regulations
15 as may be necessary for the execution of the functions vested in
16 it under subsections (a) through (f) and (i) and may for that
17 purpose classify domestic stock insurance companies, securities
18 and other persons or matters. No provision of subsections (a),
19 (b), and (c) imposing any liability shall apply to any act done
20 or omitted in good faith in conformity with any regulation of
21 the department, notwithstanding that the regulation may, after
22 the act or omission, be amended or rescinded or determined by
23 judicial or other authority to be invalid for any reason.

24 (h) Criminal penalty.--Any person violating this section
25 commits a summary offense.

26 (i) Definition.--As used in this section the term "equity
27 security" means any of the following:

28 (1) A stock or similar security.

29 (2) A security convertible, with or without

30 consideration, into such a security or carrying a warrant or

1 right to subscribe to or purchase such a security.

2 (3) Any such warrant or right.

3 (4) Any other security which the department by
4 regulation deems to be of similar nature and considers
5 necessary or appropriate.

6 § 3504. Bylaws and seal.

7 A company incorporated under Chapter 33 (relating to
8 incorporation of insurance companies) may make any bylaws
9 necessary for the government of its officers and the conduct of
10 its affairs, alter and amend the bylaws, have a common seal and
11 change the seal.

12 § 3505. Administrative affairs.

13 (a) Officers.--The directors or trustees shall annually
14 choose by ballot a president, who shall be a member of the
15 board, a secretary and a treasurer, who may also be either the
16 president or the secretary, and such other officers as the
17 bylaws provide. The directors or trustees shall fix the salaries
18 of the president, secretary and treasurer and the salaries or
19 compensation of such other officers and agents as the bylaws
20 prescribe. The treasurer shall give bond in a sum and with the
21 sureties prescribed by the bylaws.

22 (b) Vacancies.--Vacancies in any office may be filled by the
23 directors or trustees or by the stockholders or members as the
24 bylaws prescribe.

25 (c) Removal.--Any person chosen, either annually or to fill
26 a vacancy, as president, secretary, treasurer or as any other
27 officer shall continue to serve in the office unless the
28 department, after investigation, determines that the
29 responsibility, character and general fitness for the business
30 of the individual are not such as to command the confidence of

1 the public and to warrant the belief that the business of the
2 company will be honestly and efficiently conducted. Any
3 adjudication by the department pursuant to this subsection shall
4 be subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
5 procedure of Commonwealth agencies).

6 § 3506. Salaries of employees in military service.

7 Any stock or mutual insurance company may continue the
8 salaries of any employee who serves as a member of any branch of
9 the armed service of the United States or of any state or in any
10 other organization established for the protection of the lives
11 and property of citizens of the United States.

12 § 3507. Pensions.

13 The provisions of 15 Pa.C.S. § 521 (relating to pensions and
14 allowances) apply to any stock or mutual insurance company.

15 § 3508. Execution of insurance policies.

16 Policies of insurance, made or entered into by any stock or
17 mutual insurance company, may be made either with or without the
18 company seal. The policies shall be subscribed by the president
19 or any other officer designated by the directors or trustees.
20 The policies shall be attested by the secretary or other
21 designated officer and, when so subscribed and attested, shall
22 be obligatory on the company.

23 § 3509. Joint policies.

24 Two or more insurance entities authorized to transact the
25 same kinds of insurance business in this Commonwealth may issue
26 a combination policy, using a distinctive title. The title shall
27 follow the titles of the several entities so obligated. The
28 policy shall be executed by each entity in the same manner as it
29 would execute its individual policy. The policy shall state that
30 it is a joint contract and that each entity is only liable for a

1 specific percentage of any loss or damage occurring under it.
2 Before any entity issues a combination policy, it shall receive
3 the express permission of the department to issue the policy and
4 the title shall be approved by it.

5 § 3510. Incorporation of documents in policy.

6 Any insurance policy issued by a stock or mutual insurance
7 company or association doing business in this Commonwealth, in
8 which the application of the insured, the constitution, bylaws
9 or other rules of the company form part of the policy or
10 contract between the parties or have any bearing on the
11 contract, shall contain, or have attached correct copies of the
12 application as signed by the applicant, or the constitution,
13 bylaws or other rules referred to. Unless so accompanying the
14 policy, no such application, constitution, bylaws or other rules
15 shall be received in evidence in any proceeding pertaining to
16 the policy or deemed a part of the policy or contract between
17 the parties.

18 § 3511. Lost insurance policies.

19 (a) General rule.--Whenever any policy of insurance upon any
20 property, granted by any body corporate or politic, has been
21 lost or destroyed, the issuer shall, on proof of the loss or
22 destruction of the policy, furnish a copy of the policy to the
23 person whose policy has been lost or destroyed. Any transfers
24 which have been approved and recorded on the books of the
25 issuer, which have been made by the original or subsequent
26 grantee of the policy to the person having the same at the time
27 of the loss or destruction thereof, shall be included with the
28 copy. The copy made under this section shall have the same
29 effect as the original and subject to the same extent to
30 transfer to any person purchasing the property insured.

1 (b) Proceedings in case of lost policy.--The holder of the
2 policy may file a complaint with the county in which the
3 property has been insured, setting forth the loss or destruction
4 of the policy of insurance, the petitioner's demand upon the
5 insurer for a copy of the policy, a description of the property,
6 the amount for which it was insured and the person or persons to
7 whom granted, if practicable, together with any transfers
8 thereof.

9 § 3512. Reinsurance.

10 (a) Approval of department.--A domestic stock or mutual
11 insurance entity shall not reinsure its entire schedule of
12 policies except by approval of the department.

13 (b) Authorization to reinsure.--Any domestic or foreign
14 stock or mutual insurance entity authorized to transact business
15 in this Commonwealth may reinsure all or any part of its
16 liability under one or more of its policy contracts with any
17 stock or mutual insurance entity doing the same or a similar
18 kind of business and licensed to transact business in this
19 Commonwealth or in any state, if the entity maintains the same
20 standard of solvency and meets and continues to meet all other
21 requirements under the law of this Commonwealth for entities
22 transacting the same classes of business in this Commonwealth.
23 Any domestic or foreign stock or mutual insurance entity
24 authorized to transact business in this Commonwealth shall pay
25 to this Commonwealth taxes required on all business taxable in
26 this Commonwealth and reinsured under this section and may take
27 credit for the reserves of each ceded risk to the extent
28 reinsured subject to the exceptions provided in sections 3513
29 (relating to reinsurance credits) and 3514 (relating to
30 reinsurance among affiliates).

1 § 3513. Reinsurance credits.

2 (a) Qualification of reinsurer.--Unless an unlicensed
3 reinsurer is qualified to accept reinsurance from insurers
4 licensed in this Commonwealth, a credit shall not be allowed as
5 an admitted asset or as a reduction of liability relative to
6 risks ceded by the licensed insurers. Reinsurers meeting the
7 conditions for reinsurers specified by the department and
8 included on a list of qualified reinsurers published and
9 periodically reviewed by the department shall be deemed
10 qualified reinsurers.

11 (b) Reserve credit for liability assumed.--A credit shall
12 not be allowed as an admitted asset or as a deduction from
13 liability to any ceding entity for reinsurance, unless the
14 reinsurance is payable to the entity or its statutory liquidator
15 by the assuming entity on the basis of the liability of the
16 ceding entity under contract or contracts reinsured without
17 diminution because of insolvency of the ceding entity.

18 (c) Payment by assuming entity.--A credit shall not be
19 allowed for reinsurance unless the reinsurance agreement
20 provides that payment by the assuming entity shall be made
21 directly to the ceding entity or to its liquidator, receiver or
22 statutory successor.

23 § 3514. Reinsurance among affiliates.

24 (a) Exemption.--Sections 3512 (relating to reinsurance) and
25 3513 (relating to reinsurance credits) do not apply to
26 reinsurance agreements between or among affiliates covering all
27 or substantially all of one or more lines of insurance of an
28 affiliated domestic or foreign stock or mutual insurance entity.
29 However, the amount of net written premium retained and the
30 amount of the reinsurance and retrocession assumed by any

1 affiliate participating agreement shall not be unreasonably
2 large in relationship to its policyholders' surplus.

3 (b) Definitions.--As used in this section the terms
4 "affiliated" and "affiliate" shall have the meanings set forth
5 in section 3569 (relating to holding company systems), except
6 that control shall be presumed to exist if any person directly
7 or indirectly owns, controls, holds with power to vote or holds
8 shares representing 80% or more of the voting power of any other
9 person.

10 § 3515. Approval of contracts by department.

11 (a) Forms approved by department.--An insurance entity,
12 including a domestic mutual fire insurance company, doing
13 business in this Commonwealth shall not issue, sell or dispose
14 of any policy, contract or certificate of insurance or contract
15 pertaining to a pure endowment or annuity, or use any
16 application, rider or endorsement in connection therewith,
17 unless the forms have previously been filed with and formally
18 approved by the department. This section does not apply to
19 riders and endorsements relating to the manner of distribution
20 of benefits or to the reservation of rights and benefits under
21 any policy used at the request of the individual policyholder or
22 to any forms which are exempted therefrom by the department.

23 (b) Deemed approval.--Forms filed under this section or any
24 other provision of this title except section 7524 (relating to
25 rates and contracts) or 7729 (relating to rates and contracts),
26 unless specifically provided otherwise, shall be deemed approved
27 at the expiration of 30 days after filing, unless earlier
28 approved or disapproved by the department. The department, by
29 written notice to the insurer within this 30-day period, may
30 extend the period for approval or disapproval for an additional

1 30 days. Approval under this subsection shall become void upon
2 any subsequent notice of disapproval from the department or upon
3 any subsequent withdrawal of license or refusal of the
4 department to relicense the entity or upon the subsequent
5 passage of a statute which would prohibit such contracts or
6 related forms.

7 (c) Hearing.--Upon disapproval, the department shall notify
8 the insurer in writing, specifying the reason for the
9 disapproval. Within 30 days from the date of mailing of the
10 notice to the insurer, the insurer may make a written
11 application to the department for a hearing. The hearing shall
12 be held within 30 days after receipt of the application. The
13 procedure before the department shall be in accordance with 2
14 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
15 Commonwealth agencies), and the insurer shall be entitled to
16 judicial review under 2 Pa.C.S. Ch. 7 Subch. A (relating to
17 judicial review of Commonwealth agency action).

18 § 3516. Mortgage insurance.

19 Insurance entities may make application for and obtain
20 insurance of mortgages as provided by the National Housing Act
21 of 1934 (48 Stat. 1246, 12 U.S.C. § 1701 et seq.).

22 § 3517. Distribution of dividends on group insurance.

23 Any dividends declared or rate reductions made or continued
24 under any group insurance policy or group annuity contract
25 issued may be applied to reduce the employer's part of the cost.
26 However, if, at any time, under a policy or contract providing
27 for employee contributions, the aggregate of any dividends or
28 rate reductions so applied is in excess of the employer's share
29 of the aggregate cost, the excess shall be applied by the
30 employer for the sole benefit of the employees.

1 SUBCHAPTER B

2 ELECTION OF DIRECTORS AND OFFICERS

3 Sec.

4 3531. Annual meetings.

5 3532. Voting rights.

6 3533. Election of directors and trustees.

7 3534. Mutual fire insurance companies.

8 3535. Voting by stockholders and members.

9 3536. Proxies issued by domestic stock companies.

10 3537. Cumulative voting.

11 3538. Failure to elect directors or trustees.

12 3539. Directors and trustees.

13 § 3531. Annual meetings.

14 (a) Time.--Every insurance company shall hold an annual
15 meeting for the election of directors or trustees on or before
16 May 1 as the bylaws of the company direct.

17 (b) Notice.--At least 30 days' notice of the time and place
18 of the meeting shall be given to the stockholders or, in the
19 case of a mutual company, to the members by publication not less
20 than three times in at least two daily or weekly newspapers and
21 in the legal periodical designated by the rules of court of the
22 proper county for the publication of legal notices published in
23 the municipality where the company is domiciled.

24 (c) Quorum.--Every stock and mutual insurance company may
25 determine by its bylaws what number of members or stockholders
26 shall attend, either in person or by proxy, or what number of
27 shares or amount of interest shall be represented at any meeting
28 to constitute a quorum. If the quorum is not so determined, a
29 majority in interest of the members or stockholders shall
30 constitute a quorum.

1 § 3532. Voting rights.

2 (a) Right to vote stock.--The certificate of stock or the
3 transfer books of any stock insurance company shall be prima
4 facie evidence of the right of the person named therein to vote
5 as the owner, either personally or by proxy.

6 (b) Objections.--An objection may be taken by a stockholder
7 at the time a ballot is tendered which shall be accompanied by a
8 written statement under oath that the person who is offering to
9 vote the stock is not the owner, either in his own right or as
10 active trustee with the character of his trusteeship disclosed
11 on the face of the certificate or transfer books in connection
12 with his name. The judges of election shall immediately
13 determine whether the facts are as represented in the statement,
14 and, if so, the vote or votes shall be rejected. In any case
15 where the person named in the certificate or transfer books is
16 not permitted to vote, the beneficial owner of the stock may
17 vote, upon furnishing to the judge of election satisfactory
18 evidence of ownership.

19 (c) Powers of certain fiduciaries unaffected.--This section
20 does not prohibit executors, administrators, guardians or
21 trustees, created by a will or a decree of court, from voting
22 stock standing in the name of a decedent, minor or other
23 beneficiary.

24 (d) Pledged stock.--As between the pledgor and the pledgee
25 of capital stock pledged to secure a specific loan with a fixed
26 period or periods of maturity, the right to vote shall be
27 determined under the written agreement of the pledgor and
28 pledgee, but if no such agreement exists, the pledgor shall be
29 entitled to the right to vote.

30 § 3533. Election of directors and trustees.

1 (a) General rule.--At the annual meeting, the stockholders
2 or members shall elect by ballot from their own number not less
3 than seven directors or trustees. The directors or trustees
4 shall be natural persons of majority age and need not be
5 residents of this Commonwealth unless the articles or bylaws so
6 require, but at least two-thirds shall be citizens of the United
7 States or its territories or possessions. These persons shall
8 serve for one year and until their successors are chosen and
9 qualified.

10 (b) Classes of directors.--Any insurance company may provide
11 in its bylaws for the divisions of its board of directors or
12 trustees into as many as four classes and may provide for the
13 election thereof at its annual meetings in a manner such that
14 the members of one class only shall retire and their successors
15 shall be chosen each year.

16 (c) Vacancies.--Vacancies, including those resulting from an
17 increase in the number of directors or from failure of the
18 stockholders to fill any class of directors, may be filled by an
19 election by the board of directors or trustees for the unexpired
20 term.

21 (d) Removal.--Any stockholder or member elected to the post
22 of director or trustee shall continue in office unless the
23 department, after investigation, determines that the
24 responsibility, character and general fitness for the business
25 of the individual are not such as to command the confidence of
26 the public and to warrant the belief that the business of the
27 company will be honestly and efficiently conducted. Any
28 adjudication by the department under this subsection shall be
29 subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
30 procedure of Commonwealth agencies).

1 § 3534. Mutual fire insurance companies.

2 A majority of the board of directors or trustees of a mutual
3 fire insurance company shall be residents of this Commonwealth.
4 The number of directors or trustees may be increased or
5 diminished by the members of the company at any regular annual
6 meeting or at any special meeting called for that purpose, of
7 which notice shall be given as required by the bylaws. The
8 company, by its bylaws, may authorize the board to increase or
9 decrease the number of directors or trustees without a vote of
10 the members. The company, by the bylaws, may provide for written
11 nominations by any of its members for election as directors or
12 trustees and for the time and manner of filing the nominations
13 with the company prior to the meeting at which the election is
14 to be held. Only persons so nominated shall be eligible for
15 election at the meeting.

16 § 3535. Voting by stockholders and members.

17 At all meetings of the company, each share of stock in a
18 stock company and each member in a mutual company shall be
19 entitled to one vote. However, in the case of mutual companies,
20 other than mutual life companies, each member shall be entitled
21 to one vote or to a number of votes based upon the insurance in
22 force, the number of policies held or the amount of premiums
23 paid. Proxies may be authorized by written power of attorney.
24 The record of the votes made by the secretary, which shall show
25 whether the votes were cast in person or by proxy, shall be
26 evidence of all elections.

27 § 3536. Proxies issued by domestic stock companies.

28 (a) Regulation.--The department may, by regulation,
29 prescribe the form, content and manner of solicitation of any
30 proxy, consent or authorization with respect to any voting

1 security issued by a domestic stock insurance company as
2 necessary or appropriate in the public interest or for the
3 proper protection of investors in the voting securities issued
4 by the insurance company or to insure the fair dealing in the
5 voting securities.

6 (b) Prohibition of solicitation.--No person or voting
7 security holder and no domestic stock insurance company or any
8 director, officer or employee of that company shall solicit or
9 permit the use of his name to solicit any person to give any
10 proxy, consent or authorization with respect to any voting
11 security issued by the insurance company in contravention of any
12 rule or regulation the department prescribes pursuant to this
13 section.

14 (c) Limitation of action.--Any action to enforce compliance
15 with any rule or regulation of the department shall be taken
16 within 30 days after exercise of the proxy, consent or
17 authorization.

18 (d) Applicability.--This section does not apply to:

19 (1) Voting securities of a domestic stock insurance
20 company if the securities are registered under section 12 of
21 the Securities Exchange Act of 1934 (48 Stat. 892, 15 U.S.C.
22 § 781).

23 (2) Voting securities of a domestic stock insurance
24 company which, because of the number of its stockholders or
25 the distribution of its stock ownership, the department, by
26 regulation, deems not necessary or appropriate to regulate in
27 the public interest or for the proper protection of investors
28 therein.

29 (e) Definition.--As used in this section the term "voting
30 security" means any instrument which, in law or by contract,

1 gives the holder the right to vote, or consent to or authorize
2 any corporate action of a domestic stock insurance company.

3 § 3537. Cumulative voting.

4 In all elections for directors or trustees of any stock or
5 mutual insurance company, each member or stockholder having a
6 right to vote may cast the whole number of his votes for one
7 candidate or distribute them upon two or more candidates.

8 § 3538. Failure to elect directors or trustees.

9 If the stockholders or members of any insurance company fail
10 to elect directors or trustees at any annual meeting, the
11 directors or trustees may call a special meeting for that
12 purpose on a subsequent day. Notice of the meeting shall be
13 given as provided in section 3531(b) (relating to annual
14 meetings).

15 § 3539. Directors and trustees.

16 (a) Acceptance.--The directors or trustees, before they are
17 qualified to act, shall file with the secretary a written
18 acceptance of the trust.

19 (b) Quorum.--A majority of the directors or trustees shall
20 constitute a quorum.

21 (c) Compensation.--Any insurance company may allow and pay
22 to directors compensation for acting as directors.

23 SUBCHAPTER C

24 FUNDAMENTAL CHANGES

25 Sec.

26 3551. Stock votes on particular subjects.

27 3552. Amendment of charter.

28 3553. Proceedings to file amended charter and certification.

29 3554. Power to increase capital stock.

30 3555. Proceedings to increase capital stock.

1 3556. Records of increases of capital stock.

2 3557. Sale of increases of capital stock.

3 3558. Reduction of capital stock.

4 § 3551. Stock votes on particular subjects.

5 Whenever a stock vote is lawfully demanded or required on any
6 subject submitted to the stockholders of any stock insurance
7 company of this Commonwealth for their action at any annual or
8 special meeting, the vote may be taken at and certified to the
9 meeting or any adjournment. If, under the corporate charter or
10 applicable law, the annual election for directors is held within
11 30 days after the annual or special meeting at which the subject
12 is be submitted to the stockholders, then the vote on the
13 subject may be taken at the same time and place, by the same
14 persons and in the same manner as the vote for directors of the
15 company is taken. If, under provisions of the charter or laws
16 governing the company, the annual election for directors is not
17 held within 30 days after the meeting at which the subject is
18 submitted to the stockholders, then the stock vote upon the
19 subject may be taken at any time within 30 days after that
20 meeting under the supervision of three judges to be appointed
21 and at a time and place to be designated by the stockholders at
22 that meeting. The result of the vote shall be certified by the
23 judges under oath and their certificates shall be filed with the
24 secretary of the company.

25 § 3552. Amendment of charter.

26 (a) Authorization.--Any domestic stock or mutual insurance
27 company may amend its charter for the purpose of changing its
28 name, changing the location of its principal office or place of
29 business, increasing or diminishing the par value of the shares
30 of its capital stock, changing its purpose or for any other

1 reason, by calling a special meeting of the stockholders or
2 members.

3 (b) Notice.--Notice of the object of the meeting shall be
4 given by advertisement for the preceding four weeks in at least
5 two daily or weekly newspapers and in the legal periodical, if
6 any, designated by the rules of court of the proper county for
7 the publication of legal notices, published in the municipality
8 where the principal office of the company is located, or by
9 circular mailed to the address of each stockholder or member.

10 (c) Procedure.--If the resolution for the amendment is
11 approved by two-thirds of the votes cast, the resolution and the
12 number of votes cast for and against it shall be recorded by the
13 company and a certified copy of the record shall be forwarded to
14 the department. If the department approves of the resolution, it
15 shall certify its approval. When the amendment is recorded with
16 the Department of State and with the recorder of deeds of the
17 proper county, it shall form part of the charter of the company.

18 (d) Mutual insurance company.--A mutual insurance company,
19 other than life or title, may amend its charter to include any
20 of the kinds of insurance included in section 3302(b) and (c)
21 (relating to authorized classes of insurance) if its total
22 assets, less net liability for losses for expenses and for
23 unearned premium reserve for those premiums received on
24 nonassessable policies, are not less than the minimum premiums
25 specified in section 3306(e) (relating to minimum capital stock
26 and financial requirements) for the incorporation of new
27 companies, without the necessity of obtaining or of holding any
28 application or of issuing any policy as specified in section
29 3306(e) for the incorporation of new companies.

30 (e) Amendment of charter by certain stock companies.--Before

1 any domestic stock fire, stock marine, stock fire and marine, or
2 stock casualty insurance company transacting business under
3 section 3302(b) or (c) may amend its charter for the transaction
4 of additional kinds or classes of business under section 3302(b)
5 or (c) or both, it shall have a paid-up capital and a paid-in or
6 accumulated surplus in amounts required under section 3306(b) or
7 (c) for incorporation for its present and proposed additional
8 purposes.

9 § 3553. Proceedings to file amended charter and certification.

10 Whenever any domestic stock or mutual insurance company
11 amends its charter under section 3552 (relating to amendment of
12 charter) or to carry out a merger or consolidation or to
13 increase or decrease the amount of its capital, the stockholders
14 or members of the company may, at the time of adopting the
15 amendment or resolutions, include therein the entire charter of
16 the company, as amended or as affected by the proposed change.
17 The amended charter or consolidation proceedings shall
18 completely set forth all the terms and conditions of the charter
19 under which the company shall thereafter transact business.
20 However, the amended charter or consolidation proceedings shall
21 contain only those provisions an original charter may lawfully
22 contain and shall be filed in the office of the Secretary of the
23 Commonwealth, in the same manner as provided under section
24 3556(a) (relating to records of increases of capital stock),
25 3558(e) (relating to reduction of capital stock) or 3562(d)
26 (relating to proceedings to merge or consolidate).

27 § 3554. Power to increase capital stock.

28 The capital stock of any stock insurance company may, with
29 the consent of the persons holding more than one-half the value
30 of its stock, be increased to an amount, regardless of any

1 limitation upon the amount prescribed in any general or special
2 law regulating any such company, as it deems necessary to
3 accomplish and enlarge the business and purposes of the company.
4 § 3555. Proceedings to increase capital stock.

5 (a) General rule.--Any stock insurance company that desires
6 to increase its capital stock shall, by resolution adopted by a
7 majority of its board of directors, declare this purpose and, by
8 resolution similarly adopted, direct that the question of the
9 proposed increase be submitted to the stockholders of the
10 corporation for their consent under subsection (b) or (c).

11 (b) Regular annual meeting.--The question may be submitted
12 to the stockholders at any regular meeting. Notice of the
13 meeting shall state that the question of a capital stock
14 increase will be considered at the meeting. The president and
15 secretary of the meeting shall ascertain, by any method, whether
16 the persons holding more than one-half the value of the stock of
17 the company have consented to the increase. Upon being so
18 satisfied, these officers shall certify in duplicate the fact,
19 under oath. If a stock vote is demanded at the meeting, these
20 officers shall cause a vote to be taken at the same time and
21 place, by the same persons and in the same manner as the vote
22 for directors of the company are taken.

23 (c) Special meeting.--The question may be submitted to the
24 stockholders at a special meeting. Notice of the time, place and
25 object of the meeting shall be published in the manner
26 prescribed for the giving of notice of the regular annual
27 meeting. At the meeting a vote of the stockholders shall be
28 taken for or against the increase. The vote shall be conducted
29 by three judges, who shall be stockholders of the company,
30 appointed by the board of directors to hold the vote. If any

1 judge is absent, the judges present shall appoint a replacement.
2 The judges shall swear that they will conduct the vote according
3 to law and to the best of their ability. The company shall
4 furnish the judges at the meeting with a statement of the amount
5 of its capital stock, the names of the persons holding the stock
6 and the number of shares held by each, which statement shall be
7 signed and sworn to by one of the chief officers of the company.
8 The judges shall decide upon the qualifications of voters, count
9 the number of shares voted for and against the increase and
10 declare whether the persons holding a majority in amount of the
11 stock of the corporation have consented to the increase. They
12 shall complete duplicate returns of the vote stating the number
13 of shares of stock that voted for and against the increase and
14 subscribe and deliver the returns to one of the chief officers
15 of the company.

16 (d) Ballot.--Each ballot shall have endorsed on it the
17 number of shares represented, but no shares transferred within
18 30 days prior to the meeting shall entitle the holder to vote on
19 the capital stock increase. A proxy shall not be received nor
20 shall the holder be entitled to vote unless the proxy has been
21 executed within four months preceding the meeting.

22 § 3556. Records of increases of capital stock.

23 (a) Filing with Secretary of Commonwealth.--If consent is
24 given to a capital stock increase, the company shall file in the
25 Department of State, within 30 days after the vote, one copy
26 each of the certificates of the president and secretary of the
27 annual meeting or one copy of the return completed at the
28 special meeting, with a copy of the resolution and the meeting
29 notice. Thereafter, the increase may be made at such time or
30 times as the directors determine. The Department of State shall

1 furnish a certified copy of the proceedings to the department.

2 (b) (Reserved).

3 (c) Penalty.--In case of neglect or omission to make the
4 return, a company shall be subject to a penalty of \$5,000. The
5 penalty shall be collected on an account settled by the Auditor
6 General and State Treasurer, in the same manner as accounts for
7 taxes due the Commonwealth are settled and collected. The
8 Department of State shall record the return and furnish a copy
9 of the return to the Auditor General.

10 § 3557. Sale of increases of capital stock.

11 (a) Subscription.--Any increase of capital stock made by any
12 stock insurance company may be issued at such price not less
13 than par as the stockholders may direct or as the board of
14 directors may direct under authority conferred by the
15 stockholders. Unless otherwise provided in the charter or
16 articles of agreement, each stockholder shall have the right to
17 first subscribe for the new shares in proportion to his interest
18 in the company.

19 (b) Exchange.--A stockholder shall not have the right to
20 first subscribe for new shares if the stockholders holding more
21 than one-half the value of the stock of the company direct,
22 subject to such equitable regulations as the directors
23 prescribe, that the new shares are to be issued in exchange for
24 one or more outstanding shares of another insurance company in
25 which the issuing company is authorized to invest, or partly in
26 exchange and partly for cash.

27 (c) Approval of exchange by department.--The department
28 shall examine the terms and conditions of any exchange described
29 in subsection (b) and, after holding a hearing at which all
30 persons to whom it is proposed to issue shares in exchange shall

1 have the right to appear, shall approve or disapprove the
2 fairness of the terms and conditions.

3 (d) Notice of right to subscribe.--Except when an exchange
4 described in subsection (b) is to be effected, notice to the
5 stockholders to exercise their rights to subscribe for and to
6 take the stock at the price so fixed shall be mailed to each
7 stockholder, at the last address of the stockholder appearing on
8 the books or records of the company, 30 days prior to the date
9 fixed by the board of directors for the expiration of the right
10 to subscribe. This notice shall also be given by publication
11 once a week for three weeks in a newspaper of general
12 circulation published in the municipality in which the company
13 has its principal office.

14 (e) Sale of unsubscribed stock.--Any stock not subscribed
15 for and taken by the stockholders may be sold and disposed of by
16 the board of directors, in such manner as the stockholders
17 direct. However, the stock shall not be sold or disposed of at a
18 price less than that originally fixed by the stockholders.

19 (f) Issuance to officers or employees.--Notwithstanding
20 anything in this section to the contrary, any stock insurance
21 company may issue to its officers or employees, to the officers
22 or employees of any subsidiary corporation or to a trustee on
23 their behalf, the number of its authorized but unissued shares
24 prescribed by the stockholders having the majority interest.
25 These shares shall be issued at such times and in such manner as
26 the board of directors determines. Any stock authorized to be
27 issued to officers or employees and not taken by those entitled
28 to it may be sold and disposed of in such manner as the board of
29 directors determines.

30 § 3558. Reduction of capital stock.

1 (a) General rule.--The capital stock of any stock insurance
2 company may be reduced at any time by the consent of the persons
3 holding more than one-half the value of the stock of the
4 company. However, this reduction shall not be below the minimum
5 amount of capital stock required by law for the formation of
6 such companies.

7 (b) Meeting.--Any stock insurance company that desires to
8 reduce its capital stock shall, by a resolution of its board of
9 directors, call a meeting of its stockholders. The meeting shall
10 be held at its chief office or place of business in this
11 Commonwealth. Notice of the time, place and object of the
12 meeting shall be given in the manner prescribed for the giving
13 of notice of the regular annual meeting.

14 (c) Voting procedure.--At the meeting a vote of the
15 stockholders of the company shall be taken on the question of
16 the reduction. The vote shall be conducted by three judges, who
17 shall be stockholders of the company, appointed by the board of
18 directors to hold the vote. If any judge is absent, the judges
19 present shall appoint a replacement. The judges shall swear that
20 they will conduct the vote according to law and to the best of
21 their ability. The company shall furnish the judges at the
22 meeting with a statement of the amount of its capital stock,
23 with the names of the persons holding the stock and the number
24 of shares held by each, which statement shall be signed and
25 sworn to by one of the chief officers of the company. The judges
26 shall decide upon the qualification of voters, count the number
27 of shares voted for and against the reduction and declare
28 whether the persons holding more than one-half the value of the
29 stock of the company have consented to the reduction. They shall
30 complete duplicate returns of the vote, stating the number of

1 shares of stock that voted for and against the reduction, and
2 subscribe and deliver the returns to one of the chief officers
3 of the company.

4 (d) Stock entitled to vote.--Each ballot shall have endorsed
5 on it the number of shares represented, but no shares
6 transferred within 60 days prior to the meeting shall entitle
7 the holder to vote on the capital stock reduction. A proxy shall
8 not be received nor shall the holder be entitled to vote unless
9 it has been executed within three months preceding the meeting.

10 (e) Filing, approval and recording of proceedings.--If
11 consent is given to the reduction, the company shall file in the
12 office of the department within 30 days after the vote one copy
13 each of the resolution, the meeting notice and the return. The
14 department shall, if it finds the transaction regular in form
15 and consistent with the interest of the policyholders and
16 creditors, endorse its approval and file it in the Department of
17 State. Upon the reduction of the capital stock of the company,
18 the president or treasurer of the company shall file, within 30
19 days, a return with the department and the Department of State,
20 under oath, stating the amount of the reduction.

21 (f) Penalty.--In case of neglect or omission to timely file
22 the documents listed in subsection (e), the company shall be
23 subject to a penalty of \$5,000. This penalty shall be collected
24 on an account settled by the Auditor General and State
25 Treasurer, in the same manner as accounts for taxes due the
26 Commonwealth are settled and collected. The Department of State
27 shall record the return and furnish a certified copy of the
28 return to the Auditor General. The company shall, after the
29 receipt of the return from the Department of State, have it
30 recorded in the office of the recorder of deeds of the county in

1 which the company has its principal office.

2 SUBCHAPTER D

3 MERGER, CONSOLIDATION AND VOLUNTARY DISSOLUTION

4 Sec.

5 3561. Power to merge or consolidate.

6 3562. Proceedings to merge or consolidate.

7 3563. Dissenters' rights upon merger or consolidation.

8 3564. Merger of domestic and foreign insurance companies.

9 3565. Protection of competition.

10 3566. Merger by acquisition of stock.

11 3567. Dissenters' rights upon merger by acquisition of stock.

12 3568. Approval of acquisitions by department.

13 3569. Holding company systems.

14 3570. Voluntary dissolution.

15 3571. Dissolution for failure to do business.

16 § 3561. Power to merge or consolidate.

17 Any two or more domestic stock insurance companies and any
18 two or more domestic mutual insurance companies transacting the
19 same or similar classes of insurance may be merged into one of
20 such domestic companies or consolidated into a new company to be
21 formed as provided in the consolidation agreement. The
22 consolidation agreement shall include all of the statements
23 required by section 3303 (relating to articles of agreement) to
24 be set forth in original articles of incorporation in the case
25 of the formation of a new insurance company, so that all the
26 property, rights, franchises and privileges vested in any of the
27 companies so merged or consolidated shall be transferred to and
28 vested in the surviving or new company. This section does not
29 permit the merging or consolidating of a stock insurance company
30 with a mutual insurance company.

1 § 3562. Proceedings to merge or consolidate.

2 (a) Joint agreement.--The directors or trustees of each
3 company shall enter into a joint agreement, under the corporate
4 seal of each company, for the merger or consolidation of the
5 companies. The agreement shall prescribe:

6 (1) The terms and conditions of the merger or
7 consolidation.

8 (2) The mode of carrying it into effect.

9 (3) The name of the surviving or new company.

10 (4) The number and names of the directors or trustees
11 and other officers thereof, and who shall be the directors or
12 trustees and officers, and their places of residence.

13 (5) The number of shares of the capital stock, if any.

14 (6) The amount of par value of each share.

15 (7) The manner of converting the capital stock of each
16 of the companies into the stock of the surviving or new
17 company.

18 (8) How and when directors or trustees and officers
19 shall be chosen.

20 (9) Any other details necessary to perfect the merger or
21 consolidation.

22 The agreement shall not be effective unless it is approved by
23 the stockholders or members of the companies under subsection
24 (b) or (c).

25 (b) Stock companies.--The agreement shall be submitted to
26 the stockholders of each of the stock companies at separate
27 special meetings or at any annual meetings. Notice of the time,
28 place and object of each meeting shall be given by publication
29 once a week for three consecutive weeks in at least two
30 newspapers in the county in which the principal office of the

1 company is located. At each meeting the agreement of the
2 directors or trustees shall be considered, and a vote by ballot
3 of the stockholders, in person or by proxy, shall be taken. If a
4 majority in interest of the entire capital stock of each of the
5 companies votes in favor of the agreement, then the result shall
6 be certified by the secretary of each company under the
7 corporate seal thereof. The certificates and a copy of the
8 agreement shall be filed in the office of the department. The
9 department shall examine the proceedings, and, if it finds that
10 the proceedings were in accordance with law and not injurious to
11 the interests of the policyholders and creditors, it shall
12 endorse its approval and immediately forward the certificates
13 and agreement to the Governor for his approval. Upon approval by
14 the Governor, the agreement shall be deemed to be the act of
15 merger or consolidation of the surviving or new company.

16 (c) Mutual companies.--The agreement shall be submitted to
17 the members of each of the mutual companies at separate special
18 meetings or at any annual meetings. Notice of the time, place
19 and object of each meeting shall be given by publication once a
20 week for three consecutive weeks in at least two newspapers in
21 the county in which the principal office of the company is
22 located; additional 30 days' notice of the time, place and
23 object of the meeting shall be given by first class mail to all
24 members of each company, requesting them to vote in person or by
25 proxy on the agreement. The notice shall be mailed by the
26 company to the last known address of the members on the records
27 of the company. At each meeting the agreement of the directors
28 or trustees shall be considered, and a vote by ballot of the
29 members, in person or by proxy, shall be taken. If two-thirds of
30 the amount of the members of each company who are present at the

1 meeting in person or by proxy vote in favor of the agreement of
2 merger or consolidation, then the result shall be certified by
3 the secretary of each company under the corporate seal. The
4 certificate and a copy of the agreement shall be filed with the
5 department. The department shall examine the proceedings. If the
6 department finds that the proceedings were in accordance with
7 law and not injurious to the interests of the policyholders and
8 creditors, it shall endorse its approval and immediately forward
9 the certificates and agreement to the Governor for his approval.
10 Upon approval by the Governor, the agreement shall be deemed to
11 be the act of merger or consolidation of the surviving or new
12 company.

13 (d) Filing, approval and recording of documents.--The
14 Governor, upon the approval of the certificates and agreement,
15 shall issue letters patent. The letters patent, the certificates
16 and a copy of the agreement shall be filed and recorded in the
17 Department of State. A certified copy of the certificates and
18 agreement so filed in the Department of State shall be evidence
19 of the lawful holding and action of the meetings and of the
20 merger or consolidation of the companies. Upon the issuance of
21 the letters patent by the Governor, the entire proceeding shall
22 also be recorded in the office of the recorder of deeds of the
23 proper county. When so recorded, the merger or consolidation
24 shall be deemed to have taken place with the companies to be one
25 company under the name adopted under the agreement, possessing
26 all the rights, privileges and franchises vested in each of
27 them. All the real and personal property and rights of action of
28 each company shall be deemed transferred to the surviving or new
29 company without any further act or deed.

30 (e) Rights of creditors and lienholders.--All rights of

1 creditors and all liens upon the property of each company shall
2 continue unimpaired, limited in lien to the property affected by
3 the liens at the time of their creation. The respective
4 constituent companies may be deemed to be in existence to
5 preserve those liens. All debts not of record, duties and
6 liabilities of each of the constituent companies shall attach to
7 the surviving or new company and may be enforced against it to
8 the same extent, and by the same process, as if the debts,
9 duties and liabilities had been contracted by it.

10 § 3563. Dissenters' rights upon merger or consolidation.

11 (a) Petition to appraise damages.--Any stockholder or member
12 of any insurance company who objects to the merger or
13 consolidation and who voted against it at the appropriate
14 meeting may, within 30 days after the adoption of the agreement
15 and upon reasonable notice to the company, petition the court of
16 the county in which the chief office of the company is located
17 to appoint three disinterested persons to appraise the damages
18 caused him by the merger or consolidation. Upon the petition,
19 the court shall make the appointment, and the award of the
20 persons so appointed, or of a majority of them, when confirmed
21 by the court, shall be final and conclusive.

22 (b) Appraisal of shares or interest.--The persons so
23 appointed shall also appraise the shares of the stockholder or
24 the interest of the member in the company at full market value
25 without regard to any appreciation or depreciation in
26 consequence of the merger or consolidation. This appraisal, when
27 confirmed by the court, shall be final and conclusive.

28 (c) Election of company.--The company may pay to the
29 stockholder or member either the amount of damages awarded or
30 the value of the stock or interest ascertained. Upon the payment

1 of the value of the stock, the stockholder shall transfer the
2 stock held by him to the company, to be disposed of by the
3 directors or to be retained for the benefit of the other
4 stockholders. Upon the payment of the value of any interest of
5 any member, the interest of the member in the company shall
6 cease. In case the value of the stock or interest is not paid
7 within 30 days after the award is confirmed by the court, the
8 damages found and confirmed shall be a judgment against the
9 company.

10 § 3564. Merger of domestic and foreign insurance companies.

11 (a) Authority to merge.--Any domestic life, fire or marine
12 insurance company or casualty or surety company authorized to do
13 business under this title may merge or consolidate, as provided
14 in this section, with a company organized under the laws of
15 another state if the merger or consolidation is authorized by
16 the laws or approved by the insurance supervising officials of
17 the state in which the foreign company is incorporated.

18 (b) Domestic company.--A domestic company shall comply with
19 all the requirements of this chapter with respect to the merger
20 or consolidation of two or more domestic companies.

21 (c) Foreign company.--The foreign company shall comply with
22 all of the requirements of the law or of the supervising
23 insurance officials of the state under which it is incorporated
24 with respect to such a merger or consolidation. The agreement
25 shall first be submitted for approval by the department.

26 (d) Domicile of surviving company.--The domicile of the
27 surviving or new company shall be located in this Commonwealth,
28 unless the department consents, in writing endorsed on the
29 merger or consolidation agreement, that the merged or
30 consolidated company may be domiciled in some other state.

1 (e) Foreign surviving company.--A merged or consolidated
2 company, domiciling in another state, shall not have any
3 authority to transact business in this Commonwealth unless the
4 company complies with the law of this Commonwealth with respect
5 to its admission to transact business here.

6 (f) (Reserved).

7 (g) Substituted certificates.--If the merger or
8 consolidation involves a stock company, the surviving or new
9 company may require the return of the original certificates of
10 stock held by each stockholder in each of the companies to be
11 merged or consolidated and issue new certificates for the number
12 of shares of its own stock that the stockholders may be entitled
13 to receive.

14 (h) Effect of a merger or consolidation.--Upon a merger or
15 consolidation, all the rights, franchises and interests of the
16 companies so merging or consolidating in any property belonging
17 to them shall be deemed to be transferred to and vested in the
18 surviving or new company without any other deed or transfer. The
19 surviving or new company shall succeed to all the obligations
20 and liabilities of the old companies and shall be held liable to
21 pay and discharge all debts and liabilities in the same manner
22 as if they had been incurred or contracted by it. The
23 stockholders or members of the old companies shall continue,
24 subject to all the liabilities, claims and demands existing
25 against them at or before the merger or consolidation. An action
26 or proceeding pending at the time of merger or consolidation, in
27 which any or all of the old companies may be a party, shall not
28 abate or discontinue by reason of the merger or consolidation;
29 any such action or proceeding may be prosecuted to final
30 judgment in the same manner as if the merger or consolidation

1 had not taken place, or the surviving or new company may be
2 substituted in place of any company so merged or consolidated by
3 order of the court in which the action or proceeding is pending.
4 § 3565. Protection of competition.

5 (a) Holding capital stock of other companies.--Any domestic
6 insurance company may retain or acquire the whole or any part of
7 the capital stock of any other insurance company; however, no
8 insurance company shall, by reason of this retention or
9 acquisition of capital stock, conduct its business in a manner
10 which substantially lessens competition or tends to create a
11 monopoly. Any retention or acquisition shall comply with the
12 provisions of this title relating to the investment of the funds
13 of domestic insurance companies.

14 (b) Interlocking directorates.--Any person otherwise
15 qualified may be a director of two or more insurance companies
16 when this interlocking directorate is not used as a means of
17 substantially lessening competition or tending to create a
18 monopoly.

19 (c) Enforcement proceedings.--Whenever the department has
20 reason to believe that there is a violation of subsection (a) or
21 (b), it shall serve upon the insurance company, or the director
22 concerned, a complaint setting forth the facts alleged to
23 constitute the violation. With the complaint, there shall be
24 notice in writing of a time and place of a hearing before the
25 department. The hearing shall not be held less than 30 days
26 after the service of the complaint. The complaint shall require
27 the insurance company or director to show cause why an order
28 should not be made by the department directing the insurance
29 company or director to cease and desist from the violation. The
30 hearing shall be conducted, and the decision of the department

1 on the issue involved shall be rendered, in accordance with the
2 provisions of 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
3 procedure of Commonwealth agencies).

4 (d) Order.--If, after the hearing, the department finds that
5 there has been such a violation, it shall issue and serve upon
6 the insurance company or director an order reciting the facts
7 found by it, setting forth the violation, directing the
8 insurance company or director to cease and desist from the
9 violation.

10 (e) Divestiture.--This section does not authorize any order,
11 judgment or decree directing any domestic insurance company to
12 divest itself of the capital stock of another insurance company.
13 § 3566. Merger by acquisition of stock.

14 (a) General rule.--Any business or insurance corporation
15 seeking to acquire, in exchange for shares of its capital stock,
16 other securities, cash or other consideration, all of the shares
17 of the capital stock of any insurance company organized under
18 the law of this Commonwealth, may elect to acquire those shares
19 as provided in this section.

20 (b) Acquiring corporation not 90% owner.--If the acquiring
21 corporation does not own, directly or indirectly, at least 90%
22 of the aggregate issued and outstanding shares of all classes of
23 voting stock of the company to be acquired, the boards of
24 directors, trustees or other governing bodies of the acquiring
25 corporation and the corporation to be acquired shall by
26 resolution approve a proposed exchange offer. The proposed offer
27 shall specify the stock or classes of stock to be acquired, the
28 terms and conditions of the offer, the method of acceptance and
29 the procedure to be followed to effect the exchange. It may fix
30 or provide for the fixing of record dates for the determination

1 of stockholders to whom offers, notices and other communications
2 shall be mailed, and it may provide for the determination of
3 stockholders who shall be entitled to exercise rights under this
4 subchapter.

5 (c) Acquiring corporation 90% owner.--Where the acquiring
6 corporation owns, directly or indirectly, 90% of the aggregate
7 issued and outstanding shares of all classes of voting stock of
8 the acquired corporation, the board of directors, trustees or
9 other governing body of the acquiring corporation may, by
10 resolution, adopt a plan for the acquisition of minority
11 interests in the corporation to be acquired. The plan shall set
12 forth:

13 (1) The name of the corporation to be acquired.

14 (2) The total number of issued and outstanding shares of
15 each class of voting stock of the corporation to be acquired,
16 the number of its shares owned by the acquiring corporation
17 and, if either of the foregoing is subject to change prior to
18 the effective date of acquisition, the manner in which any
19 change may occur.

20 (3) The terms and conditions of the plan, including the
21 manner and basis of exchanging the shares to be acquired, the
22 proposed effective date of acquisition and a statement
23 clearly describing the rights of dissenting stockholders to
24 demand appraisal.

25 (4) If the acquiring corporation is neither a domestic
26 corporation nor an insurer authorized to do business in this
27 Commonwealth, its agreement to be bound by subsection (j) and
28 section 3567 (relating to dissenters' rights upon merger by
29 acquisition of stock) with respect to the plan and its
30 consent to the enforcement against it in this Commonwealth of

1 the rights of stockholders pursuant to the plan.

2 (5) Such other provisions with respect to the plan as
3 the board of directors, trustees or other governing body
4 believes necessary or desirable or as the department
5 prescribes.

6 (d) Submission of proposal.--The acquiring corporation shall
7 submit the terms and conditions of the proposed offer or plan to
8 the department for its approval. The department shall hold a
9 hearing upon at least ten days' notice to all stockholders of
10 the corporation to be acquired any of whom may appear. After the
11 hearing, the department shall either approve or disapprove the
12 terms and conditions. If the terms and conditions are approved
13 by the department, the acquiring corporation shall submit by
14 mail a written offer or plan of acquisition to the stockholders
15 of the corporation to be acquired, addressed to each stockholder
16 at his address of record.

17 (e) Corporate acceptance.--If prior to the termination date
18 of an exchange offer under subsection (b) or any extension
19 thereof, which shall be no later than 120 days after the date of
20 the initial mailing of the offer, the offer is accepted by the
21 holders of not less than the percentage of the outstanding
22 shares of capital stock specified in the terms and conditions of
23 the proposed offer, which shall be at least 80% of the total
24 combined voting power of all classes of stock entitled to vote
25 and 80% of the total number of shares of all other classes of
26 stock, the acquiring corporation shall, within 150 days after
27 the date of the initial mailing, notify the corporation to be
28 acquired of the acceptance and furnish to the acquired
29 corporation a list of all stockholders who accepted the offer
30 and of the numbers and classes of shares covered by their

1 respective acceptances. Thereupon, the acquiring corporation
2 shall automatically become the holder of all shares of all
3 classes of capital stock of the corporation to be acquired
4 included in the list, except to the extent that it has notified
5 the corporation to be acquired that shares are to be issued to
6 specified persons in order to qualify them or to maintain their
7 qualification as directors of the corporation to be acquired.
8 Certificates representing all outstanding shares of capital
9 stock of the corporation to be acquired included in this list
10 shall immediately be issued to the acquiring corporation and
11 those persons it has specified. The formerly outstanding
12 certificates shall represent only the right to receive shares of
13 capital stock or other securities of the acquiring corporation,
14 cash, other consideration or a combination thereof as specified
15 in the offer.

16 (f) Notice of dissenters' rights.--Within 30 days after the
17 notification from the acquiring corporation, the corporation to
18 be acquired shall notify by mail each of its stockholders who
19 has not accepted the offer that, subject to subsections (g) and
20 (j) and section 3567, a copy of which shall be included with the
21 notice, the stockholder may receive payment in cash of the full
22 market value of his shares and may not vote, receive dividends
23 or other distributions or exercise any rights with respect to
24 these shares other than those set forth in subsections (g) and
25 (j) and section 3567.

26 (g) Deemed stockholder acceptances.--A stockholder who does
27 not otherwise accept an exchange offer described under
28 subsection (b) shall be deemed to have accepted it if, following
29 the mailing of the notice under subsection (f), any of the
30 following conditions occur:

1 (1) He fails to make written demand as provided in
2 section 3567(a).

3 (2) He fails to surrender his certificate for notation
4 as provided in section 3567(b) unless the corporation to be
5 acquired waives this failure or relief from the failure is
6 granted by the court of the county in which the chief office
7 of the corporation to be acquired is located.

8 (3) The full market value of his shares not having been
9 agreed upon as provided in section 3567(c), he fails to
10 comply with the provisions thereof with respect to the filing
11 of a petition for the appointment of appraisers and the
12 corporation to be acquired does not waive this failure.

13 The acquiring corporation shall automatically become the holder
14 of all shares of all classes of capital stock of the corporation
15 to be acquired held by any stockholder who is deemed to have
16 accepted the exchange offer under this subsection.

17 (h) Certification to department.--On or before the date of
18 acquisition proposed in a plan adopted pursuant to subsection
19 (c), the acquiring corporation shall file with the department a
20 certificate stating that it has submitted the written offer or
21 plan of acquisition to the stockholders of the corporation to be
22 acquired, as required by subsection (d). This certificate shall
23 be executed by the president of the acquiring corporation and
24 attested by its secretary or other corresponding executive
25 officers.

26 (i) Ownership of acquired shares.--Upon compliance with this
27 subsection and with subsections (a), (c), (d) and (j) and
28 section 3567, ownership of the shares to be acquired pursuant to
29 the plan shall vest in the acquiring corporation on the date of
30 acquisition proposed in the plan whether or not the certificates

1 for the shares have been surrendered for exchange. The acquiring
2 corporation may have new certificates registered in its name,
3 except to the extent it has notified the acquired corporation
4 that shares are to be issued to specified persons in order to
5 qualify them or to maintain their qualification as directors of
6 the acquired corporation. Stockholders whose shares have been so
7 acquired shall retain only the right to receive the
8 consideration to be paid in exchange for their shares pursuant
9 to the plan or to demand appraisal pursuant to section 3567.

10 (j) Distribution of stock shares and consideration.--If the
11 acquiring corporation has notified the acquired corporation of
12 the acceptance of an exchange offer made under subsection (b) or
13 if a plan has been adopted pursuant to subsection (c), on or
14 after the date of acquisition proposed in the plan, the
15 acquiring corporation shall issue, in the name of each
16 stockholder who has accepted the offer or who has not made
17 timely demand for appraisal, certificates for the shares of its
18 capital stock or other securities as provided in the exchange
19 offer or plan, or shall set aside the cash or other
20 consideration to which he is entitled. The certificates, cash or
21 other consideration shall be delivered to the stockholder if he
22 has surrendered the certificates for his shares of the acquired
23 corporation for exchange and shall otherwise be held in trust
24 for delivery to the stockholder upon surrender of the
25 certificates.

26 § 3567. Dissenters' rights upon merger by acquisition of stock.

27 (a) Written demand for redemption.--A stockholder of the
28 acquired corporation who wishes to be paid the full market value
29 of his shares shall make written demand for this payment upon
30 the corporation to be acquired in the case of an exchange offer

1 made pursuant to section 3566(b) (relating to merger by
2 acquisition of stock) within 30 days after the mailing of the
3 notice by the corporation to be acquired, or in the case of a
4 plan adopted pursuant to section 3566(c) within 30 days after
5 the mailing of the plan of acquisition by the acquiring
6 corporation pursuant to section 3566(d). A stockholder may
7 demand payment as to all or less than all of those shares
8 registered in his name of which he is not the beneficial owner,
9 but demand may not be made with respect to some but less than
10 all shares of the same class owned by any given beneficial owner
11 of shares, whether or not the shares so owned by him are
12 registered in his name.

13 (b) Notation on share certificates.--Within 20 days after
14 demanding payment for his shares, each stockholder demanding
15 payment shall submit the certificate representing his share to
16 the corporation to be acquired for notation that a demand has
17 been made. If a share represented by a certificate on which
18 notation has been so made is transferred, each new certificate
19 issued for the share shall bear a similar notation, together
20 with the name of the original holder of the share who demanded
21 payment. The transferee of the share shall acquire by the
22 transfer no rights other than those which the stockholder who
23 demanded payment had after making demand for payment of the full
24 market value.

25 (c) Appraisal procedure.--Any stockholder of the acquired
26 corporation who has not accepted the exchange offer and is not
27 deemed to have accepted it or who has made timely demand for
28 appraisal under subsection (a) may receive payment for his
29 shares of capital stock of the acquired corporation as provided
30 in this subsection. If, within 40 days after making demand under

1 subsection (a), the stockholder and the acquired corporation
2 have not agreed as to the full market value of the shares, the
3 stockholder may, within 60 days after making the demand,
4 petition the court of the county in which the chief office of
5 the acquired corporation is located to appoint three
6 disinterested persons to appraise the shares of the stockholder
7 at the full market value. The appraisal shall be made as of the
8 day prior to the day on which the exchange offer or plan of
9 acquisition was mailed, without regard to any appreciation or
10 depreciation in consequence of the exchange offer or plan of
11 acquisition. The appraisal, when confirmed by the court, shall
12 be final and conclusive. The full market value of the shares as
13 agreed upon or as so determined shall be paid by the acquired
14 corporation to the stockholder upon surrender to the acquired
15 corporation of his certificates for the shares. The acquired
16 corporation may retain, cancel, dispose of or take other action
17 with respect to the shares. However, there shall be no reduction
18 in the capital stock of the acquired corporation without
19 compliance with other applicable provisions of law, and the
20 acquired corporation may not vote these shares.

21 (d) Reimbursement of shareholder.--Any stockholder who has
22 had his shares of stock appraised and the appraisal confirmed
23 shall be reimbursed by the acquiring corporation, in an amount
24 not in excess of \$10,000, for his reasonable expenses, including
25 attorney fees, in obtaining the appraisal, if the amount of the
26 appraisal exceeds by 10% the value of the securities, cash or
27 other consideration the stockholder would have received under
28 the terms of the offer or plan. For the purpose of determining
29 if a shareholder is entitled to reimbursement for his expenses,
30 the value of the securities which the shareholder would have

1 received under the term of the offer or plan shall be deemed to
2 be their average market value on the initial mailing date of an
3 offer or on the effective date of acquisition as set forth in a
4 plan.

5 (e) Exclusive rights and remedies.--Any stockholder who
6 desires to object to or dissent from any proposed exchange
7 authorized under section 3566 shall be limited to the rights and
8 remedies provided in this section.

9 § 3568. Approval of acquisitions by department.

10 (a) Applicability of requirements.--Without first complying
11 with all applicable provisions of this section:

12 (1) A person shall not, directly or indirectly through
13 an intermediary or otherwise, acquire or offer to acquire
14 beneficial ownership of insurance stock or insurance holding
15 company stock if the acquisition, together with any past or
16 proposed acquisitions from others, would cause the person to
17 have beneficial ownership of more than 10% of the outstanding
18 insurance stock or insurance holding company stock of any
19 class of any issuer.

20 (2) A person who beneficially owns 10% or more of the
21 outstanding insurance stock or insurance holding company
22 stock of any class of any issuer shall not, directly or
23 indirectly through an intermediary or otherwise, increase or
24 attempt to increase his beneficial ownership of stock of the
25 class by acquisition of additional stock of the class.

26 (3) A person shall not, directly or indirectly through
27 an intermediary or otherwise, acquire or offer to acquire
28 beneficial ownership of insurance stock or insurance holding
29 company stock pursuant to a plan whereby he would become the
30 beneficial owner of more than 10% of the outstanding

1 insurance stock or insurance holding company stock of any
2 class of any issuer. However, in a case where it is proposed
3 to acquire or offer to acquire beneficial ownership of
4 insurance holding company stock and neither the insurance
5 holding company nor any affiliate which it controls are
6 incorporated under the law of this Commonwealth, the
7 restrictions set forth in this paragraph shall apply only if
8 those to whom an offer to acquire the insurance holding
9 company stock is to be made include one or more residents of
10 this Commonwealth.

11 (b) Filing of statement with department.--There shall be
12 filed with the department a statement, signed and verified by
13 the person proposing to make the acquisition, which shall
14 contain the information specified in this subsection and copies
15 of all material proposed to be used in connection with the offer
16 or acquisition, which shall set forth the information contained
17 in the statement filed with the department. Copies of the
18 statement and material and all amendments thereto shall
19 simultaneously also be sent by registered mail to the issuer of
20 the insurance stock or insurance holding company stock proposed
21 to be acquired. The statement filed with the department shall be
22 filed on a form prescribed by the department and shall contain
23 the following information and such additional information as the
24 department requires by regulation:

25 (1) The name and address of each person who proposes to
26 acquire or offer to acquire insurance stock or insurance
27 holding company stock.

28 (2) If the person is an individual, his principal
29 occupation during the past five years.

30 (3) If the person is not an individual, a description of

1 the business done and intended to be done by the person and
2 the person's subsidiaries and the general development of the
3 business during the past five years.

4 (4) If the person is not an individual, a list of all
5 its directors or executive officers or those who perform
6 similar functions and all persons who have been chosen to
7 hold such positions. The list shall include all positions and
8 offices held by the persons named in the particular
9 organization and their principal occupations during the past
10 five years.

11 (5) The terms and conditions of any proposed offer and
12 acquisition and the manner in which the offer and acquisition
13 are to be made.

14 (6) The source of the funds to be used in the proposed
15 acquisition and, if the funds are to be borrowed, the name of
16 the lender and a summary of the terms and conditions of the
17 loan transactions.

18 (7) The plans which the person has for the future
19 business and management of the issuer whose capital stock is
20 to be acquired and, if the issuer is an insurance holding
21 company, of any prospective subsidiary including the plans
22 with respect to total or partial liquidation, sale of assets,
23 merger or material change in business, corporate structure,
24 management or composition of the board of directors.

25 (8) The number of shares of each class of insurance
26 stock or insurance holding company stock proposed to be
27 acquired which are beneficially owned by the person proposing
28 to acquire the insurance stock or insurance holding company
29 stock or which are subject to rights of acquisition by that
30 person, the dates of any sales and purchases of the stock by

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

4 (9) Information as to any contracts or arrangements with
5 any person with respect to any securities of the insurance
6 company of insurance holding company whose capital stock is
7 to be acquired, including, but not limited to, those with
8 respect to:

9 (i) Transfer of such securities.

10 (ii) Joint ventures.

11 (iii) Loan or option arrangements.

12 (iv) Puts or calls.

13 (v) Guaranties of loans.

14 (vi) Guaranties against loss or guaranties of
15 profits.

16 (vii) Division of losses or profits.

17 (viii) The giving or withholding of proxies.

18 (ix) Names of the persons with whom these contracts
19 or arrangements have been entered into.

20 (10) Complete audited statements as to the earnings and
21 financial condition of the person for the preceding five
22 fiscal years of the person and similar unaudited information
23 as of a date not more than 90 days prior to the filing of the
24 statement with the department.

25 (c) Criteria for approval.--The department shall approve the
26 acquisition if it determines that all of the following
27 requirements are met:

28 (1) The statement and other material filed under
29 subsection (b) comply with the requirements thereof.

30 (2) The department has no reason to believe that after

1 the acquisition the insurance company whose capital stock is
2 to be acquired or the prospective subsidiary will not
3 continue to comply with the law of this Commonwealth.

4 (3) Upon completion of the acquisition, the insurance
5 company whose capital stock is to be acquired or the
6 prospective subsidiary would satisfy the requirements for the
7 issuance of a license to write any line of insurance which it
8 is presently licensed to write in this Commonwealth.

9 (4) The effect of the acquisition will not be
10 substantially to lessen competition in insurance in this
11 Commonwealth or to tend to create a monopoly.

12 (5) The financial condition of the person proposing to
13 make the acquisition is not such as might jeopardize the
14 financial stability of the insurance company whose capital
15 stock is to be acquired or the prospective subsidiary or
16 prejudice the interests of the policyholders of the insurance
17 company or, in the case of an acquisition of control other
18 than by merger or consolidation, prejudice the interests of
19 any remaining shareholders of the insurance company who are
20 unaffiliated with the person proposing to make the
21 acquisition.

22 (6) The plans or proposals which the person proposing to
23 make the acquisition has to liquidate the insurance company
24 whose capital stock is to be acquired or the prospective
25 subsidiary, to sell the assets of the insurance company, to
26 merge or consolidate it with any person or to make any other
27 material change in its business or corporate structure or
28 management, are fair and reasonable to its policyholders and
29 shareholders.

30 (7) The competence, experience and integrity of those

1 persons who control or manage the person proposing to make
2 the acquisition and of those persons who would control or
3 manage the operation of the insurance company indicate that
4 it would be in the interest of the policyholders and
5 shareholders of the insurance company and of the general
6 public to permit such acquisition to be made.

7 (8) The interests of the policyholders, shareholders and
8 general public would not otherwise be prejudiced or impaired.

9 (d) Procedure.--The department shall notify the person
10 filing the statement, the issuer whose stock is proposed to be
11 acquired and, if the issuer is an insurance holding company, the
12 prospective subsidiary of the department's approval or
13 disapproval of the proposed acquisition. If the department gives
14 notice of approval, the proposed offer and acquisition may be
15 made and consummated on the terms and conditions and in the
16 manner described in the statement, subject to any conditions
17 prescribed by the department under this subsection. An approval
18 by the department shall extend to offers or acquisitions made
19 pursuant to it within one year following the date of
20 determination. The department may, as a condition of approval,
21 require the inclusion in any offer of provisions requiring the
22 offer to remain open a specified minimum length of time,
23 permitting withdrawal of shares deposited prior to the time the
24 offeror becomes bound to consummate the acquisition and
25 requiring pro rata acceptance of any shares deposited pursuant
26 to the offer. The department shall hold a hearing before
27 approving or disapproving the proposed acquisition if, within
28 ten days following the filing with the department of the
29 statement called for by subsection (b), written request for a
30 hearing is made either by the person proposing to make the

1 acquisition, by the issuer whose stock is proposed to be
2 acquired or, if the issuer is an insurance holding company, by
3 the prospective subsidiary; otherwise, the department may hold
4 such a hearing. Sixty days' notice of the hearing shall be given
5 to the person proposing to make the acquisition to the issuer
6 whose stock is proposed to be acquired and, if the issuer is an
7 insurance holding company, to the prospective subsidiary. The
8 department may give notice of the hearing to other persons. Any
9 hearing held pursuant to this section shall be governed by 2
10 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
11 Commonwealth agencies).

12 (e) Regulations.--The department may promulgate regulations
13 with respect to solicitations and recommendations for the
14 acceptance of offers made pursuant to this section.

15 (f) Prohibitions.--A person who acquires or offers to
16 acquire insurance stock or insurance holding company stock
17 pursuant to this section shall not make in connection therewith
18 any false, deceptive or misleading statement, or omit to state
19 any material fact necessary in order to make the statements made
20 not misleading, or engage in any act or practice which is
21 fraudulent, deceptive or manipulative or violate the regulations
22 made under subsection (e).

23 (g) Remedy for violations.--If any person acquires or offers
24 to acquire insurance stock or insurance holding company stock in
25 violation of this section, the issuer of the stock so acquired
26 or proposed to be acquired, any stockholder of the issuer and,
27 if the issuer is an insurance holding company, the prospective
28 subsidiary or any of its stockholders or the department may
29 petition the court for a decree enjoining the acquisition or
30 offer and for further relief.

1 (h) Criminal penalties.--Any person who knowingly makes or
2 causes to be made any false statement in any statement or other
3 document filed with the department under this section or who
4 violates subsection (a), (b), (c) or (f) commits a misdemeanor
5 of the first degree. However, a broker or dealer whose
6 participation in an offer or acquisition is limited to the
7 performance of the customary broker's function in transactions
8 effected on a stock exchange or in the over-the-counter market,
9 who receives no more than the customary broker's commission, who
10 does not solicit or arrange for the solicitation of orders to
11 sell shares of capital stock of the corporation whose shares are
12 being purchased and who is without knowledge that his principal
13 has solicited or arranged to solicit any such orders shall not
14 be deemed guilty of any violation of this section. This
15 exemption of the broker or dealer does not exempt his principal.

16 (i) Exemptions.--This section does not apply to any of the
17 following acquisitions of or offers to acquire insurance stock
18 or insurance holding company stock:

19 (1) Any acquisition or offer by the issuer of such stock
20 or by a person who at the time owns beneficially at least
21 two-thirds of the shares of each class proposed to be
22 acquired.

23 (2) Any acquisition or offer to acquire insurance stock
24 pursuant to section 3566 (relating to merger by acquisition
25 of stock).

26 (3) Any offer or acquisition which the department by
27 order exempts from this section as:

28 (i) not entered into for the purpose of, and not
29 having the effect of, changing or influencing the control
30 of an insurance company organized under the laws of this

1 Commonwealth or an insurance holding company; and
2 (ii) not requiring the procedures described in this
3 section for the protection of stockholders whose shares
4 are to be acquired.

5 However, prior to the issuance of such an order, notice that
6 it is considering the exemption shall be given by the
7 department to the person proposing to make the offer or
8 acquisition, to the issuer whose stock is proposed to be
9 acquired and, if the issuer is an insurance holding company,
10 to the prospective subsidiary. The department shall hold a
11 hearing for the purpose of determining whether an exemption
12 order should be granted if, within ten days of the mailing of
13 the notice that it is considering the exemption, written
14 request for a hearing is made to the department by the issuer
15 whose stock is proposed to be acquired or, if the issuer is
16 an insurance holding company, by the prospective subsidiary.

17 (j) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection:

20 "Associate of a person."

21 (1) Any corporation or other organization of which the
22 person is an officer, director or partner, or of which the
23 person is, directly or indirectly, the beneficial owner of
24 10% or more of any class of its capital stock.

25 (2) Any person who is, directly or indirectly, the
26 beneficial owner of 10% or more of any class of capital stock
27 of such person.

28 (3) Any trust or other estate in which the person serves
29 as trustee or in a similar fiduciary capacity.

30 (4) Any relative or spouse of the person or any relative

1 of the spouse who has the same home as the person.

2 "Beneficial ownership." Includes the beneficial ownership of
3 capital stock by a person and of each associate of that person
4 and shares of capital stock as to which that person or any
5 associate of that person has the right of acquisition. A person
6 who has beneficial ownership of convertible securities shall
7 also be deemed to be the beneficial owner of any shares of
8 capital stock into which the securities are convertible.

9 "Insurance holding company." Any corporation which owns
10 beneficially 66 2/3% or more of any class of the outstanding
11 capital stock of any insurance company organized under the law
12 of this Commonwealth.

13 "Insurance holding company stock." Any capital stock of an
14 insurance holding company.

15 "Insurance stock." Any capital stock of any insurance
16 company organized under the law of this Commonwealth.

17 "Offer to acquire." Any attempt or offer to acquire, or
18 solicitation of an offer to dispose of, insurance stock or
19 insurance company stock, or any interest therein for value.

20 "Outstanding." With respect to capital stock of an issuer,
21 means that the capital stock is not beneficially owned by the
22 issuer or by any wholly owned subsidiary of the issuer.

23 "Person." Includes any trust or any group or combination of
24 persons which, directly or indirectly, through any intermediary
25 or otherwise:

26 (1) acts together or in concert for the purpose of
27 acquiring insurance stock or insurance holding company stock;

28 or

29 (2) has the purpose of exercising together or in concert
30 voting rights attaching to such stock.

1 "Prospective subsidiary." An insurance company 66 2/3% or
2 more of whose outstanding capital stock of any class is
3 beneficially owned by an insurance holding company whose capital
4 stock is to be acquired pursuant to an offer or acquisition
5 described in subsection (a).

6 § 3569. Holding company systems.

7 (a) Registration.--Every authorized insurer which is a
8 member of an insurance holding company system shall register
9 with the department, except a foreign insurer domiciled in a
10 jurisdiction which has in force by law disclosure requirements
11 and standards substantially similar to those contained in this
12 section or an alien insurer whose state of original entry has
13 such requirements and standards. Any insurer subject to
14 registration under this section shall register within 15 days
15 after it becomes subject to registration, unless the department
16 extends the time for registration. The department may require
17 any authorized insurer which is a member of an insurance holding
18 company system and is not subject to registration under this
19 section to submit to the department a copy of the registration
20 statement or other information filed by the insurer with the
21 insurance regulatory authority of its state of domicile.

22 (b) Information and form required.--Every insurer subject to
23 registration shall file a registration statement on a form
24 prescribed by the department. The form shall contain current
25 information about:

26 (1) The capital structure, general financial condition,
27 ownership and management of the insurer and any person
28 controlling the insurer.

29 (2) The identity of every member of the insurance
30 holding company system.

1 (3) The following current agreements, relationships and
2 transactions between the insurer and its affiliates:

3 (i) Loans, other investments, or purchases, sales or
4 exchanges of securities of the affiliates by the insurer
5 of the insurer by its affiliates.

6 (ii) Purchases, sales or exchanges of assets.

7 (iii) Transactions not in the ordinary course of
8 business.

9 (iv) Guarantees or undertakings for the benefit of
10 an affiliate which result in an actual contingent
11 exposure of the insurer's assets to liability, other than
12 insurance contracts entered into in the ordinary course
13 of the insurer's business.

14 (v) Management and service contracts and cost-
15 sharing arrangements, other than cost allocation
16 arrangements based upon generally accepted accounting
17 principles.

18 (vi) Reinsurance agreements covering all or
19 substantially all of one or more lines of insurance of
20 the ceding company.

21 (4) Other material matters concerning transactions
22 between registered insurers and any affiliates as required by
23 the department.

24 Information need not be disclosed on the registration statement
25 filed pursuant to this subsection if the information is not
26 material for the purposes of this section. Unless the department
27 by regulation provides otherwise, sales, purchases, exchanges,
28 loans or extensions of credit, or investments involving 0.5% or
29 less of an insurer's admitted assets as of the preceding
30 December 31 shall not be deemed material for purposes of this

1 section.

2 (c) Amendments to registration statement.--Each registered
3 insurer shall report all material changes in the information
4 required to be disclosed in its registration statement within 15
5 days after the end of the month in which it learns of the change
6 on amendment forms prescribed by the department. However, each
7 registered insurer shall report all extraordinary dividends and
8 other extraordinary distributions to shareholders promptly to
9 the department upon the declaration thereof under subsection
10 (i).

11 (d) Termination of registration.--The department shall
12 terminate the registration of any insurer which demonstrates
13 that it no longer is a member of an insurance holding company
14 system.

15 (e) Consolidated filing.--The department may allow two or
16 more affiliated insurers to file a consolidated registration
17 statement or consolidated reports amending their consolidated
18 registration statement or their individual registration
19 statements.

20 (f) Alternative registration.--The department may allow any
21 insurer which is part of an insurance holding company system to
22 register on behalf of any affiliated insurer which is required
23 to register under subsection (a) and to file all information and
24 material required to be filed under this section.

25 (g) Transactions with affiliates.--Material transactions by
26 registered insurers with their affiliates are subject to the
27 following requirements:

28 (1) The terms shall be fair and reasonable.

29 (2) The books, accounts and records of each party shall
30 be so maintained as to disclose clearly and accurately the

1 precise nature and details of the transactions.

2 (3) The insurer's surplus as regards policyholders
3 following any such transaction, including the payment of
4 dividends or distributions to shareholder affiliates, shall
5 be reasonable in relation to the insurer's outstanding
6 liabilities and adequate to its financial needs.

7 (h) Adequacy of surplus.--In determining whether subsection
8 (g)(3) is complied with, the department shall consider all
9 relevant factors, including, but not limited, to the following:

10 (1) The size of the insurer as measured by its assets,
11 capital and surplus, reserves, premium writings, insurance in
12 force and other appropriate criteria.

13 (2) The extent to which the insurer's business is
14 diversified among the several lines of insurance.

15 (3) The number and size of risks insured in each line of
16 business.

17 (4) The extent of the geographical dispersion of the
18 insurer's risks.

19 (5) The nature and extent of the insurer's reinsurance
20 program.

21 (6) The quality, diversification and liquidity of the
22 insurer's investment portfolio.

23 (7) The recent past and projected future trend in the
24 size of the insurer's surplus as regards policyholders.

25 (8) The surplus as regards policyholders maintained by
26 other comparable insurers.

27 (9) The adequacy of the insurer's reserves.

28 (10) The quality and liquidity of investments in
29 affiliated persons. The department may treat any such
30 investment as a disallowed asset for purposes of determining

1 the adequacy of surplus as regards policyholders whenever in
2 its judgment the investment so warrants.

3 (i) Dividends and other distributions.--An insurer required
4 to register under subsection (a) shall not pay any extraordinary
5 dividend to its stockholders until:

6 (1) the department has received 30 days' written notice
7 from the insurer of the declaration thereof and has not
8 within the period disapproved the payment; or

9 (2) the department has approved the payment within the
10 30-day period.

11 (j) Examinations.--The department may order any insurer
12 registered under subsection (a) to produce any records, books or
13 papers in the possession of the insurer or its affiliates
14 necessary to ascertain the financial condition or legality of
15 conduct of the insurer. These books, records, papers and
16 information shall be examined in the manner prescribed in
17 sections 511 (relating to examination of companies) and 512
18 (relating to powers with regard to examinations). The department
19 may retain at the registered insurer's expense any attorneys,
20 actuaries, accountants and other experts not otherwise a part of
21 the department's staff reasonably necessary to assist in the
22 conduct of this examination. Any persons so retained shall be
23 under the direction and control of the department and shall only
24 act in an advisory capacity. Each registered insurer producing
25 for examination records, books and papers shall be liable for
26 and shall pay the expense of the examination in accordance with
27 section 512.

28 (k) Confidential treatment.--All information reported
29 pursuant to subsections (a) through (f) and all information and
30 documents obtained by or disclosed to the department or any

1 other person in the course of an examination made pursuant to
2 subsection (j) shall be given confidential treatment. They shall
3 not be subject to subpoena or be made public by the department
4 or any other person without the prior written consent of the
5 insurer. However, if the department, after giving the insurer
6 and its affiliates notice and an opportunity to be heard,
7 determines that the interests of policyholders, shareholders or
8 the public will be served by the publication thereof, it may
9 publish all or any part in any manner it deems appropriate.

10 (k.1) Regulations and orders.--The department may issue such
11 regulations and orders as shall be necessary to carry out this
12 section.

13 (l) Injunctions.--Whenever it appears to the department that
14 any person has committed or is about to commit a violation of
15 this section or any regulation or order issued by the department
16 pursuant thereto, the department may petition the Commonwealth
17 Court to enjoin the person from continuing the violation and to
18 obtain other equitable relief.

19 (m) Penalties.--Upon satisfactory evidence of a violation by
20 any person of this section or of any regulation or order of the
21 department pursuant thereto, the department may, following a
22 hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to
23 practice and procedure of Commonwealth agencies), impose a
24 penalty of not more than \$25,000 for each violation. In
25 addition, if the offending person is an insurer, the department
26 may, following the hearing, suspend or revoke its license or
27 refuse, for a period not to exceed one year, to issue it a new
28 license. In determining the nature and amount of any penalty,
29 consideration shall be given to whether or not the violation was
30 willful.

1 (n) Definitions.--As used in this section the following
2 words and phrases shall have the meanings given to them in this
3 subsection:

4 "Affiliate." A person who directly, or indirectly through
5 one or more intermediaries, controls, or is controlled by, or is
6 under common control with, a specified person.

7 "Control." The possession, direct or indirect, of the power
8 to direct the management and policies of a person, whether
9 through the ownership of voting securities, by contract or
10 otherwise, unless the power is the result of an official
11 position with or corporate office held by the person. Control is
12 presumed to exist if any person, directly or indirectly, owns,
13 controls, holds with the power to vote or holds proxies
14 representing 10% or more of the voting securities of any other
15 person. This presumption may be rebutted by a showing that
16 control does not exist in fact. The department may, after
17 furnishing all persons in interest notice and an opportunity to
18 be heard, determine that control exists in fact, notwithstanding
19 the absence of a presumption to that effect.

20 "Extraordinary dividend." Any dividend or other distribution
21 which, together with other dividends and distributions made
22 within the preceding 12 months, exceeds the greater of:

23 (i) ten percent of the insurer's surplus as regards
24 policyholders as shown on its last annual statement on file
25 with the department; or

26 (ii) the net gain from operations of the insurer, if the
27 insurer is a life insurer, or the net investment income, if
28 the insurer is not a life insurer, for the period covered by
29 the statement, not including pro rata distributions of any
30 class of the insurer's own securities.

1 "Insurance company" or "insurer." Any entity authorized by
2 the department to transact the business of insurance in this
3 Commonwealth, not including any instrumentality of the Federal
4 Government or a state or political subdivision of a state.

5 "Insurance holding company system." Two or more affiliated
6 persons, one or more of which is an insurance company.

7 "Subsidiary." An affiliate controlled by a specified person
8 directly, or indirectly through one or more intermediaries.

9 § 3570. Voluntary dissolution.

10 A stock or mutual insurance company may file with the court
11 of common pleas in the county in which the principal business of
12 the company is conducted or of the county in which its principal
13 office of place of business is located a petition in equity
14 praying for the dissolution of the company. The petition may be
15 granted only if it is filed with the consent of a majority of
16 the members or stockholders obtained at a meeting duly convened.
17 A copy of the petition shall be filed with the department. If
18 the court is satisfied that the petition may be granted without
19 prejudice to the public welfare or to the interests of the
20 members or stockholders, the court shall grant the petition,
21 whereupon the company shall be dissolved. The accounts of the
22 officers, directors or trustees of any dissolved company shall
23 be settled and approved by the court. Dividends of the assets
24 shall, in the case of stock insurance companies, be made among
25 the stockholders or, in the case of mutual life insurance
26 companies, among the members, as in the case of the accounts of
27 assignees and trustees; however, assets of mutual life insurance
28 companies derived from a health and accident business, other
29 than those properly credited to the members or policyholders on
30 policies covering the business, and the assets of other mutual

1 companies, not creditable to policyholders and members, shall be
2 escheated to the Commonwealth. The decree of the court shall not
3 go into effect until the Auditor General, State Treasurer and
4 Attorney General have filed in court their certificate showing
5 that all taxes due the Commonwealth have been paid and a
6 certified copy of the decree has been filed and recorded in the
7 office of the Secretary of the Commonwealth.

8 § 3571. Dissolution for failure to do business.

9 If any stock or mutual insurance company does not commence to
10 issue policies within one year from the date of its letters
11 patent, or if any insurance company ceases for one year to write
12 new insurance policies, its corporate powers and existence shall
13 cease. The court, upon petition of the Attorney General, may fix
14 by decree the time within which it shall settle and close its
15 affairs.

16 SUBCHAPTER E

17 FOREIGN OR ALIEN COMPANIES

18 Sec.

19 3576. Government-owned companies.

20 3577. Conditions for authorization of foreign or alien
21 companies.

22 3578. Power of foreign or alien insurance companies as to
23 real property.

24 § 3576. Government-owned companies.

25 (a) Prohibition.--A domestic, foreign or alien insurance
26 entity, in which the major financial interest is held, directly
27 or indirectly, by another state or by a foreign government or by
28 any political subdivision, instrumentality or agency of either,
29 shall not be admitted and authorized to do business. A
30 certificate of authority to transact any kind of insurance

1 business in this Commonwealth shall not be issued, renewed or
2 continued in effect for any such insurance entity.

3 (b) Applicability.--This section does not apply to any
4 insurance entity which was so owned, controlled or constituted
5 prior to January 1, 1958, and was authorized to do business in
6 this Commonwealth and was issued a certificate of authority to
7 do so prior to January 1, 1958.

8 § 3577. Conditions for authorization of foreign or alien
9 companies.

10 A foreign or alien stock or mutual insurance company or
11 association shall not be admitted and authorized to do business
12 until it has complied with the following requirements:

13 (1) It has filed with the department:

14 (i) A certified copy of its charter or deed of
15 settlement.

16 (ii) A statement of its financial condition and
17 business, signed and sworn to by its proper officers.

18 (iii) Copies of forms of all policies it proposes to
19 issue in this Commonwealth.

20 (iv) Any other information the department requires.

21 (2) It has satisfied the department that it is fully and
22 legally organized under the laws of its state or government
23 to do the business it proposes to transact and if a stock
24 company has the requisite amount of capital fully paid up and
25 unimpaired.

26 (3) It has filed in the office of the Auditor General a
27 statement showing:

28 (i) The name of the company or association.

29 (ii) The date of incorporation or organization.

30 (iii) The statute or authority under which

1 incorporated or organized.

2 (iv) The place of business.

3 (v) The post office address and names of the
4 president, secretary and treasurer.

5 (vi) The amount of capital authorized by its
6 charter.

7 (vii) The amount of capital paid into the treasury
8 of the company.

9 Any company or association which neglects or refuses to file
10 this statement shall be subject to a penalty of \$500, which
11 shall be collected, on an account settled by the Auditor
12 General and State Treasurer, in the same manner as taxes on
13 stock are settled and collected.

14 (4) It has actually engaged in doing an insurance
15 business and has complied with applicable law in its state of
16 domicile for a period of at least one year immediately
17 preceding its seeking admission to this Commonwealth. The
18 requirements of this paragraph may be partly or entirely
19 waived by the department with respect to any company or
20 association which is affiliated with one or more insurers
21 already authorized in this Commonwealth.

22 § 3578. Power of foreign or alien insurance companies as to
23 real property.

24 (a) General rule.--Any foreign or alien insurance
25 corporation or company, joint stock company or association
26 authorized to transact business within this Commonwealth may,
27 subject to the same limitations for domestic insurance
28 companies:

29 (1) Acquire, hold, mortgage, lease and transfer real
30 property in this Commonwealth.

1 (2) Enter into agreements with one more other authorized
2 insurance companies, whereby the parties to the agreements
3 participate in ownership, management and control of real
4 estate held by the company, or by a corporation whose stock
5 is held by the company.

6 (3) Invest in the capital stock and obligations of
7 corporations organized for the purpose of acquiring real
8 estate in this Commonwealth.

9 (4) Exercise all rights, privileges and duties accorded
10 to and imposed upon lien creditors purchasing at judicial
11 sales.

12 (b) Taxation.--This title does not exempt real estate
13 acquired, held, mortgaged, leased or conveyed by any insurance
14 company under this section from being taxed in the same manner
15 as other real estate within this Commonwealth.

16 SUBCHAPTER F

17 VIOLATIONS AND PENALTIES

18 Sec.

19 3581. Embezzlement by officers or agents.

20 3582. Rebates and inducements.

21 3583. Misrepresentations.

22 3583.1. Immunity from liability.

23 3584. Penalties for deceptive practices.

24 3585. Unfair discrimination.

25 3586. Unauthorized business practices.

26 3587. Buying proxies.

27 3588. Unauthorized motor vehicle services.

28 3589. Fraud in obtaining licenses or certificates.

29 3590. Securities transactions.

30 § 3581. Embezzlement by officers or agents.

1 Any director, officer, agent or other person connected with
2 or doing business for or with any foreign or domestic insurance
3 entity which has complied with this title, who fraudulently
4 embezzles or appropriates to his use or the use of any other
5 person any money or other property belonging to the entity or
6 left with or held by the entity in trust, commits a theft
7 offense, which shall be graded as provided in 18 Pa.C.S. § 3903
8 (relating to grading of theft offenses). It is not necessary, in
9 order to establish a prima facie case for the Commonwealth, to
10 set forth or prove the incorporation of the company, except by
11 the verbal testimony of any competent witness.

12 § 3582. Rebates and inducements.

13 An insurance entity shall not offer or pay, directly or
14 indirectly, any rebate of the premium payable on the policy or
15 any other valuable consideration as an inducement for insurance
16 on any risk in this Commonwealth which is not specified in the
17 insurance policy or contract. This section does not prohibit the
18 taking of a bona fide obligation, with legal interest, in
19 payment of any premium or prohibit a company transacting
20 industrial life insurance on a weekly payment plan from
21 returning to policyholders who have made a premium payment for a
22 period of at least one year the percentage of premium which the
23 company would otherwise have paid for the weekly collection of
24 the premium.

25 § 3583. Misrepresentations.

26 (a) Policy terms.--An insurance entity or individual in its
27 behalf shall not issue any written or oral statement or circular
28 misrepresenting the terms of any policy issued or to be issued
29 by the entity or make an estimate, with intent to deceive, of
30 the future dividends payable under any policy.

1 (b) Inducing policyholders to change insurers.--An insurance
2 entity or individual in its behalf shall not make any
3 misrepresentation or incomplete comparison of policies to any
4 person insured by any other entity for the purpose of inducing
5 the person to terminate his present insurance and to take out a
6 policy of insurance in another entity insuring against similar
7 risks.

8 § 3583.1. Immunity from liability.

9 (a) Private persons.--In the absence of fraud or bad faith,
10 no person or his employees or agents shall be subject to civil
11 liability, and no civil cause of action shall arise against any
12 of them for any of the following:

13 (1) Information relating to any suspected fraudulent
14 insurance act furnished by them to or received from law
15 enforcement officials, their agents and employees.

16 (2) Information relating to any suspected fraudulent
17 insurance act furnished by them to or received from other
18 persons subject to the provisions of this title.

19 (3) Information furnished by them in reports to the
20 department, the National Association of Insurance
21 Commissioners or any other organization established to detect
22 and prevent fraudulent insurance acts, their agents,
23 employees or designees.

24 (b) Commissioner and department.--The commissioner and the
25 employees of the department, in the absence of fraud or bad
26 faith, shall not be subject to civil liability. No civil cause
27 of action shall arise against any of them by virtue of the
28 publication of a report or bulletin related to the official
29 activities of the department.

30 (c) Effect on present law.--Nothing in this section is

1 intended to abrogate or modify a common law or statutory
2 immunity enjoyed by any person.

3 (d) Definitions.--As used in this section, the following
4 words and phrases shall have the meanings given to them in this
5 subsection:

6 "Bad faith." Serious doubt as to the truth of the
7 information furnished or received, or the report or bulletin
8 published.

9 "Fraud." Knowledge that the information furnished or
10 received, or the report or bulletin published, is not true.

11 "Fraudulent insurance act." An act committed by a person
12 who, knowingly and with intent to defraud, presents, causes to
13 be presented, or prepares with knowledge or belief that it will
14 be presented to or by an insurer, purported insurer or broker,
15 or an agent of an insurer, purported insurer or broker, a
16 written statement as part or in support of, an application for
17 the issuance or rating of an insurance policy for commercial
18 insurance, or a claim for payment or other benefit pursuant to
19 an insurance policy for commercial or personal insurance which
20 he knows to contain materially false information concerning a
21 fact material to the statement or claim, or to conceal, for the
22 purpose of misleading, information concerning a fact material to
23 the statement or claim.

24 § 3584. Penalties for deceptive practices.

25 (a) General rule.--Upon satisfactory evidence of the
26 violation of section 3582 (relating to rebates and inducements)
27 or 3583 (relating to misrepresentations) or 18 Pa.C.S. § 3922
28 (relating to theft by deception) or 4114 (relating to securing
29 execution of documents by deception) by any insurance entity or
30 any officer, director or attorney-in-fact thereof, the

1 department may take any one or more of the following actions
2 against an offending person:

3 (1) Revoke an entity's certificate of authority.

4 (2) Refuse, for a period of not to exceed one year, to
5 issue an entity a new license.

6 (3) Impose a penalty of not more than \$1,000 for each
7 violation.

8 (b) Hearing.--The department shall give written notice to
9 the person accused of the violation, stating specifically the
10 nature of the alleged violation and fixing a time and place, at
11 least ten days thereafter, when a hearing shall be held. After
12 the hearing or upon failure of the accused to appear at the
13 hearing, the department may impose a penalty described in
14 subsection (a).

15 (c) Criminal penalties.--Any person who violates section
16 3582 or 3583 commits a summary offense.

17 (d) Testimony and production of documents.--A person shall
18 not be excused from testifying or from producing any books or
19 documents at any hearing held by the department or at the trial
20 or hearing before any court or district justice or any person or
21 company charged with violating section 3582 or 3583 or 18
22 Pa.C.S. § 3922 or 4114 on the ground that the testimony or
23 evidence may tend to incriminate himself. However, no person
24 shall be prosecuted for any act concerning which he shall be
25 compelled so to testify or produce evidence, documentary or
26 otherwise, except for perjury committed in so testifying.

27 § 3585. Unfair discrimination.

28 (a) General rule.--Unfair discrimination between individuals
29 of the same class in the amount of premiums or rates charged for
30 any policy of life, health and accident insurance and any other

1 lines and kinds of insurance not within the scope of Chapter 19
2 (relating to insurance rates), or in the benefits payable
3 thereon, or in the terms or conditions of the policy or in any
4 other manner is prohibited.

5 (b) Criminal penalty.--Any person who issues or causes to be
6 issued, either as principal or agent, any policy or contract of
7 insurance in this Commonwealth in violation of this section
8 commits a summary offense.

9 (c) Civil penalties.--Upon satisfactory evidence of the
10 violation of this section by any person, the department may take
11 any one or more of the following actions:

12 (1) Suspend or revoke the license of the offending
13 person.

14 (2) Refuse, for a period of not to exceed one year, to
15 issue a new license to the person.

16 (3) Impose a penalty of not more than \$500 for each
17 violation.

18 § 3586. Unauthorized business practices.

19 (a) Criminal penalty.--Any person who issues or causes to be
20 issued, either as principal or agent, any policy or contract of
21 insurance in this Commonwealth in violation of section 3515
22 (relating to approval of contracts by department) commits a
23 summary offense.

24 (b) Civil penalties.--Upon satisfactory evidence of the
25 violation of section 3515 by any person, the department may take
26 any one or more of the following actions:

27 (1) Suspend or revoke the license of the offending
28 person.

29 (2) Refuse, for a period of not to exceed one year, to
30 issue a new license to the person.

1 (3) Impose a fine of not more than \$1,000 for each
2 violation.

3 § 3587. Buying proxies.

4 A person shall not give or promise money or anything of value
5 to the owners or holders of capital stock of any insurance
6 company, or to the members of any mutual insurance company,
7 incorporated under the law of this Commonwealth, with intent to
8 secure the voting proxy of any share of the capital stock or of
9 any member. A proxy so obtained shall not be voted at any
10 stockholders' or members' meeting of any domestic insurance
11 company. Any person violating this section commits a misdemeanor
12 of the third degree.

13 § 3588. Unauthorized motor vehicle services.

14 (a) General rule.--A person, other than an authorized
15 insurance entity or an automobile club organized as a
16 corporation not-for-profit, shall not:

17 (1) guarantee to owners of motor vehicles the services
18 of an attorney in the event of damage to persons or property
19 arising out of the operation of the motor vehicle; or

20 (2) provide for the towing of any damaged motor vehicle.

21 (b) Violations.--Any person who violates this section
22 commits a misdemeanor of the third degree.

23 § 3589. Fraud in obtaining licenses or certificates.

24 (a) Unlawful acts.--Any person commits a summary offense if
25 he commits any of the following acts:

26 (1) Misrepresenting his, their or its qualifications to
27 the department or making false statements in applications for
28 any license or certificate.

29 (2) Impersonating or attempting or offering to
30 impersonate another person in taking or attempting or

1 offering to take any examination held in accordance with the
2 regulations of the department.

3 (3) Taking, attempting or offering or inducing another
4 person to take such an examination in the name of any other
5 person.

6 (4) Having in his possession examination papers to be
7 used in any such examination when not contained in their
8 sealed wrappers, or copies of these papers, prior to the
9 examination, unless duly authorized by the department.

10 (5) Selling or offering to sell, prior to the
11 examination, examination papers or any question prepared for
12 use in any such examination.

13 (6) Using in any such examination any question papers or
14 questions or securing or preparing the answers to the
15 questions prior to the examination.

16 (7) Transmitting to the department answers to questions
17 used in any such examination which are prepared or written
18 outside of the period of examination or altering any answer
19 after the period is closed.

20 (8) Securing or attempting to secure fraudulently any
21 credential regularly issued by the department which is based
22 upon such an examination.

23 (9) Altering licenses or certificates in a manner as to
24 misrepresent the authority granted under the license or
25 certificate.

26 (b) Civil penalties.--Upon satisfactory evidence of the
27 violation of this section by any person, the department may take
28 any of the following actions:

29 (1) Suspend or revoke the license of the offending
30 person.

1 (2) Refuse, for a period not to exceed one year, to
2 issue a new license to the person.

3 (3) Impose a fine of not more than \$1,000 for each
4 violation.

5 (c) Hearing.--Before the department takes any action under
6 subsection (b), it shall give written notice to the person
7 accused of the violation, stating specifically the nature of the
8 alleged violation, and fixing a time and place, at least ten
9 days thereafter, when a hearing of the of the matter shall be
10 held. After the hearing or upon failure of the accused to appear
11 at the hearing, the department shall impose the penalty listed
12 in subsection (b).

13 § 3590. Securities transactions.

14 (a) Fraudulent use of securities.--Any member, officer,
15 director or attorney-in-fact of any authorized entity who, on
16 behalf of the entity, borrows, rents, hires, leases or otherwise
17 engages the use of securities, notes or other obligations or
18 evidences of indebtedness owned or issued by any other entity or
19 individual, or of the Federal Government, a government agency or
20 agency of any state with intent to injure or defraud any person
21 or to deceive the department or other person legally authorized
22 to examine the affairs of the entity, commits a felony of the
23 third degree.

24 (b) Aiding and abetting.--Any domestic or foreign
25 corporation which engages in or purports to be engaged in
26 organizing or receiving subscriptions for or disposing of stocks
27 of, or in any manner aiding or taking part in the formation or
28 in the business of an insurance entity either as agent or
29 otherwise, or which holds capital stock of one or more insurance
30 companies for the purpose of controlling the management thereof

1 as voting trustees or otherwise, or any employee, agent or
2 attorney thereof, that aids and abets an insurance entity in
3 borrowing, renting, hiring, leasing or engaging the use of such
4 stocks, bonds, debentures, notes, investment certificates,
5 securities, notes or other obligations or evidence of
6 indebtedness, commits a felony of the third degree.

7 (c) Civil penalties.--If any insurance entity is found in
8 possession of securities, notes or other obligations or
9 evidences of indebtedness acquired in violation of subsection
10 (a) or if any of its officers, directors, members or attorneys-
11 in-fact have been convicted under subsection (a), the department
12 may suspend its certificate of authority. This section does not
13 prohibit the department from bringing an action to dissolve the
14 insurance entity under Chapter 39 (relating to suspension of
15 business and dissolution).

16 CHAPTER 37

17 INTERNATIONAL OPERATIONS

18 Sec.

19 3701. Authority to transact business outside United States.

20 3702. Domestication of alien insurers.

21 § 3701. Authority to transact business outside United States.

22 (a) General rule.--Domestic stock and mutual insurance
23 companies, other than life insurance companies, may transact
24 outside of the United States any form of insurance or
25 reinsurance, other than life insurance or annuities, on risks
26 outside of the United States. However, the company shall
27 maintain a minimum policyholders' surplus of \$2,000,000. Such
28 companies may accept any kind of reinsurance, other than life
29 insurance and annuities, if the company maintains a minimum
30 policyholders' surplus as required by law.

1 (b) Reserves.--All companies doing the business permitted by
2 this section shall maintain reserves as required under Chapter 7
3 (relating to reserve liability).

4 § 3702. Domestication of alien insurers.

5 (a) General rule.--Upon compliance with the provisions of
6 this section, an authorized alien insurer which owns
7 beneficially, directly or indirectly, all of the outstanding
8 capital stock, other than directors' qualifying shares, of any
9 domestic insurer incorporated for the purpose of transacting the
10 same or similar classes of insurance which the United States
11 branch of the alien insurer is qualified and licensed to
12 transact, may, with the prior written approval and subject to
13 the final approval of the department and of the insurance
14 supervisory official of the regulatory state of the United
15 States branch of the alien insurer, domesticate its United
16 States branch. The alien insurer shall enter into an agreement
17 in writing with the domestic insurer providing for the
18 acquisition by the domestic insurer of the business and assets
19 of the United States branch of the alien insurer and the
20 assumption by the domestic insurer of all of the liabilities of
21 the United States branch for no consideration other than the
22 assumption of the liabilities or for additional consideration
23 payable by the issuance by the domestic insurer of shares of its
24 capital stock. For the purposes of this section, those shares of
25 capital stock of the domestic insurer or voting trust
26 certificates representing the shares, which are held in trust by
27 the United States branch of the alien insurer or are held in a
28 trust created by the alien insurer and of which the alien
29 insurer is a beneficiary, shall be deemed to be shares held
30 beneficially, but indirectly, by an alien insurer. The

1 acquisition of assets and assumption of liabilities of the
2 United States branch by the domestic insurer shall be effected
3 by the filing of an instrument of transfer and assumption with
4 the insurance supervisory official of the regulatory state. The
5 instrument shall be in form satisfactory to the department and
6 the supervisory official of the regulatory state and shall be
7 executed by the alien insurer and the domestic insurer.

8 (b) Authorization and execution of domestication
9 agreement.--The domestication agreement shall be authorized,
10 adopted, approved, signed and acknowledged by the alien insurer
11 in accordance with the law of the country under which it is
12 organized. In the case of the domestic insurer, the
13 domestication agreement shall be adopted by resolution of its
14 board of directors and executed by its president or any vice
15 president and attested by its secretary or assistant secretary
16 under its corporate seal.

17 (c) Approval by department.--An executed counterpart of the
18 domestication agreement, together with certified copies of the
19 corporate proceedings of the domestic insurer and the alien
20 insurer approving, adopting and authorizing the execution of the
21 domestication agreement shall be submitted to the department for
22 its approval. If the department finds that the agreement is in
23 accordance with the provisions of this section and that the
24 interest of policyholders and creditors in this Commonwealth, of
25 the United States branch of the alien insurer and of the
26 domestic insurer are not materially adversely affected, it shall
27 approve the domestication agreement and certify the approval in
28 writing to the insurance supervisory official of the regulatory
29 state.

30 (d) Consummation of domestication agreement and transfer of

1 deposits.--Upon the filing with the department of a certified
2 copy of the instrument of transfer and assumption, pursuant to
3 which the domestic insurer succeeds to the business and assets
4 of the United States branch of an alien insurer and assumes all
5 its liabilities and upon compliance with all the requirements of
6 the laws and of the insurance supervisory official of the
7 regulatory state regulating the terms, conditions and procedure
8 of the domestication, the domestication of the United States
9 branch shall become effective. Thereupon all the rights,
10 franchises and interests and all property of the United States
11 branch shall be deemed as transferred and vested in the domestic
12 insurer, without any other deed or transfer. Simultaneously
13 therewith the domestic insurer shall be deemed to have assumed
14 all of the obligations and liabilities of the United States
15 branch and shall be held liable to pay and discharge its debts
16 and liabilities in the same manner as if they had been incurred
17 and contracted by the domestic insurer. An action or proceeding
18 pending at the time of domestication, in which either the United
19 States branch or the domestic insurer are a party, shall not
20 abate or discontinue by reason of the domestication, but may be
21 carried on as if the domestication had not taken place or the
22 domestic company may be substituted in place of the United
23 States branch by order of the court. All deposits of the United
24 States branch held by the department or other regulatory agency
25 in this Commonwealth shall be deemed held as security that the
26 domestic insurer will fully perform its obligations to all
27 policyholders and creditors within the United States of the
28 United States branch and of the domestic insurer; such deposits,
29 including all deposits of the United States branch and its
30 assets held in trust pursuant to the law of any other state,

1 shall be deemed to be assets of the domestic insurer and shall
2 be reported as such in the annual statements and other reports
3 which the domestic insurer may be required to file in this
4 Commonwealth. Upon the release by the department or other
5 governmental agency or any other state of the deposits, the
6 securities and cash constituting the released deposit shall be
7 paid over to the domestic insurer as the lawful successor in
8 interest to the United States branch.

9 (e) Definitions.--As used in this section, the following
10 words and phrases shall have the meanings given to them in this
11 subsection:

12 "Domestication." The reorganization of the United States
13 branch of an alien insurer as the result of which a domestic
14 stock insurance company succeeds to all the business and assets
15 and assumes all the liabilities of the United States branch of
16 the alien insurer.

17 "Regulatory state." The state pursuant to the law of which
18 the assets of the United States branch of the alien insurer are
19 held in trust.

20 "United States branch." The business unit through which
21 business is transacted within the United States by an alien
22 insurer and the assets and liabilities of the insurer within the
23 United States pertaining to the business.

24 CHAPTER 39

25 SUSPENSION OF BUSINESS AND DISSOLUTION

26 Subchapter

27 A. General Provisions

28 B. Judicial and Administrative Procedure

29 C. Summary Proceedings

30 D. Rehabilitation

- 1 E. Liquidation Proceedings
- 2 F. Estate of Liquidated Insurer
- 3 G. Distribution of Estate of Liquidated Insurer
- 4 H. Interstate Relations

5 SUBCHAPTER A

6 GENERAL PROVISIONS

7 Sec.

8 3901. Construction and purpose.

9 3902. Applicability of chapter.

10 3903. Definitions.

11 § 3901. Construction and purpose.

12 (a) Construction.--This chapter does not limit the power
13 granted the department by other provisions of law and shall be
14 liberally construed to effect the purpose stated in subsection
15 (b).

16 (b) Purpose.--The purpose of this chapter is the protection
17 of the interests of insureds, creditors and the public
18 generally, with minimum interference with the normal
19 prerogatives of the owners and managers of insurers, through the
20 following:

21 (1) Early detection of any potentially dangerous
22 condition in an insurer and prompt application of appropriate
23 corrective measures.

24 (2) Improved methods for rehabilitating insurers,
25 involving the cooperation and management expertise of the
26 insurance industry.

27 (3) Enhanced efficiency and economy of liquidation,
28 through clarification and specification of the law, to
29 minimize legal uncertainty and litigation.

30 (4) Equitable apportionment of any unavoidable loss.

1 (5) Lessening the problems of interstate rehabilitation
2 and liquidation by facilitating cooperation between states in
3 the liquidation process and by extending the scope of
4 personal jurisdiction over debtors of the insurer outside
5 this Commonwealth.

6 (6) Regulation of the insurance business by the impact
7 of the law relating to delinquency procedures and substantive
8 rules on the entire insurance business.

9 § 3902. Applicability of chapter.

10 The proceedings authorized by this chapter may be applied to
11 the following:

12 (1) All insurers who are doing, or have done, an
13 insurance business in this Commonwealth and against whom
14 claims arising from that business may exist.

15 (2) All insurers who purport to do an insurance business
16 in this Commonwealth.

17 (3) All insurers who have insured resident in this
18 Commonwealth.

19 (4) All other persons organized or in the process of
20 organizing with the intent to do an insurance business in
21 this Commonwealth.

22 (5) All nonprofit service plans subject to Chapters 75
23 (relating to hospital plan corporations) and 77 (relating to
24 professional health services plan corporations) and all
25 fraternal benefit societies and beneficial societies subject
26 to Chapter 45 (relating to fraternal benefit societies).

27 (6) All title insurance companies subject to Chapter 67
28 (relating to title insurance).

29 § 3903. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Admitted assets."

4 (1) Includes all of the following assets of an insurer:

5 (i) Cash in the possession of the insurer, or in
6 transit under its control, including the balance of any
7 deposit in a solvent bank or trust company.

8 (ii) Investments, securities, properties and loans
9 acquired or held in accordance with this title, and in
10 connection therewith, the following:

11 (A) Interest due or accrued on any bond or
12 evidence of indebtedness which is not in default and
13 which is not valued on a basis including accrued
14 interest.

15 (B) Declared and unpaid dividends on stocks and
16 shares, unless this amount has otherwise been allowed
17 as an asset.

18 (C) Interest due or accrued upon a collateral
19 loan in an amount not to exceed one year's interest.

20 (D) Interest due or accrued on deposits in any
21 solvent financial institution and interest due or
22 accrued on other assets, if the interest is in the
23 judgment of the department a collectible asset.

24 (E) Interest due or accrued on a mortgage loan,
25 in an amount not exceeding the amount of the excess
26 of the value of the property less delinquent taxes
27 thereon over the unpaid principal, not to exceed
28 interest accrued for a period of 12 months.

29 (F) Rent due or accrued on real property if the
30 rent is not in arrears for more than three months,

1 and rent more than three months in arrears if the
2 payment of the rent is adequately secured by property
3 held in the name of the tenant and conveyed to the
4 insurer as collateral.

5 (G) The unaccrued portion of taxes paid prior to
6 the due date on real property.

7 (iii) Premium notes, policy loans and other policy
8 assets and liens on policies and certificates of life
9 insurance and annuity contracts and accrued interest
10 thereon, in an amount not exceeding the legal reserve and
11 other policy liabilities carried on each individual
12 policy.

13 (iv) The net amount of uncollected and deferred
14 premiums and annuity consideration in the case of a life
15 insurer.

16 (v) Premiums in the course of collection, other than
17 for life insurance, not more than three months past due,
18 less commissions payable thereon. This limitation does
19 not apply to premiums payable directly or indirectly by
20 the Federal Government.

21 (vi) Installment premiums other than life insurance
22 premiums to the extent of the unearned premium reserve
23 carried on the policy to which the premiums apply.

24 (vii) Notes and similar written obligations, not
25 past due, taken for premiums other than life insurance
26 premiums, on policies permitted to be issued on that
27 basis, to the extent of the unearned premium reserves
28 carried thereon.

29 (viii) The full amount of reinsurance recoverable by
30 a ceding insurer from a solvent reinsurer if the

1 reinsurance is authorized under section 3512 (relating to
2 reinsurance).

3 (ix) Amounts receivable by an assuming insurer
4 representing funds withheld by a solvent ceding insurer
5 under a reinsurance treaty.

6 (x) Deposits or equities recoverable from
7 underwriting associations, syndicates and reinsurance
8 funds, or from a suspended banking institution, to the
9 extent deemed by the department available for the payment
10 of losses and claims and at values to be determined by
11 it.

12 (xi) Electronic and mechanical machines constituting
13 a data processing and accounting system if the cost of
14 the system is at least \$10,000 which shall be amortized
15 in full over a period not to exceed ten years.

16 (xii) All assets allowed pursuant to the annual
17 statement form approved by the department for use in this
18 Commonwealth for the kinds of insurance to be reported
19 upon.

20 (xiii) Other assets, not inconsistent with this
21 definition, deemed by the department to be available for
22 the payment of losses and claims, at values to be
23 determined by it.

24 (2) The term does not include:

25 (i) Good will, trade names and other similar
26 intangible assets.

27 (ii) Advances, other than policy loans, to officers,
28 directors and controlling stockholders, whether secured
29 or not, and advances to employees, agents and other
30 persons on personal security only.

1 (iii) Stock of the insurer, owned by it, or any
2 material equity in the stock or loans secured thereby, or
3 any material proportionate interest in such stock
4 acquired or held through the ownership by the insurer of
5 an interest in another firm, corporation or business
6 unit.

7 (iv) Furniture, fixtures, furnishings, safes,
8 vehicles, libraries, literature and supplies, other than
9 data processing and accounting systems authorized under
10 31 Pa. Code § 11.4, except in the case of title insurers
11 such materials and plants as the insurer is expressly
12 authorized to invest in section 6738(21) (relating to
13 investment of capital) and, except in the case of any
14 insurer, any property which is acquired through
15 foreclosure of a chattel mortgage or security interest
16 acquired pursuant to sections 5305 (relating to
17 authorized holdings of real estate), 5506 (relating to
18 authorized holdings of real estate), 5926 (relating to
19 authorized holdings of real estate) and 6738 or which is
20 reasonably necessary for the maintenance and operation of
21 real estate lawfully acquired and held by the insurer
22 other than real estate used by it for home office, branch
23 office or similar purposes.

24 (v) The amount, if any, by which the aggregate book
25 value of investments as carried in the ledger assets of
26 the insurer exceeds their aggregate value as determined
27 under this chapter.

28 "Ancillary state." Any state other than a domiciliary state.

29 "Creditor." A person having any claim, whether matured or
30 unmatured, liquidated or unliquidated, secured or unsecured,

1 absolute, fixed or contingent.

2 "Delinquency proceeding." Any proceeding instituted against
3 an insurer for the purpose of liquidating, rehabilitating,
4 reorganizing or conserving such insurer and any summary
5 proceeding under Subchapter C (relating to summary proceedings).

6 "Doing business." Includes any of the following acts,
7 whether effected by mail or otherwise:

8 (1) The issuance or delivery of contracts or
9 certificates of insurance to persons resident in this
10 Commonwealth.

11 (2) The solicitation of applications for such contracts
12 or other negotiations preliminary to the execution thereof.

13 (3) The collection of premiums, membership fees,
14 assessments or other consideration for such contracts.

15 (4) The transaction of matters subsequent to execution
16 of such contracts and arising therefrom.

17 "Domiciliary state." The state in which an insurer is
18 incorporated or organized or, in the case of an alien insurer,
19 its state of entry.

20 "Fair consideration." Consideration given for property of
21 obligation:

22 (1) when, in exchange for the property or obligation as
23 a fair equivalent therefor and in good faith, property is
24 conveyed or services are rendered or an obligation is
25 incurred or an antecedent debt is satisfied; or

26 (2) when the property or obligation is received in good
27 faith to secure a present advance or antecedent debt in
28 amount not disproportionately small as compared to the value
29 of the property or obligation obtained therefor.

30 "Foreign country." Any other jurisdiction not in any state.

1 "General assets." All property, real, personal or otherwise,
2 not specifically mortgaged, pledged, deposited or otherwise
3 encumbered for the security or benefit of specified persons or
4 classes of persons. As to specifically encumbered property, the
5 term includes all such property or its proceeds in excess of the
6 amount necessary to discharge the sum secured. Assets held in
7 trust and on deposit for the security or benefit of all
8 policyholders and creditors shall be treated as general assets.

9 "Guaranty association." The Property and Casualty Insurance
10 Guaranty Association provided for under Chapter 81 (relating to
11 Property and Casualty Insurance Guaranty Association), the Life
12 and Health Insurance Guaranty Association provided for under
13 Chapter 83 (relating to Life and Health Insurance Guaranty
14 Association) and the Workmen's Compensation Security Fund
15 provided for under the act of July 1, 1937 (P.L.2532, No.470),
16 known as the Workmen's Compensation Security Fund Act, and any
17 other similar entity created under the statutes of this
18 Commonwealth or any other state for the payment of claims of
19 insolvent insurers.

20 "Insolvency."

21 (1) In the case of an insurer issuing only assessable
22 fire insurance policies:

23 (i) the inability to pay any obligation within 30
24 days after it becomes payable; or

25 (ii) if an assessment is made within 30 days after
26 such date, the inability to pay the obligation 30 days
27 following the date specified in the first assessment
28 notice issued after the date of loss pursuant to section
29 4709 (relating to assessments).

30 (2) In the case of any other insurer, the inability to

1 pay its obligations when they are due, or having admitted
2 assets which do not exceed its liabilities plus the greater
3 of any capital and surplus required by law for its
4 organization or its authorized and issued capital stock.

5 "Insurer." Any person who is doing, has done, purports to
6 do, or is licensed to do an insurance business, and is or has
7 been subject to the authority of, or to liquidation,
8 rehabilitation, reorganization or conservation by any insurance
9 department and any person included under section 3902 (relating
10 to applicability of chapter).

11 "Liabilities." Includes, but is not limited to, reserves
12 required by statute or by regulations or specific requirements
13 of the department upon a subject company at the time of
14 admission or subsequent thereto, and any other capital and
15 surplus requirements.

16 "Preferred claim." Any claim with respect to which this
17 chapter accords priority of payment from the general assets of
18 the insurer.

19 "Receiver." Receiver, liquidator, rehabilitator or
20 conservator.

21 "Reciprocal state." Any state other than this Commonwealth
22 in which in substance and effect sections 3942(a) (relating to
23 liquidation orders), 3983 (relating to foreign domiciliary
24 receivers in other states), 3984 (relating to ancillary formal
25 proceedings) and 3986 (relating to claims of nonresidents
26 against domiciliary insurers) through 3988 (relating to
27 execution proceedings) are in force, in which provisions are in
28 force requiring that the department or equivalent office or
29 official be the receiver of a delinquent insurer and in which
30 some provision exists for the avoidance of fraudulent

1 conveyances and preferential transfers.

2 "Secured claim." Any claim secured by mortgage, trust deed,
3 pledge, deposit as security, escrow or otherwise, but not
4 including special deposit claims or claims against general
5 assets. The term also includes claims which have become liens
6 upon specific assets by reason of judicial process.

7 "Special deposit claim." Any claim secured by a deposit made
8 pursuant to statute for the security or benefit of a limited
9 class of persons, but not including any claim secured by general
10 assets.

11 "Transfer." Includes, but is not limited to, the creation of
12 any lien upon a property interest. The retention of a security
13 title to property delivered to a debtor shall be deemed a
14 transfer suffered by the debtor.

15 SUBCHAPTER B

16 JUDICIAL AND ADMINISTRATIVE PROCEDURE

17 Sec.

18 3911. Jurisdiction and venue.

19 3912. Injunctions and orders.

20 3913. Cooperation of officers and employees.

21 3914. Bonds.

22 3915. Reports of department.

23 § 3911. Jurisdiction and venue.

24 (a) General rule.--A court shall not have jurisdiction to
25 entertain, hear or determine any delinquency proceeding other
26 than as provided in this chapter.

27 (b) Jurisdiction.--In addition to other grounds for
28 jurisdiction provided by the law of this Commonwealth, a court
29 of this Commonwealth having jurisdiction of the subject matter
30 has jurisdiction over a person served pursuant to the

1 Pennsylvania Rules of Civil Procedure or other applicable
2 provisions of law in an action brought by the receiver of a
3 domestic insurer or an alien insurer domiciled in this
4 Commonwealth if:

5 (1) the person served is obligated to the insurer as an
6 incident to any agency or brokerage arrangement between the
7 insurer and the agent or broker, in any action on or incident
8 to the obligation;

9 (2) the person served is a reinsurer who has written a
10 policy of reinsurance for an insurer against which a
11 rehabilitation or liquidation order is in effect when the
12 action is commenced, or is an agent or broker for the
13 reinsurer, in any action on or incident to the reinsurance
14 contract; or

15 (3) the person served is or has been an officer,
16 manager, trustee, organizer or person in a position of
17 comparable authority or influence in an insurer against which
18 a rehabilitation or liquidation order is in effect when the
19 action is commenced, in any action resulting from the
20 relationship with the insurer.

21 (c) Change of venue.--If the court on motion of any party
22 finds that any action should as a matter of substantial justice
23 be tried in a forum outside this Commonwealth, the court may
24 enter an appropriate order to stay further proceedings on the
25 action in this Commonwealth.

26 (d) Commonwealth Court.--Actions authorized in this section
27 shall be brought in the Commonwealth Court.

28 § 3912. Injunctions and orders.

29 (a) Applications to Commonwealth Court.--Any receiver
30 appointed in a proceeding under this chapter may at any time

1 apply for, and the Commonwealth Court may grant, such
2 restraining orders, preliminary and permanent injunctions, and
3 other orders as are necessary and proper to prevent any of the
4 following:

5 (1) The transaction of further business.

6 (2) The transfer of property.

7 (3) Interference with the receiver or with the
8 proceeding.

9 (4) Waste of the insurer's assets.

10 (5) Dissipation and transfer of bank accounts.

11 (6) The institution or further prosecution of any
12 actions or proceedings.

13 (7) The obtaining of preferences, judgments,
14 attachments, garnishments or liens against the insurer, its
15 assets or its policyholders.

16 (8) The levying of execution against the insurer, its
17 assets or its policyholders.

18 (9) The making of any sale or deed for nonpayment of
19 taxes or assessments that would lessen the value of the
20 assets of the insurer.

21 (10) The withholding from the receiver of books,
22 accounts, documents or other records relating to the business
23 of the insurer.

24 (11) Any other threatened or contemplated action that
25 might lessen the value of the insurer's assets or prejudice
26 the rights of policyholders, creditors or shareholders or the
27 administration of the proceeding.

28 (b) Applications to foreign courts.--The receiver may apply
29 to any court outside this Commonwealth for the relief described
30 in subsection (a) or suspension of any insurance licenses issued

1 by the department.

2 § 3913. Cooperation of officers and employees.

3 (a) General rule.--Any employee, officer, manager, trustee
4 or general agent of any insurer, and any other person with
5 executive authority over any segment of the insurer's affairs,
6 including any person exercising direct or indirect control over
7 activities of an insurer through any holding company or other
8 affiliate, shall cooperate with the department in any proceeding
9 under this chapter or any investigation preliminary or
10 incidental to the proceeding. Any person described in this
11 subsection shall reply promptly in writing to any inquiry from
12 the department requesting a reply and make available to the
13 department any books, accounts, documents, records, information
14 or property of or pertaining to the insurer and in his
15 possession, custody or control.

16 (b) Obstruction of department.--A person shall not obstruct
17 or interfere with the department in the conduct of any
18 delinquency proceeding or any investigation preliminary or
19 incidental thereto. This section does not abridge otherwise
20 legal rights to resist a petition for liquidation or other
21 delinquency proceedings.

22 (c) Attorney fees and incidental orders.--In any case where
23 an insurer engages counsel for defense of and appeal with
24 respect to a delinquency proceeding, reasonable costs and fees
25 for such representation may be paid from the general assets of
26 the insurer, subject to the approval of the Commonwealth agency
27 or court to which the appeal was made. If proceedings result in
28 a declaration of insolvency or are subsequent thereto, the
29 approved costs thereof shall be treated as administrative costs
30 or expenses under section 3968(2) (relating to order of

1 distribution). The insurer may petition the court or
2 Commonwealth agency for a stay of proceedings or other order.

3 (d) Penalties.--Any person described in subsection (a) who
4 violates its provisions or any person who obstructs or
5 interferes with the department in the conduct of any delinquency
6 proceeding or any investigation preliminary or incidental
7 thereto or who violates any valid order the department issued
8 under this chapter commits a misdemeanor of the third degree, or
9 shall, after a hearing, be subject to the imposition by the
10 department of a civil penalty not to exceed \$10,000 and shall be
11 subject further to the revocation or suspension of any insurance
12 license issued by the department.

13 § 3914. Bonds.

14 In any proceeding under this chapter, the department shall be
15 responsible on its official bonds for the faithful performance
16 of its duties. If desirable for the protection of the assets,
17 the court may at any time require an additional bond from the
18 department. The additional bond shall be paid for out of the
19 assets of the insurer as a cost of administration.

20 § 3915. Reports of department.

21 The department shall as receiver make reports to the court at
22 the times and in the manner the court requires.

23 SUBCHAPTER C

24 SUMMARY PROCEEDINGS

25 Sec.

26 3921. Summary orders of department.

27 3922. Supervision by department.

28 3923. Seizure orders.

29 3924. Conduct of hearings.

30 § 3921. Summary orders of department.

1 (a) Issuance of order.--Whenever the department has
2 reasonable cause to believe, and determines after a hearing,
3 that any insurer has committed or engaged in any act,
4 transaction or practice that would subject it to formal
5 delinquency proceedings under this chapter, it may issue an
6 order against the insurer and any other persons involved,
7 including an order suspending the business of an insurer, if
8 doing so is reasonably necessary to correct, eliminate or remedy
9 the conduct, condition or ground. If the department also has
10 reasonable grounds to believe that irreparable harm to the
11 property or business of the insurer or to the interests of its
12 policy or certificate holders, creditors or the public may occur
13 unless it issues with immediate effect such an order, it may
14 issue and serve the order without notice and before hearing,
15 simultaneously serving upon the insurer notice of hearing under
16 subsection (b).

17 (b) Notice.--The notice of hearing and the summary order
18 issued shall be served under applicable law. The notice of
19 hearing shall state the time and place of hearing, and the
20 conduct, condition or ground upon which the department would
21 base its order, except where irreparable harm is alleged, in
22 which case the notice shall state the time and place of hearing.
23 Unless otherwise agreed between the department and the insurer,
24 the hearing shall occur not more than 15 days after notice is
25 served and shall be either in Dauphin County or in some other
26 place convenient to the parties designated by the department.
27 The department shall not publicize these hearings and shall hold
28 all hearings in summary proceedings privately unless the insurer
29 requests a public hearing, in which case the hearing shall be
30 public.

1 (c) Notice of suspension order.--Any suspension order made
2 by the department under subsection (a) shall prohibit issuance
3 of policies, transfers of property and payments of moneys
4 without prior written approval of the department. Notice of this
5 suspension shall be given, by first class mail within 15 days
6 thereof, by the suspended organization to those who were
7 creditors, policyholders, members and certificate holders at the
8 date of suspension. Notice of the suspension shall be given,
9 within 15 days thereof, by the department to creditors,
10 policyholders, members and certificate holders by one
11 publication in a newspaper of general circulation in the county
12 where the suspended organization has its principal office.

13 (d) Insolvent insurers.--From the date of such suspension on
14 the ground that the insurer is insolvent or is in such a
15 condition that its further transaction of business will be
16 hazardous financially to its policyholders, creditors or the
17 public, an action at law or equity shall not be commenced or
18 prosecuted nor shall any judgment be entered against nor shall
19 any execution or attachment be issued or prosecuted against the
20 suspended insurer, or against its property, in any court.

21 However, if such a suspension order is vacated by the
22 Commonwealth Court for the reason that the suspended insurer is
23 no longer insolvent or in a hazardous condition, restraints upon
24 legal process provided in the order shall cease to be operative.

25 (e) Waiver of hearing.--If the department issues a summary
26 order before hearing under this section, the insurer may waive
27 the department's hearing and apply for immediate judicial relief
28 by means of any remedy afforded by law without first exhausting
29 administrative remedies.

30 (f) Civil penalty.--Any person who has violated any order

1 issued under this section shall be liable to pay a civil penalty
2 imposed by the Commonwealth Court not to exceed \$10,000.

3 (g) Enforcement of summary orders.--The department may apply
4 for, and any court of general jurisdiction may grant, any
5 restraining orders, preliminary and permanent injunctions and
6 other orders necessary and proper to enforce a summary order.
7 § 3922. Supervision by department.

8 (a) Examination by department.--If upon examination or at
9 any other time the department determines that an insurer has
10 committed, engaged or is about to engage in any act, transaction
11 or practice that would subject it to formal delinquency
12 proceedings under this chapter, or if the insurer consents, the
13 department shall notify the insurer of its determination and
14 furnish to the insurer an order containing a written list of the
15 department's requirements to abate its determination. If the
16 department after a hearing under section 3921(b) (relating to
17 summary orders of department) makes a further determination to
18 supervise, the department shall issue an order to the insurer
19 notifying it that it is under the supervision of the department
20 and that the department is acting under this section. The
21 department may issue an order under this section without a
22 hearing under the conditions of irreparable harm as described in
23 section 3921(a), and shall simultaneously serve upon the insurer
24 notice of a hearing to be held in accordance with the provisions
25 of section 3921(b); in this event, the insurer may file an
26 appeal under section 3921(e). The insurer shall comply with the
27 lawful requirements of the department and, if placed under an
28 order of supervision, shall have 90 days from the date of
29 service of the order within which to comply with the
30 requirements of the department. If the insurer fails to comply

1 within this time, the department may institute proceedings in
2 the Commonwealth Court to have a rehabilitator or liquidator
3 appointed under the provisions of this chapter or issue an order
4 extending an existing order of supervision. The order extending
5 any existing order shall be issued prior to the end of each 90-
6 day period, unless otherwise agreed to by the insurer.

7 (b) Supervisor.--The department may appoint a supervisor to
8 supervise the insurer and may provide that the insurer may not
9 do any of the following acts, during the period of supervision,
10 without the prior written approval of the department or the
11 supervisor:

12 (1) Dispose of, convey or encumber any of its assets or
13 its business in force.

14 (2) Withdraw any of its bank accounts.

15 (3) Lend any of its funds.

16 (4) Invest any of its funds.

17 (5) Transfer any of its property.

18 (6) Incur any debt, obligation or liability.

19 (7) Merge or consolidate with another company.

20 (8) Enter into any new reinsurance contract or treaty.

21 (c) Liability.--If any person, subject to the provisions of
22 this chapter, including any person described in section 3913(a)
23 (relating to cooperation of officers and employees), violates
24 any valid order of the department issued under this section and,
25 as a result, the net worth of the insurer is reduced or the
26 insurer otherwise suffers a loss, the person shall become
27 personally liable to the insurer for the amount of any such
28 reduction or loss. The department or supervisor may bring an
29 action on behalf of the insurer in the Commonwealth Court to
30 recover the amount of the reduction or loss together with any

1 costs.

2 § 3923. Seizure orders.

3 (a) Issuance of orders.--If the department files in the
4 Commonwealth Court a petition alleging any ground that would
5 justify a court order for a formal delinquency proceeding
6 against an insurer under this chapter, and that the interests of
7 policyholders, creditors or the public will be endangered by
8 delay, which petition shall include the order deemed necessary
9 by the department, the court may immediately issue the order ex
10 parte and without a hearing. The order shall direct the
11 department to take possession and control of all or a part of
12 the property, books, accounts, documents, other records of an
13 insurer and of the premises occupied by it for the transaction
14 of its business and, until further order of the court, enjoin
15 the insurer and its officers, managers, agents and employees
16 from disposition of its property and from transaction of its
17 business except with the written consent of the department.

18 (b) Duration of order.--The court shall specify in the order
19 what its duration shall be, which shall be such time as the
20 court believes necessary for the department to ascertain the
21 condition of the insurer. The initial duration or any extension
22 shall not exceed 90 days. On motion of either party or on its
23 own motion, the court may hold such hearings as are desirable,
24 after appropriate notice, and may extend, shorten or modify the
25 terms of the seizure order. The court shall vacate the seizure
26 order if the department fails to commence a formal proceeding
27 under this chapter prior to the expiration of a seizure order or
28 any extension. An order of the court pursuant to a formal
29 proceeding under this chapter shall vacate the seizure order.

30 (c) Anticipatory breach.--Entry of a seizure order under

1 this section shall not constitute an anticipatory breach of any
2 contract of the insurer.

3 (d) Petition for review.--An insurer subject to an ex parte
4 order of the Commonwealth Court issued under this section may
5 petition the court at any time after the issuance of the order
6 for a hearing and review. The court shall grant the hearing and
7 review within ten days of the filing of the petition.

8 § 3924. Conduct of hearings.

9 (a) Private hearing.--The Commonwealth Court may hold all
10 hearings in summary proceedings and judicial review privately in
11 chambers, and shall do so on request of the insurer proceeded
12 against.

13 (b) Confidentiality of records.-In all summary proceedings
14 and judicial reviews, all records of the insurer, other
15 documents and department files and court records and papers, so
16 far as they pertain to or are a part of the record of the
17 summary proceedings, shall be confidential except as is
18 necessary to obtain compliance therewith, unless and until the
19 Commonwealth Court, after hearing arguments from the parties in
20 chambers, shall order otherwise or unless the insurer requests
21 that the matter be made public.

22 (c) Penalty.--Any person having possession or custody of and
23 refusing to deliver any of the property, books, accounts,
24 documents or other records of or relating to an insurer against
25 which a seizure order or a summary order has been issued by the
26 department or by the Commonwealth Court commits a misdemeanor of
27 the third degree.

28 SUBCHAPTER D
29 REHABILITATION
30 Sec.

- 1 3931. Grounds for rehabilitation.
- 2 3932. Rehabilitation orders.
- 3 3933. Powers and duties of rehabilitator.
- 4 3934. Actions by and against rehabilitator.
- 5 3935. Termination of rehabilitation.

6 § 3931. Grounds for rehabilitation.

7 An order of rehabilitation may be based on any of the
8 following grounds:

9 (1) The insurer is insolvent or is in such a condition
10 that the further transaction of business would be financially
11 hazardous to its policyholders, its creditors or the public.

12 (2) There is reasonable cause to believe that there has
13 been embezzlement from the insurer, wrongful sequestration or
14 diversion of the insurer's assets, forgery or fraud affecting
15 the insurer or other illegal conduct by or with respect to
16 the insurer that would endanger assets in an amount
17 threatening the solvency of the insurer.

18 (3) The insurer fails to remove any person who has
19 executive authority in the insurer if the person has been
20 found after notice and hearing to be dishonest or
21 untrustworthy in a way affecting the business of the insurer.

22 (4) Control of the insurer, whether by stock ownership
23 or otherwise and whether direct or indirect, is in a person
24 found after notice and hearing to be dishonest or
25 untrustworthy.

26 (5) Any person who has executive authority in the
27 insurer has refused to be examined under oath by the
28 department concerning its affairs, whether in this
29 Commonwealth or elsewhere, and after reasonable notice of the
30 fact the insurer fails to promptly and effectively terminate

1 the employment and status of the person and his influence on
2 management.

3 (6) After demand, the insurer fails to submit promptly
4 for examination any of its own property, books, accounts,
5 documents or other records or those of any subsidiary or
6 related company within the control of the insurer or those of
7 any person having executive authority in the insurer so far
8 as they pertain to the insurer. If the insurer is unable to
9 submit the property, books, accounts, documents or other
10 records of a person having executive authority in the
11 insurer, it shall be excused from doing so if it promptly and
12 effectively terminates the relationship of the person to the
13 insurer.

14 (7) Without first obtaining the written consent of the
15 department, the insurer transfers, or attempts to transfer,
16 substantially its entire property or business, or enters into
17 any transaction the effect of which is to merge, consolidate
18 or reinsure substantially its entire property or business in
19 or with the property or business of any other person.

20 (8) The insurer or its property is the subject of an
21 application for the appointment of a receiver, trustee,
22 custodian, conservator, sequestrator or similar fiduciary of
23 the insurer or its property otherwise than as authorized
24 under this title, and the appointment has been made or is
25 imminent, and the appointment might oust the court of
26 jurisdiction or prejudice orderly delinquency proceedings
27 under this chapter.

28 (9) Within the previous four years the insurer has
29 willfully violated its charter, articles of incorporation,
30 bylaws or this title in a manner which may result or has

1 resulted in substantial harm to the property or business of
2 an insurer or to the interests of its policy or certificate
3 holders, creditors or the public, or any valid order of the
4 department under sections 3921 (relating to summary orders of
5 department) and 3922 (relating to supervision by department).

6 (10) The insurer fails to pay within 60 days after due
7 date any obligation to any government agency or any judgment
8 entered in this Commonwealth. However, the nonpayment shall
9 not be deemed a ground for rehabilitation until 60 days after
10 any good faith effort by the insurer to contest the
11 obligation has been terminated, whether it is before the
12 department or in the courts.

13 (11) The insurer has systematically attempted to
14 compromise or renegotiate previously agreed settlements with
15 its creditors on the ground that it is financially unable to
16 pay its obligations in full.

17 (12) The insurer has failed to file its annual report or
18 other report within the time allowed by law and, after
19 written demand by the department, fails to give a
20 satisfactory explanation immediately.

21 (13) The board of directors, the holders of a majority
22 of the shares entitled to vote or a majority of those
23 individuals entitled to the control of any entity subject to
24 this chapter request or consent to rehabilitation.

25 § 3932. Rehabilitation orders.

26 (a) Petition.--The department may petition the Commonwealth
27 Court for an order authorizing it to rehabilitate a domestic
28 insurer or an alien insurer domiciled in this Commonwealth,
29 alleging that the insurer has committed one or more acts which
30 may constitute grounds for rehabilitation.

1 (b) Hearing.--An order of the Commonwealth Court to
2 rehabilitate the business of an insurer shall be issued only
3 after a hearing before the court or pursuant to a written
4 consent of the insurer.

5 (c) Filing of order.--The order to rehabilitate the business
6 of such an insurer shall appoint the department as the
7 rehabilitator. The order shall direct the rehabilitator to take
8 possession of the assets of the insurer immediately, including
9 any deposits held by the department, and to administer them
10 under the orders of the court. The filing or recording of the
11 order with the clerk of the Commonwealth Court or recorder of
12 deeds of the county in which the principal business of the
13 company is conducted or the county in which its principal office
14 or place of business is located shall impart the same notice as
15 a deed, bill of sale or other evidence of title filed or
16 recorded with that recorder of deeds would have imparted. Entry
17 of an order of rehabilitation does not constitute an
18 anticipatory breach of any contracts of the insurer.

19 § 3933. Powers and duties of rehabilitator.

20 (a) Special deputy.--The department as rehabilitator may
21 appoint a special deputy who shall have all the powers of the
22 rehabilitator granted under this section. The department shall
23 make such arrangements for compensation as are necessary to
24 obtain a special deputy of proven ability. The special deputy
25 shall serve at the pleasure of the department.

26 (b) General powers and duties.--The rehabilitator may take
27 any action he deems necessary to correct the conditions which
28 constituted the grounds for the order of the court to
29 rehabilitate the insurer. He shall have all the powers of the
30 directors, officers and managers, whose authority shall be

1 suspended, except as they are redelegated by the rehabilitator.
2 He shall have full power to direct and manage, to hire and
3 discharge employees subject to any contract rights they may have
4 and to deal with the property and business of the insurer.

5 (c) Remedial powers.--If it appears to the rehabilitator
6 that there has been criminal or tortious conduct, or breach of
7 any contractual or fiduciary obligation detrimental to the
8 insurer by any officer, manager, agent, broker, employee or
9 other person, he may pursue all appropriate legal remedies on
10 behalf of the insurer.

11 (d) Plan of rehabilitator.--The rehabilitator may prepare a
12 plan for the reorganization, consolidation, conversion,
13 reinsurance, merger or other transformation of the insurer. Upon
14 application of the rehabilitator for approval of the plan, and
15 after such notice and hearing as the court may prescribe, the
16 court may either approve or disapprove the plan proposed, or may
17 modify it and approve it as modified. If it is approved, the
18 rehabilitator shall carry out the plan. In the case of a life
19 insurer, the plan proposed may include the imposition of liens
20 upon the equities of policyholders of the company, provided that
21 all rights of shareholders are first relinquished. A plan for a
22 life insurer may also propose imposition of a moratorium upon
23 loan and cash surrender rights under policies for any period and
24 to any extent necessary.

25 (e) Avoidance of fraudulent transfers.--The rehabilitator
26 shall have the power to avoid fraudulent transfers under
27 sections 3952 (relating to fraudulent transfers prior to
28 petition) and 3953 (relating to fraudulent transfers after
29 petition).

30 § 3934. Actions by and against rehabilitator.

1 On request of the rehabilitator, any court before which any
2 action or proceeding by or against an insurer is pending when a
3 rehabilitation order against the insurer is entered shall stay
4 the action or proceeding for such time as necessary for the
5 rehabilitator to obtain proper representation and prepare for
6 further proceedings. The Commonwealth Court shall order the
7 rehabilitator to take such action respecting the pending
8 litigation as is necessary in the interests of justice and for
9 the protection of creditors, policyholders and the public. The
10 rehabilitator shall immediately consider all litigation pending
11 outside this Commonwealth and shall petition the courts having
12 jurisdiction over that litigation for stays whenever necessary
13 to protect the estate of the insurer. The time between the
14 filing of a petition for rehabilitation against an insurer and
15 denial of the petition or an order of rehabilitation shall not
16 be considered to be a part of the time within which any action
17 may be commenced by or against the insurer. Any action by or
18 against the insurer that might have been commenced when the
19 petition was filed may be commenced for at least 60 days after
20 the order of rehabilitation is entered.

21 § 3935. Termination of rehabilitation.

22 (a) Petition for order of liquidation.--Whenever he has
23 reasonable cause to believe that further attempts to
24 rehabilitate an insurer would substantially increase the risk of
25 loss to creditors, policy and certificate holders or the public,
26 or would be futile, the rehabilitator may petition the
27 Commonwealth Court for an order of liquidation. A petition under
28 this subsection shall have the same effect as a petition under
29 section 3942 (relating to liquidation orders). The Commonwealth
30 Court shall permit the directors to take any action reasonably

1 necessary to defend against the petition and may order payment
2 from the estate of the insurer of costs and other expenses of
3 defense.

4 (b) Petition for order terminating rehabilitation.--The
5 rehabilitator may at any time petition the Commonwealth Court
6 for an order terminating rehabilitation of an insurer. If the
7 Commonwealth Court finds that rehabilitation has been
8 accomplished and that grounds for rehabilitation under section
9 3931 (relating to grounds for rehabilitation) no longer exist,
10 it shall order that the insurer be restored to possession of its
11 property and the control of its business. The Commonwealth Court
12 may also make that finding and issue that order at any time upon
13 its own motion.

14 SUBCHAPTER E

15 LIQUIDATION PROCEEDINGS

16 Sec.

17 3941. Grounds for liquidation.

18 3942. Liquidation orders.

19 3943. Continuation of coverage.

20 3944. Dissolution of insurer.

21 3945. Powers of liquidator.

22 3946. Notice to creditors and others.

23 3947. Duties of agents.

24 3948. Actions by and against liquidator.

25 § 3941. Grounds for liquidation.

26 Any ground on which an order of rehabilitation may be based,
27 as specified in section 3931 (relating to grounds for
28 rehabilitation), whether or not there has been a prior order of
29 rehabilitation of the insurer, shall be grounds for liquidation.

30 § 3942. Liquidation orders.

1 (a) Petition.--The department may petition the Commonwealth
2 Court for an order directing the department to liquidate a
3 domestic insurer domiciled in this Commonwealth, alleging that
4 the insurer has committed any act which may constitute grounds
5 for liquidation under this chapter.

6 (b) Hearing.--An order of the Commonwealth Court to
7 liquidate the business of an insurer shall be issued only after
8 a hearing before the court or pursuant to a written consent of
9 the insurer.

10 (c) Nature of order.--An order to liquidate the business of
11 a domestic insurer shall appoint the department as liquidator
12 and shall direct the liquidator to take possession of the assets
13 of the insurer immediately and to administer them under the
14 orders of the court. The liquidator is vested with the title to
15 all of the property, contracts and rights of action and all of
16 the books and records of the insurer ordered liquidated,
17 wherever located, as of the date of the filing of the petition
18 for liquidation. The liquidator may recover and reduce the same
19 to possession except that ancillary receivers in reciprocal
20 states shall have, as to assets located in their respective
21 states, the rights and powers which are prescribed in section
22 3984(c) (relating to ancillary formal proceedings) for ancillary
23 receivers appointed in this Commonwealth as to assets located in
24 this Commonwealth. The filing or recording of the order with the
25 Clerk of the Commonwealth Court or with the recorder of deeds of
26 the county in which the principal business of the company is
27 conducted or the county in which its principal office or place
28 of business is located shall impart the same notice as a deed,
29 bill of sale or other evidence of title filed or recorded that
30 the recorder of deeds would have imparted.

1 (d) Effect of order.--Upon issuance of the order, the rights
2 and liabilities of the insurer and of its creditors,
3 policyholders, shareholders, members and all other persons
4 interested in its estate shall become fixed as of the date of
5 filing of the petition for liquidation, except as provided in
6 sections 3943 (relating to continuation of coverage) and 3963
7 (relating to special claims).

8 (e) Alien insurer.--An order to liquidate the business of an
9 alien insurer domiciled in this Commonwealth shall be in the
10 same terms and have the same legal effect as an order to
11 liquidate a domestic insurer, except that the assets and the
12 business in the United States shall be the only assets and
13 business included.

14 (f) Petition for judicial declaration of insolvency.--At the
15 time of petitioning for an order of liquidation or at any time
16 thereafter, the department, after making appropriate findings of
17 an insurer's insolvency, following an administrative hearing,
18 may petition the court for a judicial declaration of insolvency.
19 After providing such notice and hearing as are permitted for
20 appeals from Commonwealth agencies, the court may make the
21 declaration.

22 § 3943. Continuation of coverage.

23 All insurance in effect at the time of issuance of an order
24 of liquidation shall continue in force only with respect to the
25 risks in effect, at that time until any of the following occurs:

26 (1) A period of 30 days expires from the date of entry
27 of the liquidation order.

28 (2) The normal expiration of the policy coverage.

29 (3) The insured replaces the insurance coverage with
30 equivalent insurance in another insurer or otherwise

1 terminates the policy.

2 (4) The liquidator effects a transfer of the policy
3 obligation under section 3945(8) (relating to powers of
4 liquidator).

5 § 3944. Dissolution of insurer.

6 The department may petition for an order dissolving the
7 corporate existence of a domestic insurer or the United States
8 branch of an alien insurer domiciled in this Commonwealth at the
9 time the department applies for a liquidation order. The court
10 shall order dissolution of the corporation upon petition by the
11 department upon or after the granting of a liquidation order. If
12 the dissolution has not previously been ordered, it shall be
13 effected by operation of law upon the discharge of the
14 liquidator.

15 § 3945. Powers of liquidator.

16 The liquidator shall have, but is not limited to, the
17 following powers and duties:

18 (1) To appoint a special deputy to act for it under this
19 chapter, and to determine his compensation. The special
20 deputy shall have all powers of the liquidator granted by
21 this section. The special deputy shall serve at the pleasure
22 of the department.

23 (2) To employ employees, agents, legal counsel,
24 actuaries, accountants, appraisers, consultants and any other
25 personnel necessary to assist in the liquidation.

26 (3) To fix the compensation of employees, agents, legal
27 counsel, actuaries, accountants, appraisers and consultants
28 without complying with civil service regulations.

29 (4) To pay compensation to persons appointed and to
30 defray all expenses of taking possession of, conserving,

1 conducting, liquidating, disposing of or otherwise dealing
2 with the business and property of the insurer. If the
3 property of the insurer does not contain sufficient cash or
4 liquid assets to defray the costs incurred, the department
5 shall advance the costs so incurred out of the appropriation
6 for the maintenance of the department. Any amounts so paid
7 shall be deemed expenses of administration and shall be
8 repaid to the department out of the first available moneys of
9 the insurer.

10 (5) To hold hearings, subpoena witnesses, compel their
11 attendance, administer oaths, examine any person under oath
12 and compel any person to subscribe to his testimony after it
13 has been correctly reduced to writing and, in connection
14 therewith, to require the production of any books, papers,
15 records or other documents which it deems relevant to the
16 inquiry.

17 (6) To collect all debts and moneys due and claims
18 belonging to the insurer which it is economical to collect,
19 wherever located, and for this purpose to institute timely
20 action in other jurisdictions, in order to forestall
21 garnishment and attachment proceedings against these debts;
22 to do any other acts necessary to collect, conserve or
23 protect its assets or property; to sell, compound, compromise
24 or assign for purposes of collection, upon those terms and
25 conditions which it deems best, any bad or doubtful debts;
26 and to pursue any creditor's remedies available to enforce
27 its claims.

28 (7) To conduct public and private sales of the property
29 of the insurer.

30 (8) To use assets of the estate to transfer policy

1 obligations to a solvent assuming insurer, if the transfer
2 can be arranged without prejudice to applicable priorities
3 under section 3968 (relating to order of distribution).

4 (9) To acquire, hypothecate, encumber, lease, improve,
5 sell, transfer, abandon or otherwise dispose of or deal with
6 any property of the insurer at its market value or upon fair
7 and reasonable terms and conditions and to execute,
8 acknowledge and deliver deeds, assignments, releases and
9 other instruments necessary or proper to effectuate any sale
10 of property or other transaction in connection with the
11 liquidation. The liquidator shall file with the recorder of
12 deeds for the county in which the property is located a
13 certified copy of the order appointing it liquidator.

14 (10) To borrow money on the security of the insurer's
15 assets or without security and to execute and deliver all
16 documents necessary to that transaction for the purpose of
17 facilitating the liquidation.

18 (11) To enter into any contracts necessary to carry out
19 the order to liquidate, and to affirm or disavow any
20 contracts to which the insurer is a party.

21 (12) To institute or continue to prosecute in the name
22 of the insurer or in the name of the liquidator any suits and
23 other legal proceedings, in this Commonwealth or elsewhere,
24 and to abandon the prosecution of claims if unprofitable to
25 pursue further. If the insurer is dissolved under section
26 3944 (relating to dissolution of insurer), the liquidator
27 shall have the power to apply to any court in this
28 Commonwealth or elsewhere for leave to substitute itself for
29 the insurer as plaintiff.

30 (13) To prosecute any action on behalf of the creditors,

1 members, policyholders or shareholders of the insurer against
2 any officer of the insurer or any other person.

3 (14) To remove any or all records and property of the
4 insurer to the offices of the department or to any other
5 convenient place for the purposes of efficient and orderly
6 execution of the liquidation.

7 (15) To deposit in one or more banks in this
8 Commonwealth the sums required for meeting current
9 administration and operating costs.

10 (16) To invest all sums not currently needed unless the
11 court orders otherwise.

12 (17) To file any necessary documents for record in the
13 office of any recorder of deeds or record office in this
14 Commonwealth or elsewhere where property of the insurer is
15 located.

16 (18) To assert all defenses available to the insurer as
17 against third persons, including statutes of limitation,
18 statutes of frauds and usury. A waiver of any defense by the
19 insurer after a petition in liquidation has been filed shall
20 not bind the liquidator. When a guaranty association has an
21 obligation to defend a suit, the liquidator shall give
22 precedence to the obligations and shall defend only in the
23 absence of a defense by the guaranty association.

24 (19) To exercise and enforce all the rights, remedies,
25 and powers of any creditor, shareholder, policyholder or
26 member, including any power to avoid any transfer or lien
27 that may be given by law and that is not included with
28 sections 3952 (relating to fraudulent transfers prior to
29 petition) through 3954 (relating to voidable preferences and
30 liens).

1 (20) To intervene in any proceeding wherever instituted
2 that might lead to the appointment of a receiver or trustee,
3 and to act as the receiver or trustee whenever the
4 appointment is offered.

5 (21) To enter into agreements with any receiver or
6 department of any other state relating to the rehabilitation,
7 liquidation, conservation or dissolution of an insurer doing
8 business in both states.

9 (22) To exercise all powers conferred upon receivers by
10 the laws of this Commonwealth not inconsistent with the
11 provisions of this chapter.

12 § 3946. Notice to creditors and others.

13 (a) General rule.--The liquidator shall give notice of the
14 liquidation order as soon as possible by first class mail and
15 either by telegram or telephone to the insurance department of
16 each jurisdiction in which the insurer is licensed to do
17 business, by first class mail and by telephone to any
18 responsible guaranty association of this Commonwealth, by first
19 class mail to all insurance agents having a duty under section
20 3947 (relating to duties of agents) and to all known
21 policyholders, creditors and claimants.

22 (b) Duty of claimants.--Notice to potential claimants under
23 subsection (a) shall require claimants to file with the
24 liquidator their claims together with proper proofs of claims by
25 the date the liquidator specifies in the notice. All claimants
26 shall keep the liquidator informed of any change of address.

27 § 3947. Duties of agents.

28 (a) Notice to policyholders.--Every person who receives
29 notice in the form prescribed in section 3946 (relating to
30 notice to creditors and others), that an insurer which he

1 represents as an independent agent is the subject of a
2 liquidation order, shall, within 15 days of the notice, give
3 notice of the liquidation order to each policyholder or other
4 person named in any policy issued through the agent by the
5 insurer. The notice shall be sent by first class mail to the
6 last address, if any, contained in the agent's records. A policy
7 shall be deemed issued through an agent if the agent has a
8 property interest in the expiration of the policy, or if the
9 agent has had in his possession a copy of the declarations of
10 the policy at any time during the life of the policy, except
11 where the ownership of the expiration of the policy has been
12 transferred to another. The notice shall include the name and
13 address of the insurer, the name and address of the agent,
14 identification of the policy impaired and the nature of the
15 impairment including termination of coverage, as described in
16 section 3943 (relating to continuation of coverage). Notice by a
17 general agent satisfies the notice requirement for any agents
18 under contract to him.

19 (b) Penalty.--Any agent who fails to give notice as required
20 in subsection (a) shall be subject to payment of a penalty of
21 not more than \$1,000 and may have his license suspended. The
22 penalty shall be imposed only after a hearing held by the
23 department.

24 § 3948. Actions by and against liquidator.

25 (a) Stay.--Upon issuance of an order appointing the
26 department liquidator of a domestic insurer or of an alien
27 insurer domiciled in this Commonwealth, no action shall be
28 brought by or against the insurer, whether in this Commonwealth
29 or elsewhere, nor shall any such existing actions be continued
30 after issuance of the order.

1 (b) Intervention.--Whenever, in the liquidator's judgment,
2 protection of the estate of the insurer necessitates
3 intervention in an action against the insurer that is pending
4 outside this Commonwealth, it may intervene in the action with
5 approval of the court. The liquidator may defend any action in
6 which it intervenes under this section at the expense of the
7 estate of the insurer.

8 (c) Limitation of actions by liquidator.--The liquidator
9 may, upon or after an order for liquidation, within two years or
10 such additional time as the law permits, institute an action on
11 behalf of the estate of the insurer upon any cause of action if
12 the period of limitation has not expired at the time of the
13 filing of the petition upon which the order is entered. If a
14 period of limitation is fixed by agreement for instituting an
15 action or for filing any claim, proof of claim, proof of loss,
16 demand, notice or the like, or if in any proceeding, a period of
17 limitation is fixed for or doing any act, and if the period had
18 not expired at the date of the filing of the petition, the
19 liquidator may, for the benefit of the estate, take any action
20 required of or permitted to the insurer, within a period of 180
21 days subsequent to the entry of an order for liquidation, or
22 within such further period as is shown to the satisfaction of
23 the court not to be unfairly prejudicial to the other party.

24 (d) Limitation of actions against insurer.--The time between
25 the filing of a petition for liquidation against an insurer and
26 the denial of the petition shall not be considered to be a part
27 of the time within which any action may be commenced against the
28 insurer. Any action against the insurer that might have been
29 commenced when the petition was filed may be commenced for at
30 least 60 days after the petition is denied.

1 SUBCHAPTER F

2 ESTATE OF LIQUIDATED INSURER

3 Sec.

4 3951. Collection and list of assets.

5 3952. Fraudulent transfers prior to petition.

6 3953. Fraudulent transfers after petition.

7 3954. Voidable preferences and liens.

8 3955. Claims of holders of void or voidable rights.

9 3956. Setoffs and counterclaims.

10 3957. Assessments.

11 3958. Liability of reinsurer.

12 3959. Recovery of premiums.

13 3960. Proposal for distribution.

14 § 3951. Collection and list of assets.

15 (a) Filing of list.--As soon as practicable after the
16 liquidation order, the liquidator shall prepare in duplicate a
17 list of the insurer's assets. The list shall be amended or
18 supplemented from time to time as the court requires. One copy
19 shall be filed in the office of the clerk of the Commonwealth
20 Court and one copy shall be retained for the liquidator's files.
21 All amendments and supplements shall be similarly filed.

22 (b) Liquidation of assets.--The liquidator shall reduce the
23 assets to a degree of liquidity that is consistent with the
24 prompt, effective and economical execution of the liquidation.

25 § 3952. Fraudulent transfers prior to petition.

26 (a) Avoidance.--Every transfer made or suffered and every
27 obligation incurred by an insurer within one year prior to the
28 filing of a successful petition for rehabilitation or
29 liquidation under this chapter is fraudulent as to then existing
30 and future creditors if made or incurred without fair

1 consideration or with actual intent to hinder, delay or defraud
2 either existing or future creditors. A transfer made or an
3 obligation incurred by an insurer ordered to be rehabilitated or
4 liquidated under this chapter, which is fraudulent under this
5 section, may be avoided by the receiver, except as to a person
6 who in good faith is a purchaser, lienor or obligee for a
7 present fair equivalent value, and except that any purchaser,
8 lienor or obligee, who in good faith has given less than fair
9 consideration for the transfer, lien or obligation, may retain
10 it as security for repayment. The court may, on due notice,
11 order any such transfer or obligation to be preserved for the
12 benefit of the estate and, in that event, the receiver shall
13 succeed to and may enforce the rights of the purchaser, lienor
14 or obligee. Section 3954(d) (relating to voidable preferences
15 and liens) applies to determine the time when transfers are
16 deemed to be made or suffered under this section.

17 (b) Transaction with reinsurer.--Any transaction of the
18 insurer with a reinsurer shall be deemed fraudulent and may be
19 avoided by the receiver under subsection (a) if:

20 (1) the transaction consists of the termination,
21 adjustment or settlement of a reinsurance contract in which
22 the reinsurer is released from any part of its duty to pay
23 the originally specified share of losses that had occurred
24 prior to the time of the transaction, unless the reinsurer
25 gives a present fair equivalent value for the release; and

26 (2) any part of the transaction took place within one
27 year prior to the date of filing of the petition through
28 which the receivership was commenced.

29 § 3953. Fraudulent transfers after petition.

30 (a) General rule.--Except as otherwise provided in this

1 section, a transfer by or in behalf of the insurer after the
2 date of the petition for liquidation by any person other than
3 the liquidator shall not be valid against the liquidator.

4 (b) Transfer of real property.--After a petition for
5 rehabilitation or liquidation, a transfer of any of the real
6 property of the insurer made to a person acting in good faith
7 shall be valid against the receiver if made for a present fair
8 equivalent value, or, if not made for a present fair equivalent
9 value, then to the extent of the present consideration actually
10 paid, for which amount the transferee shall have a lien on the
11 property. The commencement of a proceeding for rehabilitation or
12 liquidation shall be constructive notice upon the recording of a
13 copy of the petition for or order of rehabilitation or
14 liquidation with the recorder of deeds in the county where any
15 real property in question is located. The exercise by any
16 Federal or state court of the power to authorize or effect a
17 judicial sale of real property of the insurer within any county
18 in any state shall not be impaired by the pendency of such a
19 proceeding unless the copy is recorded in the county prior to
20 the consummation of the judicial sale.

21 (c) Pending rehabilitation.--After a petition for
22 rehabilitation or liquidation and before either the receiver
23 takes possession of the property of the insurer or an order of
24 rehabilitation or liquidation is granted:

25 (1) A transfer of any of the property of the insurer,
26 other than real property, made to a person acting in good
27 faith shall be valid against the receiver if made for a
28 present fair equivalent value or, if not made for a present
29 fair equivalent value, then to the extent of the present
30 consideration actually paid, for which amount the transferee

1 shall have a lien on the property so transferred.

2 (2) A person indebted to the insurer or holding property
3 of the insurer may, if acting in good faith, pay the
4 indebtedness or deliver the property, or any part thereof, to
5 the insurer or upon his order, with the same effect as if the
6 petition were not pending.

7 (3) A person having actual knowledge of the pending
8 rehabilitation or liquidation shall be deemed not to act in
9 good faith.

10 (4) A person asserting the validity of a transfer under
11 this section shall have the burden of proof.

12 (d) Applicability.--This section does not impair the
13 negotiability of currency or negotiable instruments.

14 § 3954. Voidable preferences and liens.

15 (a) Preferences.--A preference is a transfer of any of the
16 property of an insurer to or for the benefit of a creditor, for
17 or on account of an antecedent debt, made or suffered by the
18 insurer within one year before the filing of a successful
19 petition for liquidation under this chapter, the effect of which
20 may be to enable the creditor to obtain a greater percentage of
21 his debt than another creditor of the same class would receive.
22 If a liquidation order is entered while the insurer is already
23 subject to a rehabilitation order, then transfers otherwise
24 qualifying shall be deemed preferences if made or suffered
25 within one year before the filing of the successful petition for
26 rehabilitation or within two years before the filing of the
27 successful petition for liquidation, whichever time is shorter.

28 (b) Voidable preferences.--Any preference may be avoided by
29 the liquidator if:

30 (1) the insurer was insolvent at the time of the

1 transfer;

2 (2) the transfer was made within four months before the
3 filing of the petition;

4 (3) the creditor receiving it or to be benefited thereby
5 or his agent acting with reference thereto had, at the time
6 when the transfer was made, reasonable cause to believe that
7 the insurer was insolvent or was about to become insolvent;
8 or

9 (4) the creditor receiving it was an officer, an
10 employee, attorney or other person who was in a position of
11 comparable influence to an officer whether or not he held
12 such position, or any shareholder holding directly or
13 indirectly more than 5% of any class of any equity security
14 issued by the insurer, or any other person with whom the
15 insurer did not deal at arm's length.

16 (c) Effect of voidable preferences.--If the preference is
17 voidable, the liquidator may recover the property or, if it has
18 been converted, its value from any person who has received or
19 converted the property. However, if a bona fide purchaser or
20 lienor has given less than fair equivalent value, he shall have
21 a lien upon the property to the extent of the consideration
22 actually given by him. Where a preference by way of lien or
23 security title is voidable, the court may on due notice order
24 the lien or title to be preserved for the benefit of the estate,
25 in which event the lien or title shall pass to the liquidator.

26 (d) Time transfer completed.--A transfer of property other
27 than real property shall be deemed to be made or suffered when
28 it becomes so far perfected that no subsequent lien obtainable
29 by legal or equitable proceedings on a simple contract could
30 become superior to the rights of the transferee. A transfer of

1 real property shall be deemed to be made or suffered when it
2 becomes so far perfected that no subsequent bona fide purchaser
3 from the insurer could obtain rights superior to the rights of
4 the transferee. A transfer which creates an equitable lien shall
5 not be deemed to be perfected if there are available means by
6 which a legal lien could be created. A transfer not perfected
7 prior to the filing of a petition for liquidation shall be
8 deemed to be made immediately before the filing of the
9 successful petition. The provisions of this subsection apply
10 whether or not there are or were creditors who might have
11 obtained liens or persons who might have become bona fide
12 purchasers.

13 (e) Liens.--A lien obtainable by legal or equitable
14 proceedings upon a simple contract is one arising in the
15 ordinary course of those proceedings upon the entry or docketing
16 of a judgment or decree, or upon attachment, garnishment,
17 execution or similar process, whether before, upon or after
18 judgment or decree and whether before or upon levy. It does not
19 include liens which under applicable law are given a special
20 priority over other liens which are prior in time.

21 (f) Priorities.--A lien obtainable by legal or equitable
22 proceedings could become superior to the rights of a transferee,
23 or a purchaser could obtain rights superior to the rights of a
24 transferee within the meaning of subsection (d), if these
25 consequences would follow only from the lien or purchase itself,
26 or from the lien or purchase followed by any step wholly within
27 the control of the respective lienholder or purchaser, with or
28 without the aid of ministerial action by public officials. The
29 lien could not, however, become superior and the purchaser could
30 not create superior rights for the purpose of subsection (d)

1 through any acts subsequent to the obtaining of the lien or
2 subsequent to the purchase which require the agreement or
3 concurrence of any third party or which require any further
4 judicial action or ruling.

5 (g) Transfers for new consideration.--A transfer of property
6 for or on account of a new and contemporaneous consideration
7 which is deemed under subsection (d) to be made or suffered
8 after the transfer because of delay in perfecting it does not
9 become a transfer for or on account of an antecedent debt if any
10 acts required by the law to be performed in order to perfect the
11 transfer as against liens or bona fide purchasers' rights are
12 performed within 21 days or any period expressly allowed by the
13 law, whichever is less. A transfer to secure a future loan, if
14 the loan is actually made, or a transfer which becomes security
15 for a future loan shall have the same effect as a transfer for
16 or on account of a new and contemporaneous consideration.

17 (h) Indemnifying transfers.--If any lien deemed voidable
18 under subsection (b) is dissolved by the furnishing of a bond or
19 other obligation, the surety on which is indemnified directly or
20 indirectly by the transfer of or the creation of a lien upon any
21 property of an insurer before the filing of a petition under
22 this chapter which results in a liquidation order, the
23 indemnifying transfer or lien shall also be deemed voidable.

24 (i) Discharge from lien.--The property affected by any lien
25 deemed voidable under subsections (b) and (h) shall be
26 discharged from the lien and that property and any of the
27 indemnifying property transferred to or for the benefit of a
28 surety shall pass to the liquidator. However, the court may on
29 due notice order the lien to be preserved for the benefit of the
30 estate and the court may direct that such conveyance be executed

1 as is proper to evidence the title of the liquidator.

2 (j) Summary jurisdiction of Commonwealth Court.--The
3 Commonwealth Court shall have summary jurisdiction of any
4 proceeding by the liquidator to hear and determine the rights of
5 any parties under this section. Reasonable notice of any hearing
6 in the proceeding shall be given to all parties in interest,
7 including the obligee of a releasing bond or other like
8 obligation. Where an order is entered for the recovery of
9 indemnifying property in kind or for the avoidance of an
10 indemnifying lien, the court, upon application of any party in
11 interest, shall ascertain in the same proceeding the value of
12 the property or lien. If that value is less than the amount for
13 which the property serves as indemnity or the amount of the
14 lien, the transferee or lienholder may elect to retain the
15 property or lien upon payment of its value, as ascertained by
16 the court, to the liquidator, within a reasonable time as
17 determined by the court.

18 (k) Liability of certain sureties.--The liability of a
19 surety under a releasing bond or other like obligation shall be
20 discharged to the extent of the value of the indemnifying
21 property recovered or the indemnifying lien nullified and
22 avoided by the liquidator, or where the property is retained
23 under subsection (j) to the extent of the amount paid to the
24 liquidator.

25 (l) Setoffs.--If a creditor has been preferred, and
26 afterward in good faith gives the insurer further credit without
27 security of any kind, for property which becomes a part of the
28 insurer's estate, the amount of the new credit remaining unpaid
29 at the time of the petition may be set off against the
30 preference which would otherwise be recoverable from him.

1 (m) Attorney fees.--If an insurer, within four months before
2 the filing of a successful petition for liquidation under this
3 chapter, or at any time in contemplation of a proceeding to
4 liquidate it, directly or indirectly pays money or transfers
5 property to an attorney at law for services rendered or to be
6 rendered, the transaction may be examined by the court on its
7 own motion or shall be examined by the court on petition of the
8 liquidator and shall be held valid only to the extent of a
9 reasonable amount to be determined by the court. The excess may
10 be recovered by the liquidator for the benefit of the estate.
11 However, if the attorney is in a position of influence in the
12 insurer or its affiliate, payment of any money or the transfer
13 of any property to the attorney for services rendered or to be
14 rendered shall be governed by subsection (b)(4).

15 (n) Personal liability.--Any other person acting on behalf
16 of the insurer who knowingly participates in giving any
17 preference when he has reasonable cause to believe the insurer
18 is or is about to become insolvent at the time of the preference
19 shall be personally liable to the liquidator for the amount of
20 the preference. It is permissible to infer that there is
21 reasonable cause to so believe if the transfer was made within
22 four months before the date of filing of the successful petition
23 for liquidation. Every person receiving any property from the
24 insurer or the benefit thereof as a preference voidable under
25 subsection (b) shall be personally liable therefor and shall be
26 bound to account to the liquidator. This subsection does not
27 prejudice any other claim by the liquidator against any person.
28 § 3955. Claims of holders of void or voidable rights.

29 (a) Creditor claims.--The claims of a creditor who has
30 received or acquired a voidable preference shall not be allowed

1 unless he surrenders the preference or encumbrance. If the
2 avoidance is effected by a proceeding in which a final judgment
3 has been entered, the claim shall not be allowed unless the
4 money is paid or the property is delivered to the liquidator
5 within 30 days from the date of the entering of the final
6 judgment. However, the court having jurisdiction over the
7 liquidation may allow further time if there is an appeal or
8 other continuation of the proceeding.

9 (b) Excused late filing.--A claim allowable under subsection
10 (a) by reason of the avoidance, whether voluntary or
11 involuntary, of a preference or encumbrance may be filed as an
12 excused late filing under section 3961 (relating to filing of
13 claims) if filed within 30 days from the date of the avoidance
14 or within the further time allowed by the court under subsection
15 (a).

16 § 3956. Setoffs and counterclaims.

17 (a) General rule.--Mutual debts or mutual credits between
18 the insurer and another person in connection with any action or
19 proceeding under this chapter shall be set off, and the balance
20 only shall be allowed or paid, except as provided in subsection
21 (b).

22 (b) Exceptions.--A setoff or counterclaim shall not be
23 allowed in favor of any person if:

24 (1) the obligation of the insurer to the person would
25 not at the date of the filing of a petition for liquidation
26 entitle the person to share as a claimant in the assets of
27 the insurer;

28 (2) the obligation of the insurer to the person was
29 purchased by or transferred to the person with a view to its
30 being used as a setoff;

1 (3) the obligation of the person is to pay an assessment
2 levied against the members or subscribers of the insurer, or
3 is to pay a balance upon a subscription to the capital stock
4 of the insurer, or is in any other way in the nature of a
5 capital contribution; or

6 (4) the obligation of the person is to pay premiums,
7 whether earned or unearned, to the insurer.

8 § 3957. Assessments.

9 (a) Report to Commonwealth Court.--As soon as practicable
10 but not more than two years from the date of an order of
11 liquidation under this chapter of an insurer issuing assessable
12 policies, the liquidator shall make a report to the Commonwealth
13 Court setting forth:

14 (1) The reasonable value of the assets of the insurer.

15 (2) The insurer's probable total liabilities.

16 (3) The probable aggregate amount of the assessment
17 necessary to pay all claims of creditors and expenses in
18 full, including expenses of administration and costs of
19 collecting the assessment.

20 (4) Whether or not an assessment should be made and for
21 what amount.

22 (b) Levy of assessment.--Upon the basis of the report
23 provided in subsection (a), the Commonwealth Court may levy one
24 or more assessments against all members of the insurer who are
25 subject to assessment. A member shall not be assessed for any
26 loss that occurred when his policy was not in effect. An
27 assessment shall not be made or collection procedures begun
28 after two years from the expiration date of a policy. The
29 maximum assessment against any member for each year or part
30 thereof in which a policy issued to the member was in effect

1 shall not exceed the average annual premium during the life of
2 the policy as written in the policy, including any increase or
3 reduction in premium as the result of any endorsement. Subject
4 to any applicable legal limits on assessability, the aggregate
5 assessment shall be for the amount that the sum of the probable
6 liabilities, the expenses of administration and the estimated
7 cost of collection of the assessment exceeds the value of
8 existing assets, with due regard being given to assessments that
9 cannot be collected economically.

10 (c) Order to show cause.--After levy of assessment under
11 subsection (b), the department shall issue an order directing
12 each member who has not paid the assessment pursuant to the
13 order to show cause why the liquidator should not pursue a
14 judgment. The liquidator shall give notice of the order to show
15 cause by publication and by first class mail to each member
16 liable. The notice shall be mailed to the member's last known
17 address as it appears on the records of the insurer at least 20
18 days before the return day of the order to show cause.

19 (d) Disposition.--If a member does not appear and serve
20 verified objections upon the liquidator on or before the return
21 day of the order to show cause, the court shall make an order
22 adjudging the member liable for the amount of the assessment
23 against him and other indebtedness under subsection (b),
24 together with costs, and the liquidator shall have a judgment in
25 that amount against the member. If, on or before the return day,
26 the member appears and serves verified objections upon the
27 liquidator, the department may hear and determine the matter or
28 may appoint a referee to hear it and make an order as the facts
29 warrant. If the department determines that the objections do not
30 warrant relief from assessment, the member may request the court

1 to review the matter and vacate the order to show cause.

2 (e) Enforcement.--The liquidator may enforce any order or
3 collect any judgment under subsection (d) by any lawful means.

4 § 3958. Liability of reinsurer.

5 The amount recoverable by the liquidator from reinsurers
6 shall not be reduced as a result of delinquency proceedings,
7 regardless of any provision in the reinsurance contract or other
8 agreement. Payment made directly to an insured or other creditor
9 shall not diminish the reinsurer's obligation to the insurer's
10 estate, except when the reinsurance contract provided for direct
11 coverage of an individual named insured and the payment was made
12 in discharge of that obligation.

13 § 3959. Recovery of premiums.

14 (a) General rule.--An insured, agent, broker, premium
15 finance company or other person responsible for the payment of a
16 premium shall pay any unpaid premium for the full policy term
17 due the insurer at the time of the declaration of insolvency,
18 whether earned or unearned, as shown on the records of the
19 insurer. The liquidator may recover from that person any part of
20 an unearned premium that represents its commission. Credits or
21 setoffs shall not be allowed to an agent, broker or premium
22 finance company on account of any credits volunteered by that
23 person.

24 (b) Enforcement by department.--Upon satisfactory evidence
25 of a violation of this section, the department may suspend,
26 revoke or refuse to renew the licenses of the offending party or
27 parties or impose a penalty of not more than \$1,000 for each
28 violation of this section by the party or parties.

29 (c) Notice and hearing.--Before the department takes any
30 action under subsection (b), it shall give written notice to the

1 person accused of violating the law, stating specifically the
2 nature of the alleged violation, and fixing a time and place, at
3 least ten days thereafter, when a hearing of the matter shall be
4 held.

5 (d) Appeal.--Any party aggrieved by an action taken by the
6 department under this section may appeal to the Commonwealth
7 Court.

8 § 3960. Proposal for distribution.

9 (a) Application to Commonwealth Court.--Within 120 days of a
10 final determination by the court that an insurer is insolvent or
11 in such a condition that its further transaction of business
12 will be hazardous to its policyholders, its creditors or the
13 public, the liquidator shall apply to the Commonwealth Court for
14 approval of a proposal to disburse assets out of the company's
15 marshaled assets, from time to time, as the assets become
16 available, to any guaranty association in this Commonwealth or
17 in any other state having substantially the same provision of
18 law. The liquidator need not apply if it is reasonable to
19 conclude that the assets of the insolvent insurer will not
20 exceed the amounts necessary to pay the costs of liquidation and
21 the payment of claims of creditors either secured or with a
22 priority higher than the claims of policyholders. A guaranty
23 association shall have the right to petition the Commonwealth
24 Court to review an order of the liquidator concluding the assets
25 will not exceed these costs.

26 (b) Contents of proposal.--The proposal shall at least
27 include provisions for all of the following:

28 (1) Reserving amounts for the payment of expenses of
29 administration and the payment of claims of secured creditors
30 to the extent of the value of the security held and claims

1 having a priority higher than that of the claims of
2 policyholders.

3 (2) Disbursement of assets marshaled to date and
4 subsequent disbursement of assets as they become available.

5 (3) Equitable allocation of disbursements to each of the
6 associations entitled thereto.

7 (4) The securing by the liquidator, from each of the
8 associations entitled to disbursements pursuant to this
9 section, of an agreement to return to the liquidator such
10 assets previously disbursed as are required to pay the claims
11 of secured creditors, claims falling within the priorities
12 referred to in paragraph (1) and the proportional share of
13 the assets disbursed required by the liquidator to make
14 equivalent distribution to creditors of the same class of
15 priority as policyholders if the association has received a
16 disbursement of assets in excess of that available to pay all
17 creditors of the insolvent insurer in the same class of
18 priority as policyholders. An association shall return these
19 assets to the liquidator when needed upon its own initiative
20 or upon demand of the liquidator together with any investment
21 income earned on the assets reimbursed. A bond shall not be
22 required of the association.

23 (c) Reports.--The liquidator may require reports to be made
24 by an association at the time and covering the matters he
25 determines. A full report shall be made by the association to
26 the liquidator when assets received have been disbursed or the
27 obligation of an association to pay covered claims of the
28 insolvent insurer has been fulfilled accounting for all assets
29 so disbursed to the association, all disbursements made
30 therefrom, any interest earned by the association on these

1 assets and any other matter the court directs.

2 (d) Disbursements to associations.--The proposal of the
3 liquidator shall provide for disbursements to the associations
4 in amounts estimated to be at least equal to the claim payments
5 made or to be made thereby for which the associations could
6 assert a claim against the liquidator, and shall further provide
7 that if the assets available for disbursement from time to time
8 do not equal or exceed the amount of the claim payments made or
9 to be made by the associations, then disbursements shall be in
10 the amount of available assets.

11 (e) Notice.--Notice of the application under subsection (a)
12 shall be given to the associations and to the departments of
13 insurance of each of the states where the company is licensed.
14 The notice shall be deemed to have been given when sent by
15 registered mail, first class postage prepaid, at least 30 days
16 prior to the submission of the application to the Commonwealth
17 Court. Action on the application may be taken by the court
18 provided the notice has been given and provided further that the
19 liquidator's proposal complies with subsection (b).

20 SUBCHAPTER G

21 DISTRIBUTION OF ESTATE OF LIQUIDATED INSURER

22 Sec.

23 3961. Filing of claims.

24 3962. Proofs of claim.

25 3963. Special claims.

26 3964. Third-party claims.

27 3965. Disputed claims.

28 3966. Claims of surety.

29 3967. Secured claims of creditors.

30 3968. Order of distribution.

1 3969. Liquidator's recommendations to the court.
2 3970. Distribution of assets.
3 3971. Unclaimed and withheld funds.
4 3972. Termination of proceedings.
5 3973. Reopening of liquidation.
6 3974. Disposition of records.
7 3975. External audit of receiver.
8 3976. Federal receivership.
9 § 3961. Filing of claims.

10 (a) Proof of claim.--Proof of all claims shall be filed with
11 the liquidator in the form required by section 3962 (relating to
12 proofs of claim) on or before the last day for filing specified
13 in the notice required under section 3946 (relating to notice to
14 creditors and others), except that proofs of claim for cash
15 surrender values or other investment values in life insurance
16 and annuities need not be filed unless the liquidator expressly
17 so requires.

18 (b) Late filing.--For good cause shown, the liquidator may
19 permit a claimant making a late filing to share in
20 distributions, whether past or future, as if he had timely
21 filed, to the extent that payment will not prejudice the orderly
22 administration of the liquidation. Good cause includes, but is
23 not limited to, the following:

24 (1) That existence of the claim was not known to the
25 claimant and that he filed his claim as promptly as
26 reasonably possible after learning of it.

27 (2) That a transfer to a creditor was avoided under
28 section 3952 (relating to fraudulent transfers prior to
29 petition), 3953 (relating to fraudulent transfers after
30 petition) or 3954 (relating to voidable preferences and

1 liens), or was voluntarily surrendered under section 3955
2 (relating to claims of holders of void or voidable rights),
3 and that the filing satisfies the conditions of section 3955.

4 (3) That valuation under section 3967 (relating to
5 secured claims of creditors) of security held by a secured
6 creditor shows a deficiency, which is filed within 30 days
7 after the valuation.

8 (4) That a claim was contingent and became absolute, and
9 was filed as promptly as reasonably possible after it became
10 absolute.

11 (5) That the claim was the claim of a guaranty
12 association for reimbursement of covered claims paid or
13 expenses incurred subsequent to the last day for filing, if
14 the payments were made and expenses incurred as a result of
15 requirements of law.

16 (c) Other late-filed claims.--The liquidator may consider
17 any claim filed late which is not covered by subsection (b), and
18 permit it to receive distributions which are subsequently
19 declared on any claims of the same or lower priority if the
20 payment does not prejudice the orderly administration of the
21 liquidation. The late-filing claimant shall receive at each
22 distribution the same percentage of the amount allowed on his
23 claim as is then being paid to other claimants of the same
24 priority, plus the same percentage of the amount allowed on his
25 claim as is then being paid to claimants of any lower priority.
26 This shall continue until his claim is paid in full.

27 § 3962. Proofs of claim.

28 (a) Contents.--A proof of claim shall consist of a statement
29 signed by the claimant that includes all of the following
30 information that is applicable:

1 (1) The particulars of the claim including the
2 consideration given for it.

3 (2) The identity and amount of the security on the
4 claim.

5 (3) The payments made on the debt.

6 (4) That the sum claimed is justly owing and that there
7 is no setoff, counterclaim or defense to the claim.

8 (5) Any right of priority of payment or other specific
9 right asserted by the claimants.

10 (6) A copy of any written instrument which is the
11 foundation of the claims.

12 (7) In the case of any third party claim based on a
13 liability policy issued by the insurer, a conditional release
14 of the insured pursuant to section 3964(a) (relating to
15 third-party claims).

16 (8) The name and address of the claimant and any
17 attorney who represents him.

18 A claim shall not be considered or allowed if it does not
19 contain all the required information which may be applicable.

20 The liquidator may require that a prescribed form be and may
21 require that other information and documents be included.

22 (b) Supplementary information.--At any time the liquidator
23 may request the claimant to present information or evidence
24 supplementary to that required under subsection (a), take
25 testimony under oath, require production of affidavits or
26 depositions or otherwise obtain additional information or
27 evidence.

28 (c) Use of judgments and orders.--A judgment or order
29 against an insured or the insurer entered after the date of
30 filing of a successful petition for liquidation, or a judgment

1 or order against an insured or the insurer entered at any time
2 by default or by collusion, need not be considered as evidence
3 of liability or of quantum of damages.

4 (d) Claim of guaranty association.--A claim of a guaranty
5 association for reimbursement of payments made for the payments
6 of covered claims and for expenses shall be in the form and
7 contain the substantiation agreed to by the guaranty association
8 and the liquidator subject to review by the Commonwealth Court.
9 § 3963. Special claims.

10 (a) Certain contingent third-party claims.--The claim of a
11 third party which is contingent only on his first obtaining a
12 judgment against the insured shall be considered and allowed as
13 if there were no such contingency.

14 (b) Claims affected by termination of coverage.--Any claim
15 that would have become absolute if there had been no termination
16 of coverage under section 3943 (relating to continuation of
17 coverage), and which is not covered by insurance acquired to
18 replace the terminated coverage, shall be allowed as if the
19 coverage had remained in effect, unless at least ten days before
20 the insured event occurred either the claimant had actual notice
21 of the termination or notice was mailed to him under section
22 3946 (relating to notice to creditors and others) or 3947
23 (relating to duties of agents). If allowed the claim shall share
24 in distributions under section 3968(6) (relating to order of
25 distribution).

26 (c) Allowance of contingent claims.--A claim may be allowed
27 even if contingent, if it is filed in accordance with section
28 3961(b) (relating to filing of claims). It may be allowed and
29 may participate in all distributions declared after it is filed
30 to the extent that it does not prejudice the orderly

1 administration of the liquidation.

2 (d) Claims due except for passage of time.--Claims that are
3 due except for the passage of time shall be treated as absolute
4 claims are treated, except that such claims may be discounted at
5 the legal rate of interest.

6 (e) Workmen's compensation security funds.--The State
7 Treasurer in his capacity as custodian of the workmen's
8 compensation security funds may file a claim with the liquidator
9 for all sums paid or to be paid from those funds.

10 § 3964. Third-party claims.

11 (a) General rule.--Whenever any third party asserts a cause
12 of action against an insured of an insurer in liquidation the
13 third party may file a claim with the liquidator. The filing of
14 the claim shall operate as a release of the insured's liability
15 to the third party on that cause of action in the amount of the
16 applicable policy limit, but the liquidator shall also insert in
17 any form used for the filing of third party claims appropriate
18 language to constitute this release. The release shall be void
19 if the insurance coverage is avoided by the liquidator.

20 (b) Filing of claim by insured.--Whether or not the third
21 party files a claim, the insured may file a claim on his own
22 behalf in the liquidation. If the insured fails to file a claim
23 by the date for filing claims specified in the order of
24 liquidation or within 60 days after mailing of the notice
25 required by section 3946(a) (relating to notice to creditors and
26 others), whichever is later, he shall be deemed to be an
27 unexcused late filer.

28 (c) Allowance of claims of an insured.--The liquidator shall
29 make his recommendations to the court under section 3969
30 (relating to liquidator's recommendations to the court) for the

1 allowance of an insured's claim under subsection (b) after
2 consideration of the probable outcome of any pending action
3 against the insured on which the claim is based, the probable
4 damages recoverable in the action and the probable costs and
5 expenses of defense. Those recommendations which are not
6 modified by the court within a period of 60 days following
7 submission by the liquidator shall be treated by the liquidator
8 as allowed recommendations, subject to later modification or to
9 rulings made by the court under section 3965 (relating to
10 disputed claims). After allowance by the court, the liquidator
11 shall withhold any distributions payable on the claim, pending
12 the outcome of litigation and negotiation with the insured.
13 Whenever appropriate, the liquidator shall reconsider the claim
14 on the basis of additional information and amend the
15 liquidator's recommendations to the court, which may amend its
16 allowance as appropriate. As claims against the insured are
17 settled, the claimant shall be paid from the amount withheld the
18 same percentage distribution as was paid on other claims of like
19 priority, based on the lesser of either the amount allowed on
20 the claims by the court or the amount actually recovered from
21 the insured by action or paid by agreement plus the reasonable
22 costs and expenses of defense. After all claims are settled, any
23 sum remaining from the amount withheld shall revert to the
24 undistributed assets of the insurer. Delay in final payment
25 under this subsection shall not be a reason for unreasonable
26 delay of final distribution and discharge of the liquidator.

27 (d) Proration of claims.--Whenever several claims founded
28 upon one policy are filed, whether by third parties or as claims
29 by the insured under this section, and the aggregate allowed
30 amount of the claims to which the same limit of liability in the

1 policy is applicable exceeds that limit, then each claim as
2 allowed shall be reduced a proportionate amount so that the
3 total equals the policy limit. Claims by the insured shall be
4 evaluated as in subsection (c). If any insured's claim is
5 subsequently reduced under subsection (c), the amount thus freed
6 shall be apportioned pro rata among the claims which have been
7 reduced under this subsection.

8 § 3965. Disputed claims.

9 (a) Determination.--When a claim is denied in whole or in
10 part by the liquidator, written notice of the determination
11 shall be given to the claimant and his attorney by first class
12 mail at the address shown in the proof of claim. Within 60 days
13 from the mailing of the notice, the claimant may file his
14 objections with the court. If no such filing is made, the
15 claimant shall not further object to the determination.

16 (b) Hearing.--Whenever objections are filed with the
17 liquidator, the liquidator shall ask the court for a hearing as
18 soon as practicable and give notice of the hearing by first
19 class mail to the claimant or his attorney and to any other
20 persons directly affected, not less than 10 nor more than 30
21 days before the date of the hearing. The matter may be heard by
22 the court or by a court-appointed referee who shall submit
23 findings of fact along with his recommendation.

24 § 3966. Claims of surety.

25 (a) Filing of claim.--Whenever a creditor whose claim
26 against an insurer is secured, in whole or in part, by the
27 undertaking of another person, fails to prove and file that
28 claim, the other person may do so in the creditor's name, and
29 shall be subrogated to the rights of the creditor, whether the
30 claim has been filed by the creditor or by the other person in

1 the creditor's name, to the extent that he discharges the
2 undertaking. In the absence of an agreement with the creditor to
3 the contrary, the other person shall not be entitled to any
4 distribution, however, until the amount paid to the creditor on
5 the undertaking plus the distributions paid on the claim from
6 the insurer's estate to the creditor equals the amount of the
7 entire claim of the creditor. Any excess received by the
8 creditor shall be held by him in trust for the other person.

9 (b) Definition.--As used in this section the term "other
10 person" does not include a guaranty association.

11 § 3967. Secured claims of creditors.

12 (a) Valuation.--The value of any security held by a secured
13 creditor shall be determined as the court directs, either by
14 converting the security into money according to the terms of the
15 agreement pursuant to which the security was delivered to the
16 creditor, or by agreement, arbitration, compromise or litigation
17 between the creditor and the liquidator. The determination shall
18 be under the supervision and control of the court with due
19 regard for the recommendation of the liquidator.

20 (b) Treatment of claim.--The amount so determined shall be
21 credited upon the secured claim, and any deficiency shall be
22 treated as an unsecured claim. If the claimant surrenders his
23 security to the liquidator, the entire claim shall be allowed as
24 if unsecured.

25 § 3968. Order of distribution.

26 The order of distribution of claims from the insurer's estate
27 shall be in accordance with the order in which each class of
28 claims is set forth in this section. Every claim in each class
29 shall be paid in full or adequate funds retained for the payment
30 before the members of the next class receive any payment.

1 Subclasses shall not be established within any class. The order
2 of classes is as follows:

3 (1) Debts due to employees for services performed to the
4 extent that they do not exceed \$1,000 and represent payment
5 for services performed within one year before the filing of
6 the petition for liquidation. Officers and directors shall
7 not be entitled to the benefit of this priority. This
8 priority shall be in lieu of any other similar priority which
9 may be authorized by law as to wages or compensation of
10 employees.

11 (2) The costs and expenses of administration, including,
12 but not limited to, the following:

13 (i) The actual and necessary costs of preserving or
14 recovering the assets of the insurer.

15 (ii) Compensation for all services rendered in the
16 liquidation.

17 (iii) Any necessary filing fees.

18 (iv) Fees and mileage payable to witnesses.

19 (v) Reasonable attorney fees.

20 (vi) The expenses of a guaranty association in
21 handling claims.

22 (3) All claims under policies for losses wherever
23 incurred, including third-party claims, and all claims
24 against the insurer for liability for bodily injury or for
25 injury to or destruction of tangible property which are not
26 under policies. All claims under life insurance and annuity
27 policies, whether for death proceeds, annuity proceeds or
28 investment values shall be treated as loss claims. That
29 portion of any loss for which indemnification is provided by
30 other benefits or advantages recovered by the claimant shall

1 not be included in this class, other than benefits or
2 advantages recovered or recoverable in discharge of familial
3 obligations of support or by way of succession at death or as
4 proceeds of life insurance, or as gratuities. A payment made
5 by an employer to his employee shall not be treated as a
6 gratuity.

7 (4) Claims under nonassessable policies for unearned
8 premium or other premium refunds and claims of general
9 creditors.

10 (5) Claims of the Federal or any state or local
11 government. Claims, including those of any governmental body,
12 for a penalty or forfeiture shall be allowed in this class
13 only to the extent of the pecuniary loss sustained from the
14 act, transaction or proceeding out of which the penalty or
15 forfeiture arose, with reasonable and actual costs occasioned
16 thereby. The remainder of the claims shall be postponed to
17 the class of claims under paragraph (7).

18 (6) The following claims:

19 (i) Claims under section 3963 (relating to special
20 claims), to the extent that the claims were disallowed
21 under that section.

22 (ii) Claims filed late.

23 (iii) Claims or portions of claims, payment of which
24 is provided by other benefits or advantages recovered by
25 the claimant.

26 (7) Surplus or contribution notes, or similar
27 obligations, and premium refunds on assessable policies.
28 Payments to members of domestic mutual insurance companies
29 shall be limited in accordance with law.

30 (8) The claims of shareholders or other owners.

1 § 3969. Liquidator's recommendations to the court.

2 (a) Report of claims.--The liquidator shall review all
3 claims duly filed in the liquidation and shall make such further
4 investigation as is necessary. The liquidator may compromise or
5 negotiate the amount for which claims will be recommended to the
6 court. Unresolved disputes shall be determined under section
7 3965 (relating to disputed claims). As soon as practicable, the
8 liquidator shall present to the court a report of the claims
9 against the insurer with the liquidator's recommendations. The
10 report shall include the name and address of each claimant, the
11 particulars of the claim and the amount of the claim finally
12 recommended, if any.

13 (b) Court approval.--The court may approve, disapprove or
14 modify the report on claims by the liquidator. However, the
15 liquidator's agreements with other parties shall be final and
16 binding on the court to the extent permitted by law. The
17 recommendations which are not modified by the court within a
18 period of 60 days following submission by the liquidator shall
19 be treated by the liquidator as allowed recommendations, subject
20 to later modification or to rulings made by the court under
21 section 3965. A claim under a policy of insurance shall not be
22 allowed for an amount in excess of the applicable policy limits.

23 § 3970. Distribution of assets.

24 Under the direction of the court, the liquidator shall pay
25 distributions in a manner that will assure the proper
26 recognition of priorities and a reasonable balance between the
27 expeditious completion of the liquidation and the protection of
28 unliquidated and undetermined claims, including third party
29 claims. Distribution of assets in kind may be made at valuations
30 set by agreement between the liquidator and the creditor and

1 approved by the court.

2 § 3971. Unclaimed and withheld funds.

3 (a) Unclaimed funds.--All unclaimed funds subject to
4 distribution remaining with the liquidator when it is ready to
5 apply to the court for discharge, including the amount
6 distributable to any creditor, shareholder, member or other
7 person who is unknown or cannot be found, shall be deposited
8 with the State Treasurer. Any amount on deposit not claimed
9 within six years from the discharge of the liquidator shall be
10 deemed to have been abandoned, shall be escheated without formal
11 escheat proceedings and shall be paid into the State Treasury
12 and deposited in the General Fund. Any amounts barred shall
13 become the property of the Commonwealth, and the State Treasurer
14 shall at the end of each fiscal year transfer the amount so
15 barred to the credit of the appropriation of the department for
16 the use and operation of liquidation proceedings.

17 (b) Withheld funds.--All funds withheld under section 3964
18 (relating to third-party claims) and not distributed shall upon
19 discharge of the liquidator be deposited with the State
20 Treasurer and paid by him in accordance with section 3964. Any
21 sums remaining, which under section 3964 would revert to the
22 undistributed assets of the insurer, shall be transferred to the
23 State Treasurer and become the property of the Commonwealth
24 under subsection (a), unless the department petitions the court
25 to reopen the liquidation under section 3973 (relating to
26 reopening of liquidation).

27 § 3972. Termination of proceedings.

28 (a) Discharge of liquidator.--When all assets justifying the
29 expense of collection and distribution have been collected and
30 distributed under this chapter, the liquidator shall apply to

1 the court for discharge. The court may grant the discharge and
2 make any other orders including an order to transfer any
3 remaining funds that are uneconomic to distribute.

4 (b) Application for order.--Any other person may apply to
5 the court at any time for an order under subsection (a). If the
6 application is denied, the applicant shall pay the costs and
7 expenses of the liquidator in resisting the application,
8 including a reasonable attorney fee.

9 § 3973. Reopening of liquidation.

10 After the liquidation proceeding has been terminated and the
11 liquidator discharged, the department or other interested party
12 may at any time petition the Commonwealth Court to reopen the
13 proceedings for good cause, including the discovery of
14 additional assets. If the court is satisfied that there is
15 justification for reopening, it shall so order.

16 § 3974. Disposition of records.

17 Whenever it appears to the department that the records of any
18 insurer in process of liquidation or completely liquidated are
19 no longer useful, the department may recommend to the court
20 which records should be retained for future reference and which
21 should be destroyed.

22 § 3975. External audit of receiver.

23 The Commonwealth Court may cause audits to be made of the
24 books of the department relating to any receivership established
25 under this chapter. A report of each audit shall be filed with
26 the department and with the court. The books, records and other
27 documents of the receivership shall be made available to the
28 auditor at any time without notice. The expense of each audit
29 shall be considered a cost of administration of the
30 receivership.

1 § 3976. Federal receivership.

2 (a) Appointment.--Whenever liquidation of a domestic insurer
3 or an alien insurer domiciled in this Commonwealth would be
4 facilitated by a Federal receivership, and when any ground
5 exists upon which the department could petition the court for an
6 order of rehabilitation or liquidation under section 3931
7 (relating to grounds for rehabilitation) or 3941 (relating to
8 grounds for liquidation), or if an order of rehabilitation or
9 liquidation has already been entered, the department may request
10 another department of another state to petition the Federal
11 court for the appointment of a Federal receiver. The department
12 may intervene in any action to appoint a Federal receiver to
13 support or oppose the petition, and may accept appointment as
14 the receiver if it is so designated. As much of this chapter
15 shall apply to the receivership as can be made applicable and is
16 appropriate. Upon motion of the department, the Commonwealth
17 Court shall relinquish all jurisdiction over the insurer for
18 purposes of rehabilitation or liquidation.

19 (b) Department as receiver.--If the department is appointed
20 receiver under this section, it shall comply with any
21 requirements necessary to give it title to and control over the
22 assets and affairs of the insurer.

23 SUBCHAPTER H

24 INTERSTATE RELATIONS

25 Sec.

26 3981. Conservation of property of foreign or alien insurers.

27 3982. Liquidation of property of foreign or alien insurers.

28 3983. Foreign domiciliary receivers in other states.

29 3984. Ancillary formal proceedings.

30 3985. Ancillary summary proceedings.

1 3986. Claims of nonresidents against domiciliary insurers.

2 3987. Claims of residents against insurers of reciprocal
3 states.

4 3988. Execution proceedings.

5 3989. Interstate priorities.

6 3990. Subordination of claims for lack of cooperation.

7 § 3981. Conservation of property of foreign or alien insurers.

8 (a) Petition to Commonwealth Court.--If a domiciliary
9 liquidator has not been appointed, the department may apply to
10 the Commonwealth Court by verified petition for an order
11 directing the department to conserve the property of an alien
12 insurer not domiciled in this Commonwealth or a foreign insurer
13 on any one or more of the following grounds:

14 (1) Any of the grounds in section 3931 (relating to
15 grounds for rehabilitation).

16 (2) That any of its property has been sequestered by
17 official action in its domiciliary state or in any other
18 state.

19 (3) That enough of its property has been sequestered in
20 a foreign country to give reasonable cause to fear that the
21 insurer is or may become insolvent.

22 (4) That its certificate of authority to do business in
23 this Commonwealth has been revoked or that none was ever
24 issued and there are residents of this Commonwealth with
25 outstanding claims or outstanding policies.

26 (b) Order.--The court may issue the order in whatever terms
27 it deems appropriate. The filing or recording of the order with
28 the recorder of deeds of Dauphin County shall impart the same
29 notice as a deed, bill of sale or other evidence of title duly
30 filed or recorded with that recorder of deeds would have

1 imparted.

2 (c) Petitions by conservator.--The conservator may at any
3 time petition for and the court may grant an order under section
4 3982 (relating to liquidation of property of foreign or alien
5 insurers) to liquidate the assets of a foreign or alien insurer
6 under conservation or, if appropriate, for an order under
7 section 3984 (relating to ancillary formal proceedings), to be
8 appointed ancillary receiver.

9 (d) Petition to terminate.--The conservator may at any time
10 petition the court for an order terminating conservation of an
11 insurer. If the court finds that the conservation is no longer
12 necessary, it shall order that the insurer be restored to
13 possession of its property and the control of its business. The
14 court may also make such a finding and issue such an order at
15 any time upon motion of any interested party.

16 § 3982. Liquidation of property of foreign or alien insurers.

17 (a) Petition to Commonwealth Court.--If a domiciliary
18 receiver has not been appointed, the department may apply to the
19 Commonwealth Court by petition for an order directing the
20 department to liquidate the assets found in this Commonwealth of
21 a foreign insurer or an alien insurer not domiciled in this
22 Commonwealth, on any of the grounds in section 3931 (relating to
23 grounds for rehabilitation) or 3981 (relating to conservation of
24 property of foreign or alien insurers).

25 (b) Order to liquidate.--If it appears to the court that the
26 best interests of creditors, policyholders and the public so
27 require, the court may issue an order to liquidate in whatever
28 terms it deems appropriate. The filing or recording of the order
29 with the recorder of deeds of Dauphin County shall impart the
30 same notice as a deed, bill of sale, or other evidence of title

1 duly filed or recorded with that recorder of deeds would have
2 imparted.

3 (c) Liquidation as ancillary receiver.--If a domiciliary
4 liquidator is appointed in a reciprocal state while a
5 liquidation is proceeding under this section, the liquidator
6 under this section shall thereafter act as ancillary receiver
7 under section 3984 (relating to ancillary formal proceedings).
8 If a domiciliary liquidator is appointed in a nonreciprocal
9 state while a liquidation is proceeding under this section, the
10 liquidator under this section may petition the court for
11 permission to act as ancillary receiver under section 3984.

12 (d) Petition to Federal court.--On the same grounds as are
13 specified in subsection (a), the department may petition any
14 appropriate Federal court to be appointed receiver to liquidate
15 that portion of the insurer's assets and business over which the
16 court will exercise jurisdiction, or any lesser part thereof
17 that the department deems desirable for the protection of the
18 policyholders and creditors in this Commonwealth. The department
19 may accept appointment as Federal receiver if another person
20 files a petition.

21 § 3983. Foreign domiciliary receivers in other states.

22 (a) Insurer domiciled in reciprocal state.--The domiciliary
23 liquidator of an insurer domiciled in a reciprocal state shall
24 be vested by operation of law with the title to all of the
25 property, contracts and rights of action, and all of the books,
26 accounts and other records of the insurer located in this
27 Commonwealth. The date of vesting shall be the date of the
28 filing of the petition, if that date is specified by the
29 domiciliary law for the vesting of property in the domiciliary
30 state. Otherwise, the date of vesting shall be the date of entry

1 of the order directing possession to be taken. The domiciliary
2 liquidator shall have the immediate right to recover balances
3 due from agents and to obtain possession of the books, accounts
4 and other records of the insurer located in this Commonwealth.
5 He also shall have the right to recover the other assets of the
6 insurer located in this Commonwealth, subject to section 3984
7 (relating to ancillary formal proceedings).

8 (b) Insurer not domiciled in a reciprocal state.--If a
9 domiciliary liquidator is appointed for an insurer not domiciled
10 in a reciprocal state, the department shall be vested by
11 operation of law with the title to all of the property,
12 contracts and rights of action, and all of the books, accounts
13 and other records of the insurer located in this Commonwealth,
14 at the same time that the domiciliary liquidator is vested with
15 title in the state of domicile. The department of this
16 Commonwealth may petition for a conservation or liquidation
17 order under section 3981 (relating to conservation of property
18 of foreign or alien insurers) or 3982 (relating to liquidation
19 of property of foreign or alien insurers), or for an ancillary
20 receivership under section 3984, or after approval by the
21 Commonwealth Court may transfer title to the domiciliary
22 liquidator, as the interests of justice and the equitable
23 distribution of the assets require.

24 (c) Claims of residents.--Claimants residing in this
25 Commonwealth may file claims with the liquidator or ancillary
26 receiver, if any, in this Commonwealth, or with the domiciliary
27 liquidator, if the law of the domiciliary state permits. The
28 claims must be filed on or before the last date fixed for the
29 filing of claims in the domiciliary liquidation proceedings.

30 (d) Powers and duties of ancillary receiver.--Subject to the

1 provisions of this section, the ancillary receiver shall have
2 the same powers and be subject to the same duties with respect
3 to the administration of assets as a liquidator of an insurer
4 domiciled in this Commonwealth.

5 § 3984. Ancillary formal proceedings.

6 (a) Petition to Commonwealth Court.--If a domiciliary
7 liquidator has been appointed for an insurer not domiciled in
8 this Commonwealth, the department may petition the Commonwealth
9 Court requesting appointment as ancillary receiver in this
10 Commonwealth:

11 (1) if it finds that there are sufficient assets of the
12 insurer located in this Commonwealth to justify the
13 appointment of an ancillary receiver; or

14 (2) if the protection of creditors or policyholders in
15 this Commonwealth so requires.

16 (b) Order appointing receiver.--The court may order the
17 appointment of an ancillary receiver in whatever terms it deems
18 appropriate. The filing or recording of the order with the
19 recorder of deeds of Dauphin County shall impart the same notice
20 as a deed, bill of sale or other evidence of title duly filed or
21 recorded with that recorder of deeds would have imparted.

22 (c) Ancillary receivers appointed in this Commonwealth.--
23 When a domiciliary liquidator has been appointed in a reciprocal
24 state, the ancillary receiver appointed in this Commonwealth
25 under subsection (a) shall have the sole right to recover all
26 the assets of the insurer in this Commonwealth not already
27 recovered by the domiciliary liquidator. The ancillary receiver
28 shall, as soon as practicable, liquidate from their respective
29 securities those special deposit claims and secured claims which
30 are proved and allowed in the ancillary proceedings in this

1 Commonwealth and shall pay the necessary expenses of the
2 proceedings. The ancillary receiver shall promptly transfer all
3 remaining assets, books, accounts and records to the domiciliary
4 liquidator. Subject to this section, the ancillary receiver
5 shall have the same powers and be subject to the same duties
6 with respect to the administration of assets as a liquidator of
7 an insurer domiciled in this Commonwealth.

8 (d) Ancillary receivers appointed in reciprocal states.--
9 When a domiciliary liquidator has been appointed in this
10 Commonwealth, ancillary receivers appointed in reciprocal states
11 shall have, as to assets and books, accounts and other records
12 in their respective states, corresponding rights, duties and
13 powers to those provided in subsection (c) for ancillary
14 receivers appointed in this Commonwealth.

15 § 3985. Ancillary summary proceedings.

16 The department in its sole discretion may institute
17 proceedings under Subchapter C (relating to summary proceedings)
18 at the request of the appropriate insurance official of the
19 domiciliary state of any foreign or alien insurer having
20 property located in this Commonwealth.

21 § 3986. Claims of nonresidents against domiciliary insurers.

22 (a) Filing of claims.--In a liquidation proceeding
23 instituted in this Commonwealth against an insurer domiciled in
24 this Commonwealth, claimants residing in foreign countries or in
25 nonreciprocal states shall file claims in this Commonwealth, and
26 claimants residing in reciprocal states may file claims either
27 with the ancillary receivers, if any, in their respective
28 states, or with the domiciliary liquidator. In reciprocal
29 states, if an ancillary receiver has been appointed, a guaranty
30 association of that state shall file its claims with the

1 ancillary receiver. Claims shall be filed on or before the last
2 dates fixed for the filing of claims in the domiciliary
3 liquidation proceeding.

4 (b) Proving claims.--Claims of persons residing in
5 reciprocal states may be proved either in the liquidation
6 proceeding in this Commonwealth under this chapter, or in
7 ancillary proceedings, if any, in the reciprocal states. If
8 notice of the claim and opportunity to appear and be heard is
9 afforded the domiciliary liquidator of this Commonwealth under
10 section 3987 (relating to claims of residents against insurers
11 of reciprocal states), the final allowance of claims by the
12 courts in ancillary proceedings in reciprocal states shall be
13 conclusive as to amount and as to priority against special
14 deposits or other security located in such ancillary states, but
15 shall not be conclusive with respect to priorities against
16 general assets under section 3968 (relating to order of
17 distribution).

18 § 3987. Claims of residents against insurers of reciprocal
19 states.

20 (a) Filing of claims.--In a liquidation proceeding in a
21 reciprocal state against an insurer domiciled in that state,
22 claimants against the insurer who reside in this Commonwealth
23 may file claims either with the ancillary receiver, if any, in
24 this Commonwealth or with the domiciliary liquidator. Claims
25 must be filed on or before the last dates fixed for the filing
26 of claims in the domiciliary liquidation proceeding.

27 (b) Where claims may be proved.--Claims belonging to
28 claimants residing in this Commonwealth may be proved either in
29 the domiciliary state under the law of that state, or in
30 ancillary proceedings, if any, in this Commonwealth. If a

1 claimant elects to prove his claim in this Commonwealth, he
2 shall file his claim with the liquidator in the manner provided
3 in sections 3961 (relating to filing of claims) and 3962
4 (relating to proofs of claim). The ancillary receiver shall make
5 its recommendation to the court as under section 3969 (relating
6 to liquidator's recommendations to the court). The ancillary
7 receiver shall also arrange a date for hearing if necessary
8 under section 3965 (relating to disputed claims) and shall give
9 notice to the liquidator in the domiciliary state, either by
10 registered mail or by personal service, at least 40 days prior
11 to the date set for hearing. If the domiciliary liquidator,
12 within 30 days after the giving of notice, gives notice in
13 writing to the ancillary receiver and to the claimant, either by
14 registered mail or by personal service, of his intention to
15 contest the claim, he may appear in any proceeding in this
16 Commonwealth involving the adjudication of the claims. The final
17 allowance of the claim by the courts of this Commonwealth shall
18 be conclusive as to amount and as to priority against special
19 deposits or other security located in this Commonwealth.

20 § 3988. Execution proceedings.

21 During the pendency in this Commonwealth or any other state
22 of a liquidation proceeding, whether called by that name or not,
23 no proceeding in the nature of an attachment, garnishment or
24 levy of execution shall be commenced or maintained in this
25 Commonwealth against the delinquent insurer or its assets.

26 § 3989. Interstate priorities.

27 (a) Order of distribution.--In a liquidation proceeding in
28 this Commonwealth involving one or more reciprocal states, the
29 order of distribution of the domiciliary state shall control as
30 to all claims of residents of this Commonwealth and reciprocal

1 states. These claims shall have equal priority of payment from
2 general assets regardless of where the assets are located.

3 (b) Special deposit claims.--The owners of special deposit
4 claims against an insurer for which a liquidator is appointed in
5 this Commonwealth or any other state shall be given priority
6 against the special deposits in accordance with the statutes
7 governing the creation and maintenance of the deposits. If there
8 is a deficiency in any deposit, so that the claims secured by it
9 are not fully discharged from it, the claimants may share in the
10 general assets. However, this sharing shall be deferred until
11 general creditors, and also claimants against other special
12 deposits who have received smaller percentages from their
13 respective special deposits, are paid percentages of their
14 claims equal to the percentage paid from the special deposit.

15 (c) Secured claims.--The owner of a secured claim against an
16 insurer for which a liquidator has been appointed in this
17 Commonwealth or any other state may surrender his security and
18 file his claim as a general creditor, or the claim may be
19 discharged by resort to the security in accordance with section
20 3967 (relating to secured claims of creditors), in which case
21 any deficiency shall be treated as an unsecured claim against
22 the general assets of the insurer.

23 § 3990. Subordination of claims for lack of cooperation.

24 If an ancillary receiver in another state or foreign country,
25 whether called by that name or not, fails to transfer to the
26 domiciliary liquidator in this Commonwealth any assets within
27 his control other than special deposits, diminished only by the
28 expenses of the ancillary receivership, the claims filed in the
29 ancillary receivership, other than special deposit claims or
30 secured claims, shall be placed in the class of claims under

1 section 3968(6) (relating to order of distribution).

2 CHAPTER 41

3 BENEFICIAL SOCIETIES

4 Sec.

5 4101. Short title of chapter.

6 4102. Applicability of chapter.

7 4103. Limitation of benefits.

8 4104. Selection of directors.

9 4105. Holding, management or agency corporations.

10 4106. Reserves.

11 4107. Investment of surplus.

12 4108. Annual statements.

13 4109. Examinations.

14 4110. Filing and approval of documents.

15 4111. Qualifications of solicitors and agents.

16 4112. Inclusion of certain documents in policy.

17 4113. Criminal penalties.

18 4114. Civil penalties.

19 4115. Transfer restrictions.

20 § 4101. Short title of chapter.

21 This chapter shall be known and may be cited as the

22 Beneficial Society Act.

23 § 4102. Applicability of chapter.

24 (a) General rule.--This chapter applies to the following

25 beneficial societies:

26 (1) All beneficial societies incorporated under general
27 or special laws since October 13, 1857.

28 (2) All beneficial societies incorporated before
29 September 1, 1937, which have accepted the provisions of the
30 Constitution of Pennsylvania and the general insurance laws

1 enacted since October 13, 1857.

2 (3) All beneficial societies incorporated under any
3 general or special law prior to October 13, 1857, which by
4 the terms of their charters or the statutes under which they
5 were incorporated hold charters subject to alteration or
6 revocation.

7 (b) Exclusions.--This chapter does not apply to:

8 (1) Beneficial associations which are formed by or for
9 the exclusive benefit of those who, at the time of becoming
10 members, are engaged in educational work in any department or
11 district of the public school system of this Commonwealth or
12 in any college or university in this Commonwealth, and which
13 issued beneficiary certificates only to such members.

14 (2) Fraternal, charitable or secret societies issuing
15 beneficial certificates and paying benefits to their
16 membership through the lodge system.

17 (3) Insurance or relief associations formed by or for
18 the exclusive benefit of employees of corporations or firms,
19 or formed by or for the exclusive benefit of members of any
20 religious corporation or association.

21 (4) Associations whose benefits are limited to post-
22 mortem assessments of the members.

23 (c) Applicability of insurance law.--Except as otherwise
24 provided in this chapter and in section 4505(f) (relating to
25 applicability of chapter), the business and affairs of every
26 beneficial society shall be run and regulated under the law
27 relating to insurance companies.

28 (d) Regulation of other beneficial societies and
29 associations.--All beneficial societies or associations not
30 subject to regulation under this chapter, transacting any class

1 of insurance, shall file with the department copies of their
2 charter, constitution and laws and shall annually make a report
3 in such form as the department requires, showing their condition
4 and standing at the end of the preceding calendar year, and
5 their transactions for that year. The department may, at any
6 time, make an examination of the books and accounts of any such
7 society or association.

8 § 4103. Limitation of benefits.

9 Any beneficial society may pay or enter into contracts to pay
10 money or benefits, not exceeding \$20 per week in the event of
11 sickness, accident or disability, and not exceeding \$250 in the
12 event of death.

13 § 4104. Selection of directors.

14 (a) General rule.--The annual meeting of members for
15 election of directors of a beneficial society shall be held at
16 such time, prior to May 1 in every year, as the bylaws of the
17 society may direct. Notice of the time and place of meeting
18 shall be given to the members in accordance with the bylaws. At
19 this annual meeting, the members shall elect by ballot the
20 number of directors stated in the articles of association or the
21 bylaws, which shall be not less than 5 nor more than 13. Each
22 director shall hold office for the term for which he is elected
23 and until his successor has been elected and qualified.

24 (b) Terms of service.--Except as otherwise provided in the
25 bylaws, each director shall be elected for a term of one year.
26 If the articles or bylaws of a beneficial society so provide,
27 the directors may be classified in respect to the time for which
28 they shall hold office. In such case, each class shall be as
29 nearly equal in number as possible, the term of office of at
30 least one class shall expire in each year, and the members of a

1 class shall not be elected for a shorter period than one year or
2 for a longer period than three years. At each ensuing election
3 of directors after classification, only the number of directors
4 equal to the number of the class whose terms expire at the time
5 of the election shall be elected, and these directors shall be
6 elected for the longest term for which any class may have been
7 elected, as provided in this section.

8 (c) Vacancies.--Except as otherwise provided in the bylaws,
9 vacancies in the board of directors shall be filled by the
10 remaining members of the board. Each person so elected shall be
11 a director until his successor is elected by the shareholders or
12 members, who may make such election at the next annual meeting
13 of the shareholders or members or at any special meeting called
14 for that purpose and held prior thereto.

15 § 4105. Holding, management or agency corporations.

16 The business and affairs of each beneficial society shall be
17 conducted and managed by its elected officers. Contracts or
18 agreements shall not be entered into by any society with any
19 holding, management or agency corporation or other person by
20 which the control of the management of the society would pass to
21 such a corporation or other person or through which percentages
22 or portions of the members' dues and other payments would be
23 paid over to them.

24 § 4106. Reserves.

25 (a) Determination of amount.--A beneficial society doing
26 business in this Commonwealth shall, at all times, maintain
27 reserves as follows:

28 (1) On the life portion, contained in all policies or
29 contracts, reserves shall be based upon a standard table of
30 mortality, approved by the department, with interest at a

1 rate also approved by the department, and such reserves shall
2 be computed in accordance with the requirements of this title
3 for the computation of the reserve liability for life
4 insurance.

5 (2) On the disability portion, except in the case of
6 noncancelable health and accident insurance issued on and
7 after January 1, 1950, contained in all policies or
8 contracts, reserves shall be computed in accordance with the
9 requirements of this title for the computation of the
10 unearned premium reserve liability for casualty insurance.

11 (3) For all definite and outstanding claims, reserves
12 shall be calculated in accordance with the requirements of
13 this title for the computation of reserves against unpaid
14 losses in casualty insurance, other than losses under
15 noncancelable health and accident insurance issued on and
16 after January 1, 1950, compensation insurance or liability
17 insurance.

18 (4) On the noncancelable health and accident insurance
19 portion contained in all policies or contracts issued on and
20 after January 1, 1950, reserves shall be computed in
21 accordance with the requirements of this title for the
22 computation of policy and loss reserves for noncancelable
23 health and accident insurance.

24 (b) Investment of reserves.--A sum equal to the amount of
25 the reserves required by this section shall be invested in those
26 investments authorized by this title for the investment of the
27 reserve funds of life insurance companies.

28 (c) Approval by department.--The department shall each year
29 approve the computation of the reserve liability, as of December
30 31 of the preceding year, of every beneficial society authorized

1 to make insurance on lives in this Commonwealth.

2 (d) Suspension of authority.--Whenever any beneficial
3 society doing business in this Commonwealth does not have on
4 hand the net value of all policies in force after all other
5 debts and claims against it have been provided for, the
6 department shall prohibit the beneficial society from issuing
7 new policies until its funds become equal to its liabilities.

8 (e) Definitions--As used in this section the term
9 "noncancelable health and accident insurance" means insurance
10 against disability resulting from sickness, ailment or bodily
11 injury under a policy or contract under which the insurer does
12 not have the option to cancel or otherwise terminate the
13 contract at or after the expiration of one year from its
14 effective date.

15 § 4107. Investment of surplus.

16 The surplus of a beneficial society or a reincorporated
17 mutual beneficial society shall be invested in accordance with
18 the requirements of this title for the investment of the surplus
19 of life insurance companies.

20 § 4108. Annual statements.

21 (a) General rule.--Every beneficial society doing business
22 in this Commonwealth shall annually, on or before March 1, file
23 with the department a statement which shall exhibit its
24 financial condition as of December 31 of the previous year and
25 its business of that year. The statement shall be in the form
26 prescribed, or on forms furnished, by the department, and shall
27 contain such information as the department deems best adapted
28 for the purpose of eliciting from the beneficial society a true
29 exhibit of its financial condition. Within 30 days after being
30 requested by the department, the society shall render such

1 additional statements concerning its affairs and financial
2 condition as the department requires.

3 (b) Penalties.--Any beneficial society which neglects to
4 make and file its annual statement in the form or within the
5 time required by this section shall forfeit a sum of not more
6 than \$100 for each day during which its failure to file a
7 statement continues, and, upon notice from the department, its
8 authority to transact new business shall cease while its default
9 continues. A beneficial society and the persons who make an oath
10 or subscribe to a false annual statement in its behalf shall
11 severally be punished for willfully making a false annual
12 statement by a fine of not less than \$500 or more than \$5,000. A
13 person who makes oath to a false statement filed under
14 subsection (a) with the knowledge that it is false shall also be
15 subject to any applicable penalties under 18 Pa.C.S. Ch. 49
16 Subch. A (relating to perjury and falsification in official
17 matters).

18 § 4109. Examinations.

19 (a) Powers of department.--The department shall have the
20 power of visitation and examination into the affairs of every
21 beneficial society. The department shall have free access to all
22 the books, papers and documents that relate to the business of
23 the society and may summon and qualify as a witness under oath
24 and examine its officers and employees or other persons in
25 relation to the affairs, transactions and conditions of the
26 society. These examinations shall be made every three years or
27 more often as necessary, and the costs of the examinations, as
28 determined by the department, shall be imposed upon each society
29 examined.

30 (b) Proceedings by Attorney General.--Whenever after

1 examination the department finds that any beneficial society is
2 exceeding its powers, transacting business fraudulently,
3 operating in such a condition that its further transaction of
4 business will be hazardous to its members or to the public or
5 discontinuing business, the department may present the facts
6 relating thereto to the Attorney General who may proceed against
7 the society under the provisions relating to the liquidation of
8 insolvent or delinquent companies or associations transacting
9 any class of insurance. Proceedings shall not be commenced by
10 the Attorney General until after notice has been duly served on
11 the chief executive officers of the society, and a reasonable
12 opportunity given to it, on a date stated in the notice, to show
13 cause why such proceedings should not be commenced. An
14 application for injunction against or proceedings for the
15 dissolution of, or appointment of a receiver for, any beneficial
16 society or branch thereof, shall not be entertained by any court
17 unless made by the Attorney General.

18 § 4110. Filing and approval of documents.

19 A policy, contract or certificate of membership shall not be
20 issued or delivered by any beneficial society in this
21 Commonwealth, nor any application, rider or endorsement used in
22 connection therewith, until the forms of the same have been
23 submitted to and approved by the department under such rules and
24 regulations as it shall make concerning their terms and
25 provisions and their submission to and approval by it.

26 § 4111. Qualifications of solicitors and agents.

27 Solicitors or agents for beneficial societies shall meet the
28 requirements of Subchapter A of Chapter 11 (relating to agents).

29 § 4112. Inclusion of certain documents in policy.

30 All beneficial certificates issued by any beneficial society

1 in which the application of the member, the constitution, bylaws
2 or other rules of the society form part of the certificate or
3 contract between the parties thereto, or have any bearing
4 thereon, shall contain or have attached thereto correct copies
5 of the application as signed by the applicant or the
6 constitution, bylaws or other rules referred to. Unless so
7 attached and accompanying the certificate or contract, the
8 application, constitution, bylaws or other rules shall not be
9 received in evidence in any controversy between the parties to
10 or interested in the certificate or contract, nor shall they be
11 considered a part of the certificate or contract between the
12 parties.

13 § 4113. Criminal penalties.

14 Any person or beneficial society violating any of the
15 provisions of this chapter commits a summary offense.

16 § 4114. Civil penalties.

17 (a) General rule.--Upon satisfactory evidence of the
18 violation of this chapter by any beneficial society, the
19 department may pursue any one or more of the following courses
20 of action:

21 (1) Suspend or revoke the certificate of authority of
22 the offending beneficial society.

23 (2) Refuse for a period of not to exceed one year
24 thereafter to issue a new certificate of authority to the
25 beneficial society.

26 (3) Impose a penalty of not more than \$1,000 for each
27 violation.

28 (b) Procedure.--Before the department takes any action under
29 subsection (a) it shall give written notice to the beneficial
30 society accused of violating the law, stating specifically the

1 nature of the alleged violation, and fixing a time and place, at
2 least ten days thereafter, when a hearing on the matter shall be
3 held. After the hearing or upon failure of a duly authorized
4 representative of the accused beneficial society to appear at
5 the hearing, the department shall impose the penalty.

6 § 4115. Transfer restrictions.

7 (a) General rule.--An unincorporated association which
8 provides mutual benefit insurance to persons engaged in a common
9 calling, labor or enterprise of an agricultural or industrial
10 nature may provide, by rule or bylaw, that membership in the
11 association or interest in its funds or property shall be
12 nontransferable without the consent of the association.

13 (b) Effect of transfer restriction.--Whenever such an
14 association adopts a restriction under subsection (a), the
15 restriction shall be valid and binding. An attempted assignment,
16 pledge or other transfer of membership or interest made in
17 violation of the restriction shall not pass any legal or
18 equitable right or interest to any person to whom it is
19 attempted to be made if the rule or bylaw is brought to the
20 knowledge of such transferee. If the interest of a
21 member in the funds or property of such an association is
22 evidenced by a certificate, an endorsement thereon that the
23 certificate is nontransferable is conclusive evidence that the
24 attempted transferee of the certificate has knowledge of the
25 nontransferable character of the member's interest.

26 CHAPTER 43

27 (RESERVED)

28 CHAPTER 45

29 FRATERNAL BENEFIT SOCIETIES

30 Subchapter

- 1 A. General Provisions
- 2 B. Organization and Corporate Operations
- 3 C. Benefits and Beneficiaries
- 4 D. Certificates
- 5 E. Accident, Health and Disability Insurance Contracts
- 6 F. Licensure
- 7 G. Regulation of Operations

8 SUBCHAPTER A

9 GENERAL PROVISIONS

10 Sec.

11 4501. Short title of chapter.

12 4502. Definitions.

13 4503. Exemption from general insurance law.

14 4504. Taxation.

15 4505. Applicability of chapter.

16 4506. Regulations.

17 § 4501. Short title of chapter.

18 This chapter shall be known and may be cited as the Fraternal
19 Benefit Society Code.

20 § 4502. Definitions.

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

24 "Fraternal benefit society" or "society." Any incorporated
25 society, order or lodge, without capital stock, including one
26 exempted under section 4505(a)(2) (relating to applicability of
27 chapter), whether incorporated or not, conducted solely for the
28 benefit of its members and their beneficiaries and not for
29 profit, operated on a lodge system with or without ritualistic
30 form of work, having a representative form of government and

1 which makes provision for the payment of benefits in accordance
2 with this chapter.

3 "Lodge system." With respect to a society having a supreme
4 legislative or governing body and subordinate lodges or branches
5 by whatever name known, into which members are elected,
6 initiated or admitted in accordance with its constitution,
7 bylaws, rituals or rules, which subordinate lodges or branches
8 are required by the bylaws of the society to hold regular
9 meetings at least once in each quarter.

10 "Premium." Any charges, fees, dues or other required
11 contributions by whatever name known.

12 "Representative form of government." With respect to a
13 society, a form of its governance which meets the following
14 standards:

15 (1) The constitution or bylaws provide for a supreme
16 legislative or governing body, composed of representatives
17 elected either by the members or by delegates elected
18 directly or indirectly by the members, together with such
19 other members of the body as are prescribed by the society's
20 constitution and bylaws.

21 (2) The representatives elected constitute a majority in
22 number and have not less than two-thirds of the votes nor
23 less than the votes required to amend its constitution and
24 bylaws.

25 (3) The meetings of the supreme legislative or governing
26 body and the election of officers, representatives or
27 delegates are held at least once every four calendar years.

28 (4) Each benefit member is eligible for election to
29 serve as a delegate to these meetings.

30 (5) The society has a board of directors charged with

1 the responsibility for managing its affairs in the interim
2 between meetings of its supreme legislative or governing
3 body, subject to control by that body and having powers and
4 duties delegated to it in the constitution or bylaws of the
5 society.

6 (6) The board of directors is elected by the supreme
7 legislative or governing body, except in case of filling a
8 vacancy in the interim between meetings of that body.

9 (7) The officers are elected either by the supreme
10 legislative or governing body or by the board of directors.

11 (8) The members, officers, representatives or delegates
12 are not permitted to vote by proxy.

13 § 4503. Exemption from general insurance law.

14 Except as otherwise provided in this chapter, a fraternal
15 benefit society holding a certificate of authority shall not be
16 subject to the other provisions of this title. A statute
17 relating to the business of insurance does not apply to a
18 society unless the statute specifically refers and applies to a
19 society subject to this chapter. To the extent that statutes and
20 regulations are applicable to societies, the terms thereof shall
21 be deemed of no effect to the extent they are inconsistent with
22 the express terms of this chapter.

23 § 4504. Taxation.

24 Every society organized or licensed under this chapter is
25 deemed a charitable and benevolent institution, and all of its
26 funds shall be exempt from all and every state, county,
27 district, municipal and school tax other than taxes on real
28 estate and office equipment.

29 § 4505. Applicability of chapter.

30 (a) General rule.--This chapter does not apply to any of the

1 following:

2 (1) Grand or subordinate lodges of societies, orders or
3 associations now doing business in this Commonwealth which
4 provide benefits exclusively through local or subordinate
5 lodges.

6 (2) Orders, societies or associations which admit to
7 membership only persons engaged in one or more crafts or
8 hazardous occupations, in the same or similar lines of
9 business, insuring only their own members and their families,
10 and the auxiliaries to such orders, societies or
11 associations.

12 (3) Domestic societies which limit their membership to
13 employees of a particular municipal corporation, firm or
14 corporation which provide for a death benefit of not more
15 than \$400 or disability benefits of not more than \$350 to any
16 person in any one year, or both.

17 (4) Domestic religious, charitable or benevolent
18 societies or associations which provide for a death benefit
19 of not more than \$400 or for disability benefits of not more
20 than \$350 to any one person in any one year, or both.

21 (b) Coverage extended.--Any society or association described
22 in subsection (a)(3) or (4) which provides for death or
23 disability benefits for which benefit certificates are issued,
24 and any such society or association described in subsection
25 (a)(4) which has more than 1,000 members, is not exempt from
26 this chapter.

27 (c) Prohibition.--A society which is exempt under this
28 section from the requirements of this chapter, except a society
29 described in subsection (a)(2), shall not give or allow, or
30 promise to give or allow, to any person any compensation for

1 procuring new members.

2 (d) Accidental death or disability benefits.--Every society
3 which provides for benefits in case of death or disability
4 resulting solely from accident, and which does not obligate
5 itself to pay death or sick benefits arising from natural
6 causes, is subject to this chapter except that the provisions
7 relating to medical examination, valuations of benefit
8 certificates and incontestability do not apply.

9 (e) Verification of exemptions.--The department may require
10 from any society or association, by examination or otherwise,
11 such information as will enable it to determine whether the
12 society or association is exempt from this chapter.

13 (f) Provisions in other chapters.--The provisions of this
14 chapter prevail over any inconsistent provisions in Chapter 41
15 (relating to beneficial societies).

16 § 4506. Regulations.

17 The department may make such reasonable regulations
18 concerning the procedure for the filing or submission of
19 certificates subject to this chapter as are necessary, proper or
20 advisable for the administration of this chapter.

21 SUBCHAPTER B

22 ORGANIZATION AND CORPORATE OPERATIONS

23 Sec.

24 4511. Initial organization.

25 4512. Filing of initial papers with department.

26 4513. Validity of preliminary certificate.

27 4514. Solicitation of members.

28 4515. Examination by department.

29 4516. Exemption.

30 4517. Approval of documents.

- 1 4518. General corporate powers of societies.
- 2 4519. Review of orders of department.
- 3 4520. Classes of membership.
- 4 4521. Prohibition of activity.
- 5 4522. Location of offices and meetings.
- 6 4523. Consolidations and mergers.
- 7 4524. Amendments to articles of incorporation, constitution
8 and bylaws.
- 9 4525. Institutions.
- 10 4526. Personal liability.
- 11 4527. Waiver.
- 12 4528. Conversion of society into mutual life insurance
13 company.
- 14 4529. Reinsurance.
- 15 § 4511. Initial organization.

16 The organization of a society shall be as provided in this
17 subchapter. Seven or more citizens of the United States, a
18 majority of whom are citizens of this Commonwealth, who desire
19 to form a fraternal benefit society, may make, sign and
20 acknowledge before an officer competent to take acknowledgment
21 of deeds or articles of incorporation, in which the following
22 shall be stated:

23 (1) The proposed corporate name of the society, which
24 shall not so closely resemble the name of any society or
25 insurance company as to be misleading or confusing.

26 (2) The purposes for which it is being formed and the
27 mode in which its corporate powers are to be exercised. The
28 purposes shall not include more liberal powers than are
29 granted by this chapter. Any lawful, social, intellectual,
30 educational, charitable, benevolent, moral, fraternal or

1 religious advantages may be set forth among the purposes of
2 the society.

3 (3) The names and residences of the incorporators and
4 the names, residences and official titles of all the
5 officers, trustees, directors or other persons who are to
6 have and exercise the general control of the management of
7 the affairs and funds of the society for the first year or
8 until the ensuing election at which all such officers shall
9 be elected by the supreme legislative or governing body. This
10 election shall be held not later than one year from the date
11 of the issuance of the permanent certificate.

12 § 4512. Filing of initial papers with department.

13 The articles of incorporation, certified copies of the
14 constitution and rules, copies of all proposed forms of
15 certificates, applications therefor, receipts and circulars to
16 be issued by the society and a bond conditioned upon the return
17 to applicants of the advanced payments if the organization is
18 not completed within one year shall be filed with the
19 department, which may require such further information as is
20 necessary. The bond with sureties approved by the department
21 shall be in an amount, not less than \$5,000 nor more than
22 \$25,000, required by the department. All documents filed shall
23 be in the English language. If the purposes of the society
24 conform to the requirements of this chapter and all provisions
25 of this chapter have been complied with, the department shall so
26 certify, retain and file in the Department of State the articles
27 of incorporation and furnish the incorporators with a
28 preliminary certificate authorizing the society to solicit
29 members.

30 § 4513. Validity of preliminary certificate.

1 A preliminary certificate granted under this chapter shall
2 not be valid after one year from its date or after such other
3 period, not exceeding one year, as is authorized by the
4 department upon cause shown, unless the 500 applicants required
5 under section 4514 (relating to solicitation of members) have
6 been secured and the organization has been completed as herein
7 provided. The articles of incorporation and all other
8 proceedings thereunder shall become void one year from the date
9 of the preliminary certificate, or at the expiration of the
10 extended period, unless the society completes its organization
11 and receives a certificate of authority to do business within
12 that period.

13 § 4514. Solicitation of members.

14 Upon receipt of a preliminary certificate from the
15 department, the society may solicit members for the purpose of
16 completing its organization, shall collect from each applicant
17 the amount of not less than one regular monthly premium in
18 accordance with its table of premiums as provided by its
19 constitution and bylaws and shall issue to each applicant a
20 receipt for the amount so collected. A society shall not incur
21 any liability other than for the return of such advance premium,
22 nor issue any certificate, nor pay or allow, or offer or promise
23 to pay or allow, any death or disability benefit to any person
24 until:

25 (1) Actual bona fide applications for death benefits
26 have been secured aggregating at least \$500,000 on not less
27 than 500 lives.

28 (2) All applicants for death benefits furnish evidence
29 of insurability satisfactory to the society.

30 (3) Certificates of examinations or acceptable

1 declarations of insurability are duly filed and approved by
2 the chief medical examiner of the society.

3 (4) Ten subordinate lodges or branches are established
4 into which the 500 applicants are admitted.

5 (5) There is submitted to the department, under oath of
6 the president, secretary or corresponding officer of the
7 society, a list of the applicants, giving their names,
8 addresses, date each was admitted, name and number of the
9 subordinate branch of which each applicant is a member,
10 amount of benefits to be granted and premiums therefor.

11 (6) A sworn statement of the treasurer or corresponding
12 officer of the society is filed with the department, stating
13 that at least 500 applicants have each paid in cash at least
14 one regular monthly premium, which premiums in the aggregate
15 shall total at least \$2,500, all of which shall be credited
16 to the fund or funds from which benefits are to be paid and
17 no part of which may be used for expenses. The advance
18 premiums shall be held in trust during the period of
19 organization, and if the society has not qualified for a
20 certificate of authority within one year, the premiums shall
21 be returned to the applicants.

22 § 4515. Examination by department.

23 The department may make such examination and require such
24 further information as is advisable. Upon presentation of
25 satisfactory evidence that the society has complied with all the
26 provisions of this chapter, it shall issue to the society a
27 certificate to that effect, stating that the society is
28 authorized to transact business under this chapter. The
29 certificate shall be prima facie evidence of the existence of
30 the society on the date of the certificate. The department shall

1 cause a record of the certificate to be made; a certified copy
2 of this record may be given in evidence with like effect as the
3 original certificate.

4 § 4516. Exemption.

5 The provisions of sections 4514 (relating to solicitation of
6 members) and 4515 (relating to examination by department) do not
7 apply to:

8 (1) Any society organized prior to April 6, 1893, under
9 any statute of this Commonwealth which was engaged in doing
10 business in this Commonwealth on that date. Any such society
11 may exercise all the rights conferred by this chapter and all
12 the rights, powers, privileges and exemptions now exercised
13 or possessed by it, under its charter or articles of
14 incorporation or articles of association, and neither its
15 existence as a corporation nor its right to exercise any
16 corporate rights vested in it by virtue of its past
17 incorporation are affected by this chapter. Any corporation
18 described in this paragraph shall be deemed a holder of a
19 certificate of authority issued under this chapter.

20 (2) Any society incorporated under the provisions of the
21 act of April 6, 1893 (P.L.10, No.6), the act of May 20, 1921
22 (P.L.916, No.324) or the act of July 17, 1935 (P.L.1092,
23 No.357), relating to fraternal benefit societies.

24 § 4517. Approval of documents.

25 A society authorized to transact business under this chapter
26 shall not issue any insurance forms, endorsements or riders
27 without first having obtained approval thereof by the
28 department.

29 § 4518. General corporate powers of societies.

30 Every society may adopt a constitution and bylaws for the

1 government of the society, the admission of its members, the
2 management of its affairs and the fixing of the premiums of its
3 members. It may change, alter, add to or amend the constitution
4 and bylaws and do such other acts as are necessary and
5 incidental to carrying into effect the objects and purposes of
6 the society.

7 § 4519. Review of orders of department.

8 Orders of the department upon an application for a
9 certificate of authority under this subchapter shall be subject
10 to judicial review as provided by law.

11 § 4520. Classes of membership.

12 (a) General rule.--Every society authorized to do business
13 in this Commonwealth may admit to membership two classes of
14 members: benefit members and social members by whatever name
15 known. Social members shall not be entitled to any of the
16 benefits prescribed by sections 4531 (relating to benefits) and
17 4532 (relating to benefits on lives of children) and shall have
18 no voice in the management of the insurance affairs of the
19 society. Benefit members may be either adult members or juvenile
20 members. Juvenile members shall have no voice in the management
21 of the insurance affairs of the society.

22 (b) Adult benefit membership.--The society may admit to
23 adult benefit membership any person not less than 15 years of
24 age at the nearest birthday. Any person so admitted prior to
25 attaining the full age of 18 years shall be deemed competent to
26 contract for insurance benefits and to enjoy every right,
27 privilege and benefit provided by any insurance certificate on
28 the minor subject to the limitations contained in section 4532
29 as to the designation of beneficiary.

30 (c) Evidence of insurability.--Every adult benefit member

1 entitled to insurance benefits shall, as to each application for
2 insurance, furnish evidence of insurability acceptable to the
3 society.

4 § 4521. Prohibition of activity.

5 An unincorporated or voluntary association may not transact
6 business in this Commonwealth as a fraternal benefit society
7 unless the association incorporates under this chapter.

8 § 4522. Location of offices and meetings.

9 The principal office of any domestic society shall be located
10 in this Commonwealth. The meetings of its supreme legislative or
11 governing body may be held in any state or country in North
12 America and all business transacted at such meetings shall be as
13 valid as if the meetings were held in this Commonwealth.

14 § 4523. Consolidations and mergers.

15 (a) Right to consolidate or merge.--A domestic society may
16 consolidate or merge with any other society by complying with
17 this section.

18 (b) Statements to be filed.--The societies shall file all of
19 the following with the department:

20 (1) A certified copy of the written contract containing,
21 in full, the terms and conditions of the consolidation or
22 merger.

23 (2) A sworn statement by the president and secretary or
24 corresponding officers of each society showing the financial
25 condition thereof on a date fixed by the department but not
26 earlier than the December 31 next preceding the date of the
27 contract.

28 (3) A certificate of such officers, verified by all of
29 them, that the consolidation or merger has been approved by a
30 two-thirds vote of the supreme legislative or governing body

1 of each society.

2 (4) Evidence that at least 60 days prior to the action
3 of the supreme legislative or governing body of each society,
4 the text of the contract was furnished to all members of each
5 society either by mail or by publication in full in the
6 official organ of each society.

7 (c) Approval by department.--If the department finds that
8 the contract is in conformity with this section, that the
9 financial statements are correct and that the consolidation or
10 merger is just and equitable to the members of each society, the
11 department shall issue a certificate stating that it approves
12 the contract. Upon approval, the contract shall be effective
13 unless any society which is a party to the contract is
14 incorporated under the law of any other state. In such event the
15 consolidation or merger shall not become effective until it is
16 approved as provided by the law of that state and a certificate
17 of such approval is filed with the department. If the law of the
18 state contains no such provision, then the consolidation or
19 merger shall not become effective until it is approved by the
20 department of insurance of the state and a certificate of
21 approval filed with the department.

22 (d) Property merged.--Upon the consolidation or merger
23 becoming effective, all the rights and interests of the
24 consolidated or merged societies in every kind of property and
25 things in action pertaining thereto shall be vested in the
26 society remaining after the consolidation or merger without any
27 other instrument. Conveyances of real property may be evidenced
28 by proper deeds, and the title to any real estate or interest
29 therein vested in any of the societies consolidated or merged
30 shall not revert or be impaired by reason of the consolidation

1 or merger, but shall vest in the society remaining after the
2 consolidation or merger.

3 (e) Affidavit as evidence.--The affidavit of any officer of
4 the society or of anyone authorized by it to mail any notice or
5 document, stating that the notice or document has been duly
6 addressed and mailed, shall be prima facie evidence that the
7 notice or document has been furnished the addressee.

8 § 4524. Amendments to articles of incorporation, constitution
9 and bylaws.

10 (a) Power to amend.--A domestic society may amend its
11 articles of incorporation, constitution or bylaws, in accordance
12 with the provisions thereof, by action of its supreme
13 legislative or governing body at any regular or special meeting
14 or, if its articles of incorporation, constitution or bylaws so
15 provide, by referendum. The referendum may be held in accordance
16 with the provisions of its articles of incorporation,
17 constitution or bylaws by the vote of the voting members of the
18 society, by the vote of delegates or representatives of voting
19 members or by the vote of local lodges or branches. An amendment
20 submitted for adoption by referendum shall not be adopted
21 unless, within six months from the date of submission thereof, a
22 majority of all of the voting members of the society have
23 signified their consent to the amendment by one of the methods
24 provided in this subsection.

25 (b) Approval of department.--An amendment shall not take
26 effect until approved by the department, which shall approve the
27 amendment if it finds that it has been adopted and is not
28 inconsistent with any requirement of law or with the character,
29 objects and purposes of the society. Unless the department
30 disapproves the amendment within 60 days after filing, the

1 amendment shall be deemed approved. The approval or disapproval
2 of the department shall be in writing and mailed to the
3 secretary or corresponding officer of the society at its
4 principal office. If the department disapproves the amendment,
5 the reasons shall be stated in the written notice.

6 (c) Copies of changes.--Within 90 days from approval by the
7 department, the amendments or a summary thereof shall be
8 furnished to all members of the society either by mail or by
9 publication in full in the official organ of the society. The
10 affidavit of any officer of the society or of anyone authorized
11 by it to mail any amendments or summary thereof, stating facts
12 which show that these have been addressed and mailed, shall be
13 prima facie evidence that the amendments or summary have been
14 furnished to the addressee.

15 (d) Power of department to review.--The department may
16 review existing articles of incorporation, constitutions and
17 bylaws of domestic fraternal benefit societies at any time in
18 order to determine whether they comply with the minimum
19 standards set forth in this chapter.

20 (e) Foreign or alien societies.--Every foreign or alien
21 society authorized to do business in this Commonwealth shall
22 file with the department a duly certified copy of all amendments
23 of, or additions to, its articles of incorporation, constitution
24 or bylaws within 90 days after their enactment.

25 (f) Printed copies as evidence.--Printed copies of the
26 constitution or bylaws as amended, certified by the secretary or
27 corresponding officer of the society, shall be prima facie
28 evidence of the legal adoption thereof.

29 § 4525. Institutions.

30 (a) Power to own or establish.--A society may create,

1 maintain and operate charitable, benevolent or educational
2 institutions for the benefit of its members and their families
3 and dependents and for the benefit of children insured by the
4 society. For this purpose it may own, hold or lease personal
5 property or real property located in or outside this
6 Commonwealth, with necessary buildings thereon. This property
7 shall be reported in every annual statement but shall not be
8 allowed as an admitted asset of the society.

9 (b) Nonprofit operation.--Maintenance, treatment and proper
10 attendance in any such institution may be furnished free or a
11 reasonable charge may be made therefor, but no such institution
12 shall be operated for profit. The society shall maintain a
13 separate accounting of any income and disbursements under this
14 section and report them in its annual statement. A society shall
15 not own or operate any funeral home or undertaking
16 establishment.

17 § 4526. Personal liability.

18 The officers and members of the supreme, grand or any
19 subordinate body of a society shall not be personally liable for
20 payment of any benefits provided by a society.

21 § 4527. Waiver.

22 The constitution and bylaws of the society shall provide that
23 no subordinate body, subordinate officer or member may waive any
24 of the provisions of the constitution or bylaws of the society.
25 This provision shall be binding on the society and every member
26 and beneficiary of a member.

27 § 4528. Conversion of society into mutual life insurance
28 company.

29 Any domestic fraternal benefit society may be converted and
30 licensed as a mutual life insurance company by compliance with

1 all the applicable financial requirements of this title if the
2 plan of conversion is approved by the department. The plan shall
3 be prepared in writing setting forth all the terms and
4 conditions thereof. The board of directors shall submit the plan
5 to the supreme legislative or governing body of the society at
6 any regular or special meeting thereof, by giving a complete
7 copy of the plan with the notice of such meeting. The notice
8 shall be given as provided in the bylaws of the society for a
9 regular or special meeting of the body, as the case may be. The
10 affirmative vote of two-thirds of all members of the body shall
11 be necessary for the approval of the agreement. A conversion
12 shall not take effect until approved by the department, which
13 may give approval if it finds that the proposed change is in
14 conformity with the requirements of law and not prejudicial to
15 the certificate holders of the society.

16 § 4529. Reinsurance.

17 A domestic society may, by a reinsurance agreement, cede any
18 individual risk or risks in whole or in part to an insurer,
19 other than another society, having the power to make such
20 reinsurance and authorized to do business in this Commonwealth,
21 or if not so authorized, one which is approved by the
22 department. The society may not reinsure in excess of 50% all of
23 its insurance in force without the written permission of the
24 department. It may take credit for the reserves on the ceded
25 risks to the extent reinsured, but no credit shall be allowed as
26 an admitted asset or as a deduction from liability to a ceding
27 society for reinsurance made, ceded, renewed or otherwise
28 becoming effective unless the reinsurance is payable by the
29 assuming insurer on the basis of the liability of the ceding
30 society under the contract reinsured without diminution because

1 of the insolvency of the ceding society.

2 SUBCHAPTER C

3 BENEFITS AND BENEFICIARIES

4 Sec.

5 4531. Benefits.

6 4532. Benefits on lives of children.

7 4533. Benefit options.

8 4534. Beneficiaries.

9 4535. Attachment of benefits.

10 4536. Contract for benefits.

11 § 4531. Benefits.

12 (a) Power to grant benefits.--Any society holding a
13 certificate of authority under this chapter may enter into
14 contracts in such forms and grant such benefits as its bylaws
15 may authorize. In the case of life insurance benefits, the
16 society shall provide for the accumulation and maintenance of
17 assets required for the payment of these benefits, when valued
18 upon an interest basis, not exceeding 4% a year, and mortality
19 standards adopted by it within the limitations provided in this
20 chapter or, at the option of the society, in Chapter 53
21 (relating to life insurance). Any life certificates issued on a
22 renewable term basis shall set forth clearly the successive
23 future rates of contribution to be paid under the contract.

24 (b) Family eligibility.--Benefits may be provided on the
25 lives of members or, upon application of a member, on the lives
26 of the member's family, including the member, the member's
27 spouse and minor children, in the same or separate certificates.

28 § 4532. Benefits on lives of children.

29 (a) General rule.--A society may provide for insurance
30 benefits, annuity benefits or both on the lives of children

1 under the minimum age for adult membership but not greater than
2 18 years of age at the time of application therefor, upon the
3 application of some adult person, as its bylaws or rules may
4 provide, which benefits shall be in accordance with section
5 4531(a) (relating to benefits). A society may organize and
6 operate branches for such children. Membership and initiation in
7 local lodges shall not be required of such children, nor shall
8 they have any voice in the management of the society.

9 (b) Powers.--A society may provide for the designation and
10 changing of designation of beneficiaries in the certificates
11 providing for the benefits and provide in all other respects for
12 the regulation of the certificates and all rights, obligations
13 and liabilities incident thereto.

14 § 4533. Benefit options.

15 (a) Authorization.--A society may grant paid-up
16 nonforfeiture benefits, cash surrender values, certificate loans
17 and such other options as its bylaws permit. The society shall
18 grant by means of the certificate at least one paid-up
19 nonforfeiture benefit, except in the case of pure endowment,
20 annuity or reversionary annuity contracts, reducing term
21 insurance contracts or contracts of term insurance of a uniform
22 amount of 15 years or less expiring before 66 years of age.

23 (b) Reserves computed on certain tables.--In the case of
24 certificates for which reserves are computed on the
25 Commissioner's 1941 Standard Ordinary Mortality Table, the 1941
26 Standard Industrial Table or the Commissioner's 1958 Standard
27 Ordinary Mortality Table or any more recent table made
28 applicable to life insurance companies, every paid-up
29 nonforfeiture benefit and the amount of any cash surrender
30 value, loan or other option granted shall not be less than the

1 corresponding amount ascertained in accordance with the
2 provisions of this title applicable to life insurance companies
3 issuing policies containing similar insurance benefits based
4 upon those tables.

5 (c) Computation of certain benefits.--In the case of
6 certificates other than those for which reserves are computed on
7 the Commissioner's 1941 Standard Ordinary Mortality Table, the
8 1941 Standard Industrial Table or the Commissioner's 1958
9 Standard Ordinary Mortality Table, or any more recent table made
10 applicable to life insurance companies the value of every paid-
11 up nonforfeiture benefit and the amount of any cash surrender
12 value, loan or other option granted shall not be less than the
13 excess, if any, of paragraph (1) over paragraph (2) as follows:

14 (1) The reserve under the certificate determined on the
15 basis specified in the certificate.

16 (2) The sum of any indebtedness to the society on the
17 certificate, including interest due and accrued, and a
18 surrender charge equal to 2.5% of the face amount of the
19 certificate, which, in the case of insurance on the lives of
20 children, shall be the ultimate face amount of the
21 certificate, if death benefits provided therein are graded.

22 (d) Reserves computed on substandard basis.--In the case of
23 certificates issued on a substandard basis or in the case of
24 certificates, the reserves for which are computed upon the
25 American Men Ultimate Table of Mortality the term of any
26 extended insurance benefit granted including any accompanying
27 pure endowment may be computed upon the rates of mortality not
28 greater than 130% of those shown by the mortality table
29 specified in the certificate for the computation of the reserve.

30 § 4534. Beneficiaries.

1 (a) Power to change beneficiaries.--Unless otherwise
2 provided in the contract:

3 (1) The member shall have the right at all times to
4 change the beneficiary or beneficiaries and to assign the
5 certificate.

6 (2) A beneficiary shall not have or obtain any interest
7 in the proceeds of any certificate until a certificate
8 becomes due and payable in conformity with its provisions.

9 (b) Limitation on scope of beneficiaries.--The society by
10 its constitution, bylaws and rules may limit the scope of
11 beneficiaries.

12 (c) Payment of funeral benefits.--A society may make
13 provision for the payment of funeral benefits to the extent of
14 such portion of any payment under a certificate as might
15 reasonably appear to be due to any person equitably entitled
16 thereto by reason of having incurred expense occasioned by the
17 burial of the member, but the portion so paid shall not exceed
18 \$1,000.

19 (d) Payment to personal representative.--If at the death of
20 any member there is no lawful beneficiary to whom the insurance
21 benefits are payable, the amount of the benefits, except to the
22 extent that funeral benefits may be paid under subsection (c),
23 shall be payable to the personal representative of the deceased
24 member.

25 § 4535. Attachment of benefits.

26 Money or other benefit, charity, relief or aid to be provided
27 by any society shall not be liable to attachment, garnishment or
28 other process, or to be applied by any legal or equitable
29 process or operation of law, to pay any debt or liability of a
30 member or beneficiary or any other person who may have a right

1 thereunder, either before or after payment by the society.

2 § 4536. Contract for benefits.

3 (a) Materials forming contract.--Every society authorized to
4 do business in this Commonwealth shall issue a certificate to
5 the benefit member, or the spouse of a member, or to the
6 applicant for a minor, specifying the amount of benefits
7 provided thereby. The certificate, together with any riders or
8 endorsements attached thereto, the charter or articles of
9 incorporation, the constitution and bylaws of the society, any
10 application for benefits and declaration of insurability signed
11 by the applicant and all amendments to these shall constitute
12 the agreement, as of the date of issuance, between the society
13 and the member, and the certificate shall so state. A copy of
14 any application for benefits and of any declaration of
15 insurability shall be endorsed upon or attached to the
16 certificate.

17 (b) Statements and waiver.--All statements purporting to be
18 made by the member shall be representations and not warranties.
19 Any waiver of this provision shall be void.

20 (c) Amendments.--Any amendment to the charter or articles of
21 incorporation, constitution or bylaws, made or enacted
22 subsequent to the issuance of the certificate, shall bind the
23 member and the beneficiaries, and shall control the agreement as
24 though in force at the time of the application for membership.
25 However, no amendment shall diminish benefits which the society
26 contracted to give the member as of the date of issuance.

27 (d) Responsibility of members for deficiency.--Every society
28 shall contain a provision in its bylaws and in each certificate
29 of life insurance it issues, to which every certificate of
30 insurance issued by the society shall be subject, that if the

1 financial position of the society becomes impaired, subject to
2 the prior written approval of the department, the board of
3 directors or the supreme governing body may determine on an
4 equitable basis the proportionate share of the deficiency of
5 each member of the society. Each benefit member may then either
6 pay his share of the deficiency, accept the imposition of a lien
7 on the certificate of insurance or accept a proportionate
8 reduction in benefits under his certificate. The society may
9 specify the manner of the election and which alternative is to
10 be presumed if no election is made, subject to the prior written
11 approval of the department in the case of domestic societies.
12 Any lien on a certificate of insurance shall bear interest at
13 the rate charged on policy loans under the certificate, if
14 applicable, or otherwise at a rate approved by the department,
15 compounded annually until paid.

16 SUBCHAPTER D

17 CERTIFICATES

18 Sec.

- 19 4541. Approval of certificates.
20 4542. Criteria for review.
21 4543. Statement of title and premiums.
22 4544. Membership provisions.
23 4545. Default.
24 4546. Tables.
25 4547. Redetermination of premiums.
26 4548. Surplus.
27 4549. Loan value.

28 § 4541. Approval of certificates.

29 (a) General rule.--A fraternal benefit society doing
30 business in this Commonwealth shall not issue, sell or dispose

1 of any certificate, covering life, health, accident or any other
2 contract of insurance or any contracts pertaining to a pure
3 endowment or annuity, or use applications, riders or
4 endorsements in connection therewith, until the forms of the
5 same have been filed with and approved by the department.
6 However, riders and endorsements relating to the manner of
7 distribution of benefits and to the reservation of rights and
8 benefits under any such certificate, and used at the request of
9 the individual certificate holder, and any forms which, in the
10 opinion of the department, do not require approval need not be
11 filed under this section.

12 (b) Deemed approval.--Forms so filed shall be deemed
13 approved at the expiration of 30 days after filing, unless
14 earlier approved or disapproved by the department. The
15 department, by written notice to the society within the 30-day
16 period, may extend the period for approval or disapproval for an
17 additional 30 days.

18 (c) Voiding of approval.--Such approval shall become void
19 upon any subsequent notice of disapproval from the department,
20 or upon any subsequent withdrawal of license or refusal of the
21 department to relicense the society, or upon the subsequent
22 passage of a statute which would no longer make such contracts
23 or related forms a fit subject for approval, except that this
24 provision shall not affect contracts issued prior thereto.

25 (d) Notification of disapproval.--Upon any disapproval, the
26 department shall notify the society in writing, specifying the
27 reason for disapproval. Within 30 days from the date of mailing
28 of the notice to the society, the society may make written
29 application to the department for a hearing thereon. The hearing
30 shall be held within 30 days after receipt of the application.

1 The procedure before the department shall be in accordance with
2 the adjudication procedure set forth in 2 Pa.C.S. Ch. 5 Subch. A
3 (relating to practice and procedure of Commonwealth agencies),
4 and the society shall be entitled to judicial review under 2
5 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of
6 Commonwealth agency action).

7 (e) Penalty.--Any person that, either as principal or agent,
8 issues or causes to be issued any certificate or contract of
9 insurance in this Commonwealth, contrary to this section,
10 commits a misdemeanor of the third degree.

11 (f) Civil penalties.--Upon satisfactory evidence of the
12 violation of this section by any person, the department may
13 pursue any one or more of the following courses of action:

14 (1) Suspend or revoke the license of the offending
15 person.

16 (2) Refuse, for a period of not to exceed one year
17 thereafter, to issue a new license to the person.

18 (3) Impose a fine of not more than \$1,000 for each act
19 in violation of this chapter.

20 § 4542. Criteria for review.

21 (a) Required provisions.--The certificate shall contain in
22 substance the standard provisions set forth in sections 4543
23 (relating to statement of title and premiums) through 4549
24 (relating to loan value) or, in lieu thereof, provisions which
25 are more favorable to the member. Any of the mandated provisions
26 or portions thereof not applicable by reason of the plan of
27 insurance or because the certificate is an annuity certificate
28 may, to the extent inapplicable, be omitted from the
29 certificate.

30 (b) Prohibited provisions.--A life benefit certificate shall

1 not be delivered or issued for delivery in this Commonwealth
2 containing in substance any of the following provisions:

3 (1) Any provision limiting the time within which any
4 action at law or in equity may be commenced to less than two
5 years after the cause of action shall accrue.

6 (2) Any provision by which the certificate shall purport
7 to be issued or to take effect more than six months before
8 the original application for the certificate was made, except
9 in case of transfer from one form of certificate to another
10 in connection with which the member is to receive credit for
11 any reserve accumulation under the form of certificate from
12 which the transfer is made.

13 (3) Any provision for forfeiture of the certificate for
14 failure to repay any loan thereon or to pay interest on such
15 loan while the total indebtedness, including interest, is
16 less than the loan value of the certificate.

17 § 4543. Statement of title and premiums.

18 There shall appear on the face of the filing page of the
19 certificate a statement of the title of the certificate and a
20 brief description which clearly and correctly describes its form
21 and identifies the insured as a member of a fraternal benefit
22 society. There shall also appear a provision stating the amount
23 of premiums, dues or other required contributions, by whatever
24 name known, which are payable by the insured under the
25 certificate.

26 § 4544. Membership provisions.

27 (a) Right to maintain insurance.--There shall be a statement
28 that any benefit member expelled or suspended, except for
29 nonpayment of a premium or within the contestable period for
30 material misrepresentations in the member's application for

1 membership, may maintain his insurance in force by continuing
2 payment of the required premium.

3 (b) Grace period.--There shall be a provision that the
4 member is entitled to a grace period of not less than a full
5 month, or 30 days at the option of the society in which the
6 payment of any premium after the initial premium may be made.
7 During the grace period the certificate shall continue in full
8 force, but if the certificate becomes a claim during the grace
9 period before the overdue payment is made, the amount of the
10 overdue payment or payments may be deducted in any settlement
11 under the certificate.

12 (c) Reinstatement.--There shall be a provision that the
13 member shall be entitled to have the certificate reinstated at
14 any time within three years from the due date of the premium in
15 default, unless the certificate has been completely terminated
16 through the application of a nonforfeiture benefit, cash
17 surrender value or certificate loan, upon the production of
18 evidence of insurability satisfactory to the society and the
19 payment of all overdue premiums and any other indebtedness to
20 the society upon the certificate together with any interest on
21 the premiums and the indebtedness, at a rate not exceeding 6% a
22 year compounded annually.

23 (d) Contestability.--There shall be a provision that the
24 certificate shall be incontestable after it has been in force
25 during the lifetime of the member for a period of two years from
26 its date of issue except for nonpayment of premiums. At the
27 option of the society, supplemental provisions relating to
28 waiver of premium and provisions which grant additional
29 insurance specifically against death by accident may also be
30 excepted. The certificate may provide, as to statements made to

1 procure reinstatement, that the society may contest a reinstated
2 certificate within a period of two years from the date of
3 reinstatement based on the information in the reinstatement
4 application.

5 § 4545. Default.

6 (a) Paid-up nonforfeiture benefits.--There shall be a
7 provision that, in the event of default in payment of any
8 premium after three full years premiums have been paid or after
9 premiums for a lesser period have been paid if the contract so
10 provides, the society will grant, upon proper request not later
11 than 60 days after the due date of the premium in default, a
12 paid-up nonforfeiture benefit on the plan stipulated in the
13 certificate, effective as of the due date, of such value as
14 specified in this chapter.

15 (b) Optional payment provisions.--The certificate may
16 provide, if the society's bylaws so specify and if the member so
17 elects prior to the expiration of the grace period of any
18 overdue premium, that default does not occur so long as premiums
19 can be paid under an arrangement for automatic premium loan as
20 set forth in the certificate.

21 (c) Election of other paid-up nonforfeiture benefits.--There
22 shall be a statement that one paid-up nonforfeiture benefit as
23 specified in the certificate shall become effective
24 automatically unless the member elects another available paid-up
25 nonforfeiture benefit, not later than 60 days after the due date
26 of the premium in default.

27 (d) Applicability of section.--This section does not apply
28 in the case of pure endowment, annuity or reversionary annuity
29 contracts, reducing term insurance contracts, or contracts of
30 term insurance of uniform amount of 15 years or less expiring

1 before 66 years of age.

2 § 4546. Tables.

3 (a) Mortality table and interest rate.--There shall be a
4 statement of the mortality table and rate of interest used in
5 determining all paid-up nonforfeiture benefits and cash
6 surrender options available under the certificate and a brief
7 general description of the method used in calculating such
8 benefits.

9 (b) Table of certain values.--There shall be a table showing
10 in numbers the value of every paid-up nonforfeiture benefit and
11 cash surrender option available under the certificate for each
12 certificate anniversary either during the first 20 certificate
13 years or during the term of the certificate, whichever is
14 shorter.

15 § 4547. Redetermination of premiums.

16 There shall be a provision that in case the age or sex of the
17 member or of any other person is considered in determining the
18 premium and it is found at any time before final settlement
19 under the certificate that the age or sex has been misstated,
20 and the discrepancy and premium involved have not been adjusted,
21 the amount payable under the certificate shall be such as the
22 premium would have purchased at the correct age and sex. If the
23 correct age was not an insurable age under the society's charter
24 or laws, only the premiums paid to the society, less any
25 payments previously made to the member, shall be returned or, at
26 the option of the society, the amount payable under the
27 certificate shall be such as the premium would have purchased at
28 the correct age according to the society's promulgated rates and
29 any extension thereof based on actuarial principles.

30 § 4548. Surplus.

1 (a) Right to surplus.--There shall be a provision that the
2 certificate shall participate in the surplus of the society, and
3 that, beginning not later than the end of the third certificate
4 year, the society will annually determine the portion of the
5 divisible surplus accruing on the certificate, and that the
6 member entitled to elect the option may have the dividend
7 arising from such participation paid in cash or applied in
8 accordance with any one of the other dividend options as
9 provided by the certificate. If any such other dividend options
10 are provided, the certificate shall further state which option
11 shall be automatically effective, if the member has not elected
12 a different option.

13 (b) Optional surplus provision.--The certificate may contain
14 a provision that the certificate shall participate in the
15 surplus of the society, and that, beginning not later than the
16 end of the fifth certificate year, the society will determine
17 the portion of the divisible surplus accruing on the
18 certificate, and that the member entitled thereto may have the
19 current dividend arising from such participation paid in cash,
20 and that, at periods of not more than five years thereafter,
21 such apportionment and payment shall be done at the option of
22 the member.

23 (c) Surplus on term certificates.--Renewable term
24 certificates of ten years or less may provide that the surplus
25 accruing to such certificates shall be determined and
26 apportioned each year after the second certificate year, and
27 accumulated during each renewal period, and that at the end of
28 any renewal period, or renewal of the certificate by the member,
29 the society shall apply the accumulated surplus as an annuity
30 for the next succeeding renewal term to the reduction of

1 premiums.

2 § 4549. Loan value.

3 There shall be a provision for a loan value at any time after
4 three full years' premiums have been paid and while no premium
5 is in default beyond the grace period of payment. The loan
6 provision shall further provide that the society will advance,
7 on proper assignment or pledge of the certificate, and on the
8 sole security thereof, at a specified rate of interest, a sum
9 equal to or, at the option of the member entitled thereto, less
10 than, the cash surrender value at the end of the current
11 certificate year as required by section 4532 (relating to
12 benefits on lives of children) and that the society may deduct
13 from such loan value, in addition to any indebtedness deducted
14 in determining such value, any unpaid balance of the premium for
15 the current certificate year, and may collect interest in
16 advance on the loan to the end of the current certificate year.
17 The society shall reserve the right to defer such loan, except
18 any made to pay premiums to the society, for six months after
19 application therefor is made. This section does not apply to
20 term insurance.

21 SUBCHAPTER E

22 ACCIDENT, HEALTH AND DISABILITY INSURANCE CONTRACTS

23 Sec.

24 4551. Regulation by department.

25 4552. Conditions for certificates.

26 4553. Standard contract provisions.

27 4554. Entire contract and changes.

28 4555. Time limits on certain defenses.

29 4556. Grace periods.

30 4557. Reinstatement.

1 4558. Claim procedure.
2 4559. Payment of claims.
3 4560. Legal actions.
4 4561. Change of beneficiary.
5 4562. Change of occupation.
6 4563. Conduct of insured.
7 4564. Other insurance.
8 4565. Relation of earnings to insurance.
9 4566. Cancellation.
10 4567. Conformity of provisions with state statutes.
11 4568. Inapplicable provisions.
12 4569. Composition and construction of certificates.
13 § 4551. Regulation by department.

14 (a) General rule.--The department may promulgate reasonable
15 regulations prescribing the required, optional and prohibited
16 provisions in health and accident insurance contracts and in
17 total and permanent disability insurance contracts. These
18 regulations shall conform, as far as practicable, to subsection
19 (b) and sections 4552 (relating to conditions for certificates)
20 through 4567 (relating to conformity of provisions to state
21 statutes).

22 (b) Approval of certificates.--A certificate of insurance
23 against loss from sickness or loss or damage from bodily injury
24 or death of the insured by accident shall not be issued or
25 delivered by any society, association or exchange issuing the
26 certificate to any person in this Commonwealth until a copy of
27 the form thereof, and of the classification of risks and the
28 dues, premiums or other required contribution pertaining
29 thereto, have been filed with and approved by the department. If
30 the department notifies the society which has filed the form in

1 writing that it does not comply with the requirements of law,
2 specifying the reason for its conclusion, the society shall not
3 issue any certificate in that form. The action of the department
4 in this regard shall be subject to review by the Commonwealth
5 Court.

6 § 4552. Conditions for certificates.

7 (a) General conditions.--A certificate shall not be
8 delivered or issued for delivery to any person in this
9 Commonwealth unless all of the following conditions are met:

10 (1) The entire money and other considerations therefor
11 shall be stated in the certificate.

12 (2) The time at which the insurance takes effect and
13 terminates shall be stated in the certificate.

14 (3) It shall purport to insure only one person, except
15 that upon the application of an adult head of a family, who
16 shall be deemed the certificate holder, a policy may insure,
17 originally or by amendment, any two or more eligible members
18 of that family, including husband, wife, dependent children
19 or any children under a specified age, which shall not exceed
20 19 years of age, and any other person dependent upon the
21 certificate holder.

22 (4) The style, arrangement and overall appearance of the
23 certificate shall give no undue prominence to any portion of
24 the text, and every printed portion of the text of the
25 certificate and of any endorsements or attached papers shall
26 be plainly printed in light face type of a style in general
27 use, the size of which type shall be uniform and not less
28 than ten point with a lower case unspaced alphabet length not
29 less than 120 point. As used in this paragraph the term
30 "text" includes all printed matter except the name and

1 address of the society, name or title of the certificate, the
2 brief description, if any, and captions and subcaptions.

3 (5) The exceptions and reductions of indemnity shall be
4 set forth in the certificate. Except for those set forth in
5 this chapter, these exceptions and reductions shall, at the
6 society's option, either be included with the benefit
7 provision to which they apply or under an appropriate caption
8 such as "exceptions" or "exceptions and reductions." If an
9 exception or reduction specifically applies only to a
10 particular benefit of the certificate, a statement of the
11 exception or reduction shall be included with the benefit
12 provision to which it applies.

13 (6) Each such form, including riders and endorsements,
14 shall be identified by a form number in the lower left-hand
15 corner of the first page thereof.

16 (7) It contains no provision purporting to make any
17 portion of the charter, rules, constitution or bylaws of the
18 society a part of the policy unless such portion is set forth
19 in full in the policy, except in the case of the
20 incorporation of, or reference to, a statement of rates or
21 classification of risks or short-rate table filed with the
22 department.

23 (8) If the certificate is entitled or referred to as
24 "noncancelable," the noncancelable certificate is
25 automatically renewable until 60 years of age upon payment of
26 the required premiums by the insured.

27 (9) With respect to an unmarried child covered by the
28 certificate prior to the attainment of 19 years of age who is
29 incapable of self-sustaining employment by reason of mental
30 retardation or physical handicap, who became so incapable

1 prior to attainment of 19 years of age and who is chiefly
2 dependent upon the certificate holder for support and
3 maintenance, a certificate under which coverage of a
4 dependent of a certificate holder terminates at a specified
5 age shall not terminate while the certificate remains in
6 force and the dependent remains in such condition, if the
7 certificate holder has within 31 days of the dependent's
8 attainment of the limiting age submitted proof of his
9 incapacity. This paragraph does not require a society to
10 insure a mentally retarded or physically handicapped
11 dependent child where the certificate is underwritten on
12 evidence of insurability based on health factors set forth in
13 the application or where the dependent does not satisfy the
14 conditions of the certificate as to evidence of insurability
15 or other provisions of the certificate, satisfaction of which
16 is required for the coverage to take effect; in any such
17 case, the terms of the certificate shall apply with regard to
18 the coverage or exclusion from coverage of the dependent.

19 (b) Nonresident members.--If any certificate is issued by a
20 society domiciled in this Commonwealth for delivery to a person
21 residing in another state, and if the official having
22 responsibility for the administration of the insurance laws of
23 the other state has advised the department that such a
24 certificate is not subject to approval or disapproval by the
25 official, the department may by ruling require that the
26 certificate meet the standards set forth in section 4541
27 (relating to approval of certificates) and this chapter.
28 § 4553. Standard contract provisions.

29 Except as provided in this chapter, each certificate
30 delivered or issued for delivery to any person in this

1 Commonwealth with respect to accident and health coverage and
2 coverage for permanent and total disability shall contain the
3 contract provisions specified in sections 4554 (relating to
4 entire contract and changes) through 4567 (relating to
5 conformity of provisions with state statutes) in the words in
6 which the same appear in this chapter. However, the society may,
7 at its option, substitute for one or more of such provisions
8 corresponding provisions of different wording approved by the
9 department which are in each instance not less favorable in any
10 respect to the benefit member or the beneficiary. Such
11 provisions shall be preceded individually by the caption
12 appearing in this section or, at the option of the society, by
13 such appropriate individual or group captions or subcaptions as
14 the department may approve.

15 § 4554. Entire contract and changes.

16 There shall be a provision as follows:

17 Entire Contract; Changes: This certificate, including the
18 society's bylaws, the endorsements and the attached
19 papers, if any, constitutes the entire contract of
20 insurance. No change in this certificate shall be valid
21 until approved by an executive officer of the society and
22 unless such approval be endorsed hereon or attached
23 hereto. No agent has authority to change this certificate
24 or to waive any of its provisions.

25 § 4555. Time limits on certain defenses.

26 (a) Mandatory provision.--There shall be a provision as
27 follows:

28 Time Limit on Certain Defenses: After three years from
29 the date of issue of this certificate no misstatements,
30 except fraudulent misstatements, made by the applicant in

1 the application for such certificate shall be used to
2 void the certificate or to deny a claim for loss incurred
3 or disability (as defined in the certificate) commencing
4 after the expiration of such three-year period.

5 (b) Nonapplicability.--The certificate provision does not
6 affect any legal requirement for avoidance of a certificate or
7 denial of a claim during such initial three-year period, nor
8 limit the application of sections 4554 (relating to entire
9 contract and changes) through 4557 (relating to reinstatement)
10 and section 4558(a), (b) and (c) (relating to claim procedure)
11 in the event of misstatement with respect to age or occupation
12 or other insurance.

13 (c) Optional language for weekly payment situations.--

14 (1) In a certificate where the dues, premiums or other
15 required contributions are payable weekly, the words "if such
16 application is made a part of the certificate" may be
17 inserted in the certificate provision between the word
18 "certificate" and the word "shall" immediately following.

19 (2) In certificates whereon the dues, premiums or the
20 required contributions are payable weekly, the words "or from
21 the date of any reinstatement thereof" may be inserted in the
22 certificate provision between the word "certificate" and the
23 word "shall" immediately following.

24 (d) Optional language where certificate member has power to
25 continue certificate.--A certificate which the benefit member
26 has the right to continue in force subject to its terms by the
27 timely payment of the dues, premium or other required
28 contribution until at least 50 years of age, or in the case of a
29 certificate issued after 44 years of age, for at least five
30 years from its date of issue, may contain in lieu of the

1 language in section 4558(a) (relating to claim procedure), the
2 following provision:

3 Incontestability Period: After this certificate has been
4 in force for a period of three years during the lifetime
5 of the benefit member (excluding any period during which
6 the benefit member is disabled), it shall become
7 incontestable as to the statements contained in the
8 application.

9 (e) Nondenial or reduction of certain claims.--There shall
10 be a provision as follows:

11 Nondenial or Reduction of Certain Claims: No claim for
12 loss incurred or disability (as defined in the
13 certificate) commencing after three years from the date
14 of issue of this certificate shall be reduced or denied
15 on the ground that a disease or physical condition not
16 excluded from coverage by name or specific description
17 effective on the date of loss had existed prior to the
18 effective date of coverage of this certificate.

19 § 4556. Grace periods.

20 (a) Period established.--There shall be a provision as
21 follows:

22 Grace Period: There shall be a grace period of (insert a
23 number not less than "7" for weekly dues, premium or
24 other required contribution certificates, "10" for
25 monthly dues, premium or other required contribution
26 certificates and "31" for all other certificates) days
27 will be granted for the payment of each dues, premium or
28 other required contribution falling due after the first
29 dues, premium or other required contribution during which
30 grace period the certificate shall continue in force.

1 (b) Cancellation.--A certificate which contains a
2 cancellation provision may add, at the end of the provision,
3 "subject to the right of the benefit member to cancel in
4 accordance with the cancellation provision hereof."

5 (c) Reservation of right to refuse renewal.--A certificate
6 in which the society reserves the right to refuse any renewal
7 shall have, at the beginning of the contract provision set forth
8 in subsection (a), "unless not less than 30 days prior to the
9 dues, premium or other required contribution due date the
10 society has delivered to the benefit member or has mailed to his
11 last address as shown by the records of the society written
12 notice of its intention not to renew this certificate beyond the
13 period for which the dues, premium or other required
14 contribution has been accepted."

15 § 4557. Reinstatement.

16 (a) Mandatory provision.--There shall be a provision as
17 follows:

18 Reinstatement: If any renewal dues, premium or other
19 required contribution is not paid within the time granted
20 the society for payment, a subsequent acceptance of dues,
21 premium or other required contribution by the society or
22 by any agent duly authorized by the society to accept
23 such dues, premium or other required contribution without
24 requiring in connection therewith an application for
25 reinstatement, shall reinstate the certificate: Provided,
26 however, That if the society or such agent requires an
27 application for reinstatement and issues a conditional
28 receipt for the dues, premium or other required
29 contribution tendered, the certificate will be reinstated
30 upon approval of such application by the society or,

1 lacking such approval, upon the 45th day following the
2 date of such conditional receipt unless the society has
3 previously notified the benefit member in writing of its
4 disapproval of such application. The reinstated
5 certificate shall cover only loss resulting from such
6 accidental injury as may be sustained after the date of
7 reinstatement and loss due to such sickness as may begin
8 more than ten days after such date. In all other respects
9 the benefit member and society shall have the same rights
10 thereunder as they had under the certificate immediately
11 before the due date of the defaulted dues, premium or
12 other required contribution subject to any provisions
13 endorsed hereon or attached hereto in connection with the
14 reinstatement. Any dues, premium or other required
15 contribution accepted in connection with a reinstatement
16 shall be applied to a period for which the dues, premium
17 or other required contribution has not been previously
18 paid, but not to any period more than 60 days prior to
19 the date of reinstatement.

20 (b) Payments accepted.--The last sentence of the contract
21 provision set forth in subsection (a) may be omitted:

22 (1) from any certificate which the benefit member has
23 the right to continue in force subject to its terms by the
24 timely payment of the dues, premiums or other required
25 contributions until at least 50 years of age or, in the case
26 of a certificate issued after 44 years of age, for at least
27 five years from the date of its issue; or

28 (2) from any certificate on which the dues, premiums or
29 other required contributions are payable weekly.

30 § 4558. Claim procedure.

1 (a) Notice of claim.--There shall be a provision as follows:
2 Notice of Claim: Written notice of claim must be given to
3 the society within 20 days after the occurrence or
4 commencement of any loss covered by the certificate, or
5 as soon thereafter as is reasonably possible. Notice
6 given by or on behalf of the benefit member or the
7 beneficiary to the society at (insert the location of
8 such office as the society may designate for the purpose)
9 or to any authorized agent of the society, with
10 information sufficient to identify the benefit member,
11 shall be deemed notice to the society.

12 (b) Optional language for weekly payment insurance.--In a
13 certificate whereon the dues, premiums or other required
14 contributions are payable weekly, the first sentence of the
15 contract provisions set forth in subsection (a) may read:

16 Written notice of claim must be given to the society
17 within 10 days of the commencement of any nonhospital
18 confining sickness covered by the certificate and within
19 20 days after the occurrence or commencement of any other
20 loss covered by the certificate, or as soon thereafter as
21 is reasonably possible.

22 (c) Language in loss of time benefit insurance.--In a
23 certificate providing a loss of time benefit which may be
24 payable for at least two years, a society may insert the
25 following between the first and second sentences of the
26 provision set forth in subsection (a):

27 Subject to the qualifications set forth below, if the
28 benefit member suffers loss of time on account of
29 disability for which indemnity may be payable for at
30 least two years, he shall, at least once in every six

1 months after having given notice of claim, give to the
2 society notice of continuance of said disability, except
3 in the event of legal incapacity. The period of six
4 months following any filing of proof by the benefit
5 member or any payment by the society on account of such
6 claim or any denial of liability in whole or in part by
7 the society shall be excluded in applying this provision.
8 Delay in the giving of such notice shall not impair the
9 benefit member's right to any indemnity which would
10 otherwise have accrued during the period of six months
11 preceding the date on which such notice is actually
12 given.

13 (d) Forms for claims.--There shall be a provision as
14 follows:

15 Claim Forms: The society, upon receipt of a notice claim,
16 will furnish to the claimant such forms as are usually
17 furnished by it for filing proofs of loss. If such forms
18 are not furnished within 15 days after the giving of such
19 notice, the claimant shall be deemed to have complied
20 with the requirements of this certificate as to proof of
21 loss upon submitting, within the time fixed in the
22 certificate for filing proofs of loss, written proof
23 covering the occurrence, the character and the extent of
24 the loss for which claim is made.

25 (e) Proofs of loss.--There shall be a provision as follows:
26 Proofs of Loss: Written proof of loss must be furnished
27 to the society at its office in case of claim for loss
28 for which this certificate provides any periodic payment
29 contingent upon continuing loss within 90 days after the
30 termination of the period for which the society is liable

1 and in case of claim for any other loss within 90 days
2 after the date of such loss. Failure to furnish such
3 proof within the time required shall not invalidate or
4 reduce any claim if it was not reasonably possible to
5 give proof within such time, provided such proof is
6 furnished as soon as reasonably possible and in no event,
7 except in the absence of legal capacity, later than one
8 year from the time proof is otherwise required.

9 (f) Physical examinations and autopsy.--There shall be a
10 provision as follows:

11 Physical Examinations and Autopsy: The society at its own
12 expense shall have the right and opportunity to examine
13 the person of the benefit member when and as often as it
14 may reasonably require during the pendency of a claim
15 hereunder and to make an autopsy in case of death where
16 it is not forbidden by law.

17 § 4559. Payment of claims.

18 (a) Mandatory provision.--There shall be a provision as
19 follows:

20 Payment of Claims: Indemnity for loss of life will be
21 payable in accordance with the beneficiary designation
22 and the provisions respecting such payment which may be
23 prescribed herein and effective at the time of payment.
24 If no such designation or provision is then effective,
25 such indemnity shall be payable to the estate of the
26 insured. Any other accrued indemnities unpaid at the
27 benefit member's death may, at the option of the society,
28 be paid either to such beneficiary or to such estate. All
29 other indemnities will be payable to the benefit member.

30 (b) Optional language.--The following provisions, or either

1 of them, may be included with the contract provision set forth
2 in subsection (a):

3 (1) If any indemnity of this certificate shall be
4 payable to the estate of the benefit member or to a benefit
5 member or beneficiary who is a minor or otherwise not
6 competent to give a valid release, the society may pay such
7 indemnity, up to an amount not exceeding \$ (insert an amount
8 which shall not exceed \$1,000), to any relative by blood or
9 connection by marriage of the benefit member or beneficiary
10 who is deemed by the society to be equitably entitled
11 thereto. Any payment made by the society in good faith
12 pursuant to this provision shall fully discharge the society
13 to the extent of such payment.

14 (2) Subject to any written direction of the benefit
15 member in the application or otherwise, all or a portion of
16 any indemnities provided by this certificate on account of
17 hospital, nursing, medical or surgical services may, at the
18 society's option and, unless the benefit member requests
19 otherwise in writing, not later than the time of filing
20 proofs of such loss, be paid directly to the hospital or
21 person rendering such services; but it is not required that
22 the service be rendered by a particular hospital or person.

23 (c) Time of payment of claims.--There shall be a provision
24 as follows:

25 Time of Payment of Claims: Indemnities payable under this
26 certificate for any loss other than loss for which this
27 certificate provides any periodic payment will be paid
28 immediately upon receipt of due written proof of such
29 loss. Subject to due written proof of loss, all accrued
30 indemnities for loss for which this certificate provides

1 periodic payment will be paid (insert period for payment
2 which must not be less frequently than monthly) and any
3 balance remaining unpaid upon the termination of
4 liability will be paid immediately upon receipt of due
5 written proof.

6 § 4560. Legal actions.

7 There shall be a provision as follows:

8 Legal Actions: No action at law or in equity shall be
9 brought to recover on this certificate prior to the
10 expiration of 60 days after written proof of loss has
11 been furnished in accordance with the requirements of
12 this certificate. No such action shall be brought after
13 the expiration of three years after the time written
14 proof of loss is required to be furnished.

15 § 4561. Change of beneficiary.

16 There shall be a provision as follows:

17 Change of Beneficiary: Unless the benefit member makes an
18 irrevocable designation of beneficiary, the right to
19 change of beneficiary is reserved to the benefit member
20 and the consent of the beneficiary or beneficiaries shall
21 not be requisite to surrender or assignment of this
22 certificate or to any change of beneficiary or
23 beneficiaries, or to any other changes in this
24 certificate. The first clause of this provision, relating
25 to the irrevocable designation of beneficiary, may be
26 omitted at the society's option.

27 § 4562. Change of occupation.

28 There shall be a provision as follows:

29 Change of Occupation: If the benefit member is injured or
30 contracts sickness after having changed his occupation to

1 one classified by the society as more hazardous than that
2 stated in this certificate or while doing for
3 compensation anything pertaining to an occupation so
4 classified, the society will pay only such portion of the
5 indemnities provided in this certificate as the dues,
6 premiums or other required contributions paid would have
7 purchased at the rates and within the limits fixed by the
8 society for such more hazardous occupation. If the
9 benefit member changes his occupation to one classified
10 by the society as less hazardous than that stated in this
11 certificate, the society, upon receipt of proof of such
12 change of occupation, will reduce the dues, premiums or
13 other required contributions accordingly, and will return
14 the excess pro rata unearned dues, premiums or other
15 required contributions from the date of change of
16 occupation or from the certificate anniversary date
17 immediately preceding receipt of such proof, whichever is
18 the more recent. In applying this provision, the
19 classification of occupational risk and the dues,
20 premiums or other required contributions shall be such as
21 have been last filed by the society prior to the
22 occurrence of the loss for which the society is liable or
23 prior to date of proof of change in occupation with the
24 state official having supervision of insurance in the
25 state where the benefit member resided at the time this
26 certificate was issued; but if such filing was not
27 required, then the classification of occupational risk
28 and the dues, premiums or other required contributions
29 shall be those last made effective by the society in such
30 state prior to the occurrence of the loss or prior to the

1 date of proof of change in occupation.

2 § 4563. Conduct of insured.

3 (a) Misstatement of age.--There shall be a provision as
4 follows:

5 Misstatement of Age: If the age of the benefit member has
6 been misstated, all amounts payable under this
7 certificate shall be such as the dues, premiums or other
8 required contributions paid would have purchased at the
9 correct age.

10 (b) Nonpayment of premiums.--There shall be a provision as
11 follows:

12 Unpaid Dues, Premiums or Other Required Contributions:
13 Upon the payment of a claim under this certificate, any
14 dues, premiums or other required contributions then due
15 and unpaid or covered by any note or written order may be
16 deducted therefrom.

17 (c) Illegal occupation.--There shall be a provision as
18 follows:

19 Illegal Occupation: The society shall not be liable for
20 any loss to which a contributing cause was the benefit
21 member's commission of or attempt to commit a felony, or
22 to which a contributing cause was the benefit member's
23 being engaged in an illegal occupation.

24 (d) Intoxicants and narcotics.--There shall be a provision
25 as follows:

26 Intoxicants and Narcotics: The society shall not be
27 liable for any loss sustained or contracted in
28 consequence of the benefit member's being intoxicated, or
29 under the influence of any narcotic unless administered
30 on the advice of a physician.

1 § 4564. Other insurance.

2 (a) Other insurance in same society.--There shall be a
3 provision as follows:

4 Other Insurance in This Society: If an accident or
5 sickness or accident and sickness certificate or
6 certificates previously issued by the society to the
7 benefit member be in force concurrently herewith, making
8 the aggregate indemnity for (insert type of coverage or
9 coverages) in excess of \$ (insert maximum limit of
10 indemnity or indemnities), the excess insurance shall be
11 void and all dues, premiums or other required
12 contributions paid for such excess shall be returned to
13 the benefit member or to his estate or, in lieu thereof,
14 insurance effective at any one time on the benefit member
15 under a like certificate or certificates in this society
16 is limited to the one such certificate elected by the
17 benefit member, his beneficiary or his estate, as the
18 case may be, and the society will return all dues,
19 premiums or other required contributions paid for all
20 other such certificates.

21 (b) Insurance with other benefit members.--There shall be a
22 provision as follows:

23 Insurance with Other Benefit Members: If there is other
24 valid coverage, not with this society, providing benefits
25 for the same loss on a provision of service basis or on
26 an expense incurred basis and of which this society has
27 not been given written notice prior to the occurrence or
28 commencement of loss, the only liability under any
29 expense incurred coverage of this certificate shall be
30 for such proportion of the loss of the amount which would

1 otherwise have been payable hereunder plus the total of
2 the like amounts under all such other valid coverages for
3 the same loss of which this society had notice bears to
4 the total like amounts under all valid coverages for such
5 loss, and for the return of such portion of the dues,
6 premiums or other required contributions paid as shall
7 exceed the pro rata portion for the amount so determined.
8 For the purpose of applying this provision when other
9 coverage is on a provision of service basis, the "like
10 amount" of such other coverage shall be taken as the
11 amount which the services rendered would have cost in the
12 absence of such coverage.

13 (c) Caption change for insurance with other benefit
14 members.--If the contract provision set forth in subsection (a)
15 is included in a certificate which also contains the contract
16 provision set forth in subsection (e), there shall be added to
17 the caption of the contract provision set forth in subsection
18 (b) the phrase "... Expense Incurred Benefits."

19 (d) Definition of "other valid coverage" for insurance with
20 other benefit members.--The society may include in the contract
21 provision set forth in subsection (b) a definition of "other
22 valid coverage," approved as to form by the department, which
23 shall be limited in subject matter to coverage provided by
24 organizations subject to regulation by insurance law or by
25 insurance authorities of this Commonwealth or any other state or
26 any province of Canada, and by hospital or medical service
27 organizations, and to any other coverage the inclusion of which
28 is approved by the department. In the absence of such
29 definition, the term does not include group insurance or
30 coverage provided by hospital or medical service organizations

1 or by union welfare plans or employer or employee benefit
2 organizations. For the purpose of applying the provision set
3 forth in subsection (b) with respect to any benefit member, any
4 amount of benefit provided for the member pursuant to any
5 compulsory benefit statute, including any workmen's compensation
6 or employers' liability statute, whether provided by a
7 governmental agency or otherwise, shall be deemed "other valid
8 coverage" of which the society has had notice; in applying this
9 contract provision, in no event shall third party liability
10 coverage be included as "other valid coverage."

11 (e) Insurance with other societies.--There shall be a
12 provision as follows:

13 Insurance with Other Societies: If there is other valid
14 coverage, not with this society, providing benefits for
15 the same loss on other than an expense incurred basis and
16 of which this society has not been given written notice
17 prior to the occurrence or commencement of loss, the only
18 liability for such benefits under this certificate shall
19 be for such proportion of the indemnities otherwise
20 provided hereunder for such loss as the like indemnities
21 of which the society had notice (including the
22 indemnities under this certificate) bear to the total
23 amount of all like indemnities for such loss, and for the
24 return of such portion of the dues, premiums or other
25 required contributions paid as shall exceed the pro rata
26 portion for the indemnities thus determined.

27 (f) Caption changes for insurance with other societies.--If
28 the contract provision set forth in subsection (e) is included
29 in a certificate which also contains the provision set forth in
30 subsection (b) there shall be added to the caption of the

1 foregoing provision the phrase "... other benefits."

2 (g) Definition of "other valid coverage" for insurance with
3 other societies.--The society may include in the contract
4 provision set forth in subsection (e) a definition of "other
5 valid coverage," approved as to form by the department, which
6 shall be limited in subject matter to coverage provided by
7 organizations subject to regulation by insurance law or by
8 insurance authorities of this Commonwealth or any other state or
9 any province of Canada, and to any other coverage the inclusion
10 of which may be approved by the department. In the absence of
11 such definition, the term does not include group insurance or
12 benefits provided by union welfare plans or by employer or
13 employee benefit organizations. For the purpose of applying the
14 contract provision set forth in subsection (e) with respect to
15 any benefit member, any amount of benefit provided for the
16 insured pursuant to any compulsory benefit statute including any
17 workmen's compensation or employers' liability statute, whether
18 provided by a governmental agency or otherwise, shall be deemed
19 "other valid coverage" of which the society has had notice; in
20 applying this contract provision, in no event shall third party
21 liability coverage be included as "other valid coverage."

22 § 4565. Relation of earnings to insurance.

23 (a) Reduction of payments to rates with earnings.--If
24 permitted by subsection (b), there shall be a provision as
25 follows:

26 Relation of Earnings to Insurance: If the total monthly
27 amount of loss of time benefits promised for the same
28 loss under all valid loss of time coverage upon the
29 benefit member, whether payable on a weekly or monthly
30 basis, shall exceed the monthly earnings for the period

1 of two years immediately preceding a disability for which
2 claim is made, whichever is the greater, the society will
3 be liable only for such proportionate amount of such
4 benefits under this certificate as the amount of such
5 monthly earnings or such average monthly earnings of the
6 benefit member bears to the total amount of monthly
7 benefits for the same loss under all such coverage upon
8 the benefit member at the time such disability commences
9 and for the return of such part of the dues, premiums or
10 other required contributions paid during such two years
11 as shall exceed the pro rata amount of the dues, premiums
12 or other required contributions for the benefits actually
13 paid hereunder; but this shall not operate to reduce the
14 total monthly amount of benefits payable under all such
15 coverage upon the benefit member below the sum of \$200 or
16 the sum of the monthly benefits specified in such
17 coverages, whichever is the lesser, nor shall it operate
18 to reduce benefits other than those payable for loss of
19 time.

20 (b) Limited use of provision.--The contract provision set
21 forth in subsection (a) shall be inserted only in a certificate
22 which the benefit member has the right to continue in force
23 subject to its terms by the timely payment of dues, premiums or
24 other required contributions until at least 50 years of age or,
25 in the case of a certificate issued after 44 years of age, for
26 at least five years from its date of issue.

27 (c) Definition of "valid loss of time coverage".--The
28 society may include in the contract provision set forth in
29 subsection (a), a definition of "valid loss of time coverage,"
30 approved as to form by the department, which shall be limited in

1 subject matter to coverage provided by governmental agencies or
2 by organizations subject to regulation by insurance law or by
3 insurance authorities of this Commonwealth or any other state or
4 any province of Canada, or to any other coverage, the inclusion
5 of which may be approved by the department, or any combination
6 of such coverages. In the absence of such definition, the term
7 does not include any coverage provided for the member pursuant
8 to any compulsory benefit statute, including any workmen's
9 compensation or employers' liability statute, or benefits
10 provided by union welfare plans or by employer or employee
11 benefit organizations.

12 § 4566. Cancellation.

13 There shall be a provision as follows:

14 Cancellation: The society may cancel this certificate at
15 any time by written notice delivered to the benefit
16 member or mailed to his last address as shown by the
17 records of the society, stating when, not less than 30
18 days thereafter, such cancellation shall be effective;
19 and after the certificate has been continued beyond its
20 original term, the benefit member may cancel this
21 certificate at any time by written notice delivered or
22 mailed to the society, effective upon receipt or on such
23 later date as may be specified in such notice. In the
24 event of cancellation, the society will return promptly
25 the unearned portion of any dues, premiums or other
26 required contributions paid. If the benefit member
27 cancels, the unearned dues, premiums or other required
28 contributions shall be computed by the use of the short
29 rate table last filed with the state official having
30 supervision of insurance in the state where the benefit

1 member resided when the certificate was issued. If the
2 society cancels, the earned dues, premiums or other
3 required contributions shall be computed pro rata.
4 Cancellation shall be without prejudice to any claim
5 originating prior to the effective date of cancellation.

6 § 4567. Conformity of provisions with state statutes.

7 There shall be a provision as follows:

8 Conformity with State Statutes: Any provision of this
9 certificate which, on its effective date, is in conflict
10 with the statutes of the state in which the benefit
11 member resides on such date, is hereby amended to conform
12 to the minimum requirements of such statutes.

13 § 4568. Inapplicable provisions.

14 (a) Modification for type of coverage.--If any contract
15 provision of this chapter is in whole or in part inapplicable to
16 or inconsistent with the coverage provided by a particular form
17 of certificate, the society, with the approval of the
18 department, shall omit from the certificate any inapplicable
19 provision and shall modify any inconsistent provision in such
20 manner as to make the provision as contained in the certificate
21 consistent with the coverage provided by the certificate.

22 (b) Power of department.--Where the department deems
23 inapplicable, either in part or in their entirety, the contract
24 provisions of this chapter, it may prescribe the portions or
25 summary thereof of the contract to be printed on the certificate
26 issued to the member.

27 § 4569. Composition and construction of certificates.

28 (a) Order of provisions.--The contract provisions prescribed
29 by this chapter or any corresponding provisions which are used
30 in lieu thereof in accordance therewith shall be printed in the

1 consecutive order of the provisions therein or, at the option of
2 the society, any such provision may appear as a unit in any part
3 of the certificate, with other provisions to which it may be
4 logically related, provided the resulting certificate shall not
5 be in whole or in part unintelligible, ambiguous or misleading.

6 (b) Third-party ownership.--The term "benefit member," as
7 used in this chapter, shall not be construed as preventing a
8 person other than the benefit member with a proper insurable
9 interest from making application for and owning a certificate
10 covering the benefit member or from being entitled under such a
11 certificate to any indemnities, benefits and rights provided
12 therein.

13 SUBCHAPTER F

14 LICENSURE

15 Sec.

16 4571. Annual license for societies.

17 4572. Fees.

18 4573. Foreign or alien societies.

19 4574. Injunction, liquidation or receivership of domestic
20 societies.

21 4575. Suspension, revocation or refusal of license to foreign
22 or alien societies.

23 4576. Application for injunction.

24 4577. Licensure of fraternal insurance agents.

25 § 4571. Annual license for societies.

26 The authority of the societies shall be renewed annually, on
27 or before April 1.

28 § 4572. Fees.

29 The department shall charge and collect fees under section
30 613-A(3) of the act of April 9, 1929 (P.L.177, No.175), known as

1 The Administrative Code of 1929. All agent's license fees for
2 each domestic or foreign society, for life or accident and
3 health lines, shall be paid in full at the time of issuance of
4 the license and shall not be apportioned pro rata over the
5 initial license period. All fees collected shall be paid daily
6 into the State Treasury.

7 § 4573. Foreign or alien societies.

8 (a) License required.--A foreign or alien society shall not
9 transact business in this Commonwealth without a license issued
10 by the department. Any such society may be licensed to transact
11 business in this Commonwealth upon filing with the department:

12 (1) A certified copy of its charter or articles of
13 incorporation.

14 (2) A copy of its constitution and bylaws, certified by
15 its secretary or corresponding officer.

16 (3) A statement of its business under oath of its
17 president and secretary or corresponding officers in a form
18 prescribed by the department, duly verified by an examination
19 satisfactory to the department, made by the supervising
20 insurance official of its home state or other state, province
21 or country.

22 (4) A certificate from the proper official of its home
23 state, province or country that the society is legally
24 incorporated and licensed to transact business therein.

25 (5) Copies of its certificate forms.

26 (6) Such other information as the department believes
27 necessary.

28 (7) Proof that its assets are invested in accordance
29 with this chapter.

30 (b) Qualifications.--Any foreign or alien society desiring

1 authority to transact business in this Commonwealth shall have
2 the qualifications required of domestic societies organized
3 under this chapter.

4 § 4574. Injunction, liquidation or receivership of domestic
5 societies.

6 (a) Findings and notification.--When the department upon
7 investigation finds that a domestic society:

8 (1) has exceeded its powers;

9 (2) has failed to comply with any provision of this
10 chapter;

11 (3) is not fulfilling its contracts in good faith;

12 (4) has a membership of less than 400 after an existence
13 of one year or more; or

14 (5) is conducting business fraudulently or in a manner
15 hazardous to its members, creditors, the public or the
16 business;

17 it shall notify the society of the deficiencies. The department
18 shall immediately issue a written notice to the society
19 requiring that any such deficiencies be corrected. After this
20 notice the society shall have a 30-day period in which to comply
21 with the department's request. If the society fails to comply,
22 the department shall notify the society of its findings of
23 noncompliance and require the society to show cause, at a
24 hearing on a date named, why it should not be enjoined from
25 carrying on any business until the violation complained of has
26 been corrected, or why an action in quo warranto should not be
27 commenced against the society.

28 (b) Presentation to Attorney General.--If on the hearing
29 date the society does not present sufficient reasons why it
30 should not be so enjoined or why such action should not be

1 commenced, the department may present the facts relating thereto
2 to the Attorney General who shall, if he deems the circumstances
3 warrant, commence an action to enjoin the society from
4 transacting business or in quo warranto. An action under this
5 section shall not be recognized in any court unless commenced by
6 the Attorney General upon request of the department.

7 (c) Hearing.--If after a full hearing, after adequate notice
8 to the society, it appears that the society should be so
9 enjoined or liquidated or a receiver appointed, the court shall
10 enter the necessary order.

11 (d) Prerequisites for lifting injunction.--A society so
12 enjoined shall not have the authority to do business until all
13 of the following have occurred:

14 (1) The department finds that the violation complained
15 of has been corrected.

16 (2) The costs of such action are paid by the society, if
17 the court finds that the society was in default as charged.

18 (3) The court dissolves its injunction.

19 (4) The department reinstates the certificate of
20 authority.

21 (e) Court order for liquidation.--If the court orders the
22 society liquidated, it shall be enjoined from carrying on any
23 further business. The receiver of the society shall proceed
24 immediately to take possession of the books, papers, money and
25 other assets of the society and, under the direction of the
26 court, proceed immediately to close the affairs of the society
27 and to distribute its funds to those entitled thereto. Whenever
28 a receiver is to be appointed for a domestic society, the court
29 shall appoint the department as receiver.

30 (f) Applicability to voluntary discontinuance.--The

1 provisions of this section relating to hearing by the
2 department, action by the Attorney General at the request of the
3 department, hearing by the court, injunction and receivership
4 shall apply to a society which voluntarily determines to
5 discontinue business.

6 § 4575. Suspension, revocation or refusal of license to foreign
7 or alien societies.

8 (a) Findings and notification.--When the department upon
9 investigation finds that a foreign or alien society transacting
10 or applying to transact business in this Commonwealth:

11 (1) has exceeded its powers;

12 (2) has failed to comply with any of the provisions of
13 this chapter;

14 (3) is not fulfilling its contracts in good faith; or

15 (4) is conducting its business fraudulently or in a
16 manner hazardous to its members or creditors or the public;

17 it shall notify the society of the deficiencies. The department
18 shall immediately issue a written notice to the society
19 requiring that any such deficiencies be corrected. After the
20 notice the society shall have a 30-day period in which to comply
21 with the department's request. If the society fails to comply,
22 the department shall notify the society of its findings of
23 noncompliance and require the society to show cause, at a
24 hearing on a date named, why its license should not be
25 suspended, revoked or refused. If on the hearing date the
26 society does not present good and sufficient reason why the
27 action proposed by the department should not be taken, the
28 department may suspend or refuse the license of the society to
29 do business in this Commonwealth until satisfactory evidence is
30 furnished to the department that the suspension or refusal

1 should be withdrawn or the department may revoke the authority
2 of the society to do business in this Commonwealth.

3 (b) Continuation of contracts.--This section does not
4 prevent any such society from continuing in good faith all
5 contracts made in this Commonwealth during the time the society
6 was legally authorized to transact business.

7 § 4576. Application for injunction.

8 An application or petition for injunction with respect to any
9 regulatory law administered by the department against any
10 domestic, foreign or alien society, or branch thereof, shall not
11 be recognized in any court unless made by the Attorney General
12 upon request of the department.

13 § 4577. Licensure of fraternal insurance agents.

14 (a) Licensure requirement.--Agents of societies shall be
15 licensed in accordance with this section.

16 (b) Payment of commissions.--A society doing business in
17 this Commonwealth shall not pay any commission or other
18 compensation to any person for any services in obtaining in this
19 Commonwealth any new contract of life, accident or health
20 insurance, or any new annuity contract, except to a licensed
21 fraternal insurance agent of the society.

22 (c) Issuance of license.--The department may issue a license
23 to any person who has paid the annual license fee and who has
24 complied with the requirements of this section, authorizing the
25 licensee to act as a fraternal insurance agent on behalf of any
26 society named in the license which is authorized to do business
27 in this Commonwealth.

28 (d) Supporting documents.--A fraternal insurance agent's
29 license shall not be issued until there is on file in the office
30 of the department the following documents:

1 (1) A written application by the prospective licensee,
2 in such form or forms and containing such information as the
3 department may prescribe.

4 (2) A certificate by the society to be named in the
5 license, stating that the society has satisfied itself that
6 the named applicant is trustworthy and competent to act as
7 its fraternal insurance agent and that the society will
8 appoint the applicant to act as its agent if the license is
9 issued by the department. This certificate shall be executed
10 and acknowledged by an officer or managing agent of the
11 society.

12 (e) Types of licenses.--Except as otherwise provided in this
13 section, fraternal insurance agents shall be licensed as life or
14 accident and health agents, or both, except that the examination
15 requirements of such provisions shall not apply to:

16 (1) Any fraternal insurance agent who was in the service
17 of a society on January 29, 1978.

18 (2) A fraternal insurance agent who, in the preceding
19 calendar year, has solicited and procured life insurance
20 contracts on behalf of any society in an amount of insurance
21 not in excess of \$100,000 or, in the case of any other kinds
22 of insurance which the society might write, on the persons of
23 not more than 25 individuals and who has received or will
24 receive a commission or compensation therefor.

25 (f) Denial of license.--The department may refuse to issue
26 or renew any fraternal insurance agent's license if in its
27 judgment the proposed licensee is not trustworthy and competent
28 to act as such an agent, or has given cause for revocation or
29 suspension of the license, or has failed to comply with any
30 prerequisite for the issuance or renewal of the license.

1 (g) License terms.--The term, expiration, renewal
2 procedures, termination notice requirements and the causes for
3 revocation or suspension of the license shall be as contained in
4 Chapter 11 (relating to agents and brokers) with respect to
5 licenses of life, accident and health insurance agents, except
6 as inconsistent with this section.

7 (h) Definition.--As used in this section, the term
8 "fraternal insurance agent" means any authorized or acknowledged
9 agent or representative of a society who acts as such in the
10 solicitation, negotiation or procurement or making of a life
11 insurance, accident and health insurance or annuity contract.
12 The term does not include:

13 (1) Any regular salaried officer or employee of a
14 licensed society whose services are devoted substantially to
15 activities other than the solicitation of insurance
16 contracts, and who receives for the solicitation of such
17 contracts no commission or other compensation directly
18 dependent upon the amount of business obtained.

19 (2) Any member of a society whose solicitation or
20 negotiation of insurance contracts is incidental to securing
21 new members for his society and whose only remuneration
22 consists of prizes in the form of merchandise or payments of
23 nominal amounts.

24 SUBCHAPTER G

25 REGULATION OF OPERATIONS

26 Sec.

27 4581. Funds.

28 4582. Investments.

29 4583. Report of financial condition.

30 4584. Determination of reserves.

1 4585. Deferred payments as liability.

2 4586. Certification of valuation.

3 4587. Valuation standards.

4 4588. Excess reserves.

5 4589. Examination of societies.

6 4590. Misrepresentations.

7 4591. Discrimination and rebates.

8 4592. Penalties.

9 § 4581. Funds.

10 (a) Assets of society.--All assets shall be held, invested
11 and disbursed for the use and benefit of the society, and a
12 member or beneficiary shall not have or acquire individual
13 rights therein or become entitled to any apportionment or the
14 surrender of any part thereof, except as provided in the
15 contract.

16 (b) Use of funds.--A society may create, maintain, invest,
17 disburse and apply any special funds necessary to carry out any
18 purpose permitted by the bylaws of the society.

19 (c) Statement of purposes and proportions of payments.--
20 Every society, the admitted assets of which are less than the
21 sum of its accrued liabilities and reserves under all of its
22 certificates when valued according to standards required for
23 life insurance companies for certificates issued after January
24 29, 1979, shall, in every provision of the bylaws of the society
25 for payments by members of the society, distinctly state the
26 purpose of the same and the proportion thereof which may be used
27 for expenses. The money collected for mortuary or disability
28 purposes or the net accretions thereto shall not be used for
29 expenses.

30 § 4582. Investments.

1 (a) General rule.--A society shall invest its funds only in
2 the investments authorized by this title for the investment of
3 assets of life insurance companies. Any foreign or alien society
4 permitted or seeking to do business in this Commonwealth which
5 invests its funds in accordance with the law of the state,
6 province or country in which it is incorporated is deemed to
7 meet the requirements of this section for the investment of
8 funds.

9 (b) Certain real estate.--In addition to the investment of
10 assets as prescribed under subsection (a), a fraternal benefit
11 society may purchase, receive, hold and convey real estate or
12 any interest therein for the purpose of maintenance or
13 construction of camps or recreational areas with necessary
14 facilities for all its members. Such assets shall be shown on
15 the annual statement at cost in the year acquired and may not
16 exceed 5% of other admitted assets of the society.

17 § 4583. Report of financial condition.

18 (a) Requirement.--Every society transacting business in this
19 Commonwealth shall annually, on or before March 1, unless for
20 cause shown the time is extended by the department, file with
21 the department a true statement of its financial condition,
22 transactions and affairs for the preceding calendar year and pay
23 the applicable fee. The statement shall be in general form and
24 content as approved by the National Association of Insurance
25 Commissioners for fraternal benefit societies and as
26 supplemented by additional information as required by the
27 department.

28 (b) Synopsis of report to members.--A synopsis of its annual
29 statement providing an explanation of the facts concerning the
30 condition of the society disclosed in the statement shall be

1 printed and mailed to each benefit member of the society not
2 later than June 1 of each year, or the synopsis may instead be
3 published in the society's official publication.

4 (c) Report of valuation of certificates.--As a part of the
5 annual statement each society shall, on or before March 1, file
6 with the department a valuation of its certificates in force at
7 the end of the preceding calendar year. The department may for
8 cause shown extend the time for filing the valuation to not
9 later than May 1. The report of valuation shall show as reserve
10 liabilities the difference between the present midyear value of
11 the promised benefits provided in the certificates of the
12 society in force and the present midyear value of the future net
13 premiums as are actually collected, not including therein any
14 value for the right to make extra assessments or any amount by
15 which the present midyear value of future net premiums exceeds
16 the present midyear value of promised benefits on individual
17 certificates. At the option of the society the valuation may
18 instead show the net tabular value. The net tabular value as to
19 certificates issued prior to January 29, 1979, shall be
20 determined in accordance with the law applicable prior to
21 January 29, 1978, and as to certificates issued on or after
22 January 29, 1979, shall not be less than the reserves determined
23 according to the departments' reserve valuation method under
24 section 4584 (relating to determination of reserves). If the
25 premium charged is less than the tabular net premium according
26 to the basis of valuation used, an additional reserve equal to
27 the present value of the deficiency in such premiums shall be
28 maintained as a liability. The reserve liabilities shall be
29 properly adjusted if the midyear or tabular values are not
30 appropriate.

1 (d) Penalty.--A society which neglects to file the annual
2 statement in the form and within the time provided by this
3 section shall forfeit \$100 for each day during which such
4 neglect continues and, upon notice by the department to that
5 effect, its authority to do business in this Commonwealth shall
6 cease while such default continues.

7 § 4584. Determination of reserves.

8 (a) Uniform life insurance and endowment benefits.--Reserves
9 according to the department's reserve valuation method for the
10 life insurance and endowment benefits of certificates providing
11 for a uniform amount of insurance and requiring the payment of
12 uniform premiums, shall be the excess, if any, of the present
13 value, at the date of valuation, of the future guaranteed
14 benefits provided for by such certificates, over the then
15 present value of any future modified net premiums therefor. The
16 modified net premiums for any such certificate shall be such a
17 uniform percentage of the respective contract premiums for such
18 benefits that the present value, at the date of issue of the
19 certificate, of all such modified net premiums shall be equal to
20 the sum of the then present value of such benefits provided for
21 by the certificate and the excess of paragraph (1) over
22 paragraph (2) as follows:

23 (1) A net level premium equal to the present value, at
24 the date of issue, of such benefits provided for after the
25 first certificate year, divided by the present value, at the
26 date of issue, of an annuity of one a year payable on the
27 first and each subsequent anniversary of such certificate on
28 which a premium falls due; provided however, that this net
29 level annual premium shall not exceed the net level annual
30 premium on the 19-year premium whole life plan for insurance

1 of the same amount at an age one year higher than the age at
2 issue of the certificate.

3 (2) A net one year term premium for such benefits
4 provided for in the first certificate year.

5 (b) Other benefits.--Reserves according to the
6 commissioners' reserve valuation method for:

7 (1) life insurance benefits for varying amounts of
8 benefits or requiring the payment of varying premiums;

9 (2) annuity and pure endowment benefits;

10 (3) disability and accidental death benefits in all
11 certificates and contracts; and

12 (4) all other benefits except life insurance and
13 endowment benefits;

14 shall be calculated by a method consistent with the principles
15 of this section.

16 § 4585. Deferred payments as liability.

17 The present value of deferred payments due under incurred
18 claims or matured certificates shall be deemed a liability of
19 the society and shall be computed upon mortality and interest
20 standards prescribed in sections 4586 (relating to certification
21 of valuation) and 4587 (relating to valuation standards).

22 § 4586. Certification of valuation.

23 The valuation and underlying data shall be certified by a
24 competent actuary or, at the expense of the society, verified by
25 the actuary of the department of insurance of the state of
26 domicile of the society.

27 § 4587. Valuation standards.

28 (a) Valuation for earlier certificates.--The minimum
29 standards of valuation for certificates issued prior to January
30 29, 1979, shall be those provided by the law applicable

1 immediately prior to January 29, 1978, but not lower than the
2 standards used in the calculating of rates for such
3 certificates.

4 (b) Valuation for certificates after January 29, 1979.--The
5 minimum standard of valuation for certificates issued after
6 January 29, 1979, shall be 3.5% interest and the following
7 tables:

8 (1) For certificates of life insurance, the American Men
9 Ultimate Table of Mortality, with Bowerman's or Davis'
10 Extension thereof, or with the consent of the department, the
11 Commissioners 1941 Standard Ordinary Mortality Table, the
12 Commissioners 1941 Standard Industrial Mortality Table or the
13 Commissioners 1958 Standard Ordinary Mortality Table, using
14 actual age of the insured for male risks and an age not more
15 than three years younger than the actual age of the insured
16 for female risks.

17 (2) For annuity and pure endowment certificates,
18 excluding any disability and accidental death benefits in
19 such certificates, the 1937 Standard Annuity Mortality Table
20 or the Annuity Mortality Table for 1949, Ultimate, or any
21 modification of either of these tables approved by the
22 department.

23 (3) For total and permanent disability benefits in or
24 supplementary to life insurance certificates, Hunter's
25 Disability Table, or the Class III Disability Table (1926)
26 modified to conform to the contractual waiting period, or the
27 tables of Period 2 disablement rates and the 1930 to 1950
28 termination rates of the 1952 Disability Study of the Society
29 of Actuaries with due regard to the type of benefit. Any such
30 table shall, for active lives, be combined with a mortality

1 table permitted for calculating the reserves for life
2 insurance certificates.

3 (4) For accidental death benefits in or supplementary to
4 life insurance certificates, the Inter-Company Double
5 Indemnity Mortality Table or the 1959 Accidental Death
6 Benefits Table. Either table shall be combined with a
7 mortality table permitted for calculating the reserves for
8 life insurance certificates.

9 (5) For noncancelable accident and health benefits, the
10 Class III Disability Table (1926) with conference
11 modifications or, with the consent of the department, tables
12 based upon the society's own experience.

13 (c) Applicability of life insurance standards.--Any society
14 may value its certificates in accordance with valuation
15 standards authorized under this table for the valuation of
16 policies issued by life insurance companies.

17 (d) Standards prescribed by department.--The department may
18 accept other standards for valuation if it finds that the
19 reserves produced thereby will not be less in the aggregate than
20 reserves computed in accordance with the minimum valuation
21 standard prescribed under subsection (a), (b) or (c). The
22 department may vary the standards of mortality applicable to all
23 certificates of insurance on substandard lives or other
24 especially hazardous lives by any society authorized to do
25 business in this Commonwealth. Whenever the mortality experience
26 under all certificates valued on the same mortality table is in
27 excess of the expected mortality according to such table for a
28 period of three consecutive years, the department may require
29 additional reserves when deemed necessary on account of such
30 certificates.

1 § 4588. Excess reserves.

2 Any society, with the consent of the department of insurance
3 of the state of domicile of the society and under any conditions
4 it imposes, may establish and maintain reserves on its
5 certificates in excess of the reserves required thereunder, but
6 the contractual rights of any insured member shall not be
7 affected thereby.

8 § 4589. Examination of societies.

9 (a) Domestic societies.--The department may visit and
10 examine into the affairs of any domestic society, and it shall
11 make such examination at least once in every four years. It
12 shall have free access to all books, papers and documents that
13 relate to the business of the society. The minutes of the
14 proceedings of the supreme legislative or governing body and of
15 the board of directors or corresponding body of a society shall
16 be in the English language. In making the examination, the
17 department may examine the officers, agents and employees or
18 other persons under oath in relation to the affairs,
19 transactions and condition of the society. A summary of the
20 report of the department, and such recommendations or statements
21 of the department as may accompany the report, shall be read at
22 the first meeting of the board of directors or corresponding
23 body of the society following the receipt thereof and, if
24 directed so to do by the department, shall also be read at the
25 first meeting of the supreme legislative or governing body of
26 the society following receipt. A copy of the report,
27 recommendations and statements of the department shall be
28 furnished by the society to each member of the board of
29 directors or other governing body. The expense of each
30 examination and of each valuation, including compensation and

1 actual expense of examiners, shall be paid by the society
2 examined or whose certificates are valued, upon statements
3 furnished by the department.

4 (b) Foreign and alien societies.--The department may examine
5 any foreign or alien society transacting or applying for
6 admission to transact business in this Commonwealth. It shall
7 have free access to all books, papers and documents that relate
8 to the business of the society. The department may accept, in
9 lieu of such examination, the examination of the insurance
10 department of the state, province or country where the society
11 is organized. The compensation and actual expenses of the
12 examiners making any examination or general or special valuation
13 shall be paid by the society examined or by the society whose
14 certificate obligations have been valued, upon statements
15 furnished by the department.

16 (c) Restrictions on publications.--The department shall not
17 make public or permit to become public any financial statement,
18 report or finding affecting the status, standing or rights of
19 any society, until a copy thereof is served upon the society at
20 its principal office and the society is afforded a reasonable
21 opportunity to comment on the material and to make such showing
22 in connection therewith as it may desire.

23 (d) Objections.--Societies which have been examined by the
24 department have the privilege of objecting to the report of
25 examination within 30 days after reception of the report. If any
26 objection is made, the department will grant a hearing to the
27 society before making the report available for public
28 inspection.

29 § 4590. Misrepresentations.

30 (a) Offense.--A person shall not cause or permit to be made,

1 issued or circulated in any form:

2 (1) Any misrepresentation or false or misleading
3 statement concerning the terms, benefits or advantages of any
4 fraternal insurance contract now issued or to be issued in
5 this Commonwealth, or the financial condition of any society.

6 (2) Any false or misleading estimate or statement
7 concerning the dividends or shares of surplus paid or to be
8 paid by any society on any insurance contract.

9 (3) Any incomplete comparison of an insurance contract
10 of one society with an insurance contract of another society
11 or insurer for the purpose of inducing the lapse, forfeiture
12 or surrender of any insurance contract. A comparison of
13 insurance contracts is incomplete if:

14 (i) it does not compare in detail:

15 (A) the gross rates, and the gross rates less
16 any dividend or other reduction allowed at the date
17 of the comparison; or

18 (B) any increase in cash values, and all the
19 benefits provided by each contract for the possible
20 duration thereof as determined by the life expectancy
21 of the insured; or

22 (ii) it omits from consideration:

23 (A) any benefit or value provided in the
24 contract;

25 (B) any differences as to amount or period of
26 rates; or

27 (C) any differences in limitations or conditions
28 or provisions which directly or indirectly affect the
29 benefits.

30 In any determination of the incompleteness or misleading

1 character of any comparison or statement, it shall be
2 presumed that the insured had no knowledge of any of the
3 contents of the contract involved.

4 (b) Penalty.--Any person who violates any provision of this
5 section or knowingly receives any compensation or commission by
6 or in consequence of such violation, commits a misdemeanor of
7 the third degree. The violator shall in addition be liable for a
8 civil penalty in the amount of three times the sum received by
9 the violator as compensation or commission, which penalty may be
10 sued for and recovered by any person or society aggrieved for
11 his or its own use and benefit.

12 § 4591. Discrimination and rebates.

13 (a) Discrimination.--A society doing business in this
14 Commonwealth shall not make or permit any unfair discrimination
15 between benefit members, spouses or dependents of the same class
16 and equal expectation of life in the premiums charged for
17 certificates of insurance, in the dividends or other benefits
18 payable thereon or in any other of the terms and conditions of
19 the contracts it makes.

20 (b) Rebates.--A society, agent or solicitor shall not
21 directly or indirectly offer, promise, allow, give, set off or
22 pay any valuable consideration or inducement to or for insurance
23 on any risk authorized to be taken by the society, which is not
24 specified in the certificate. A member shall not receive or
25 accept, directly or indirectly, any rebate, favor or advantage,
26 share in the dividends or other benefits or any valuable
27 consideration or inducement not specified in the contract of
28 insurance.

29 § 4592. Penalties.

30 (a) False statements.--A person shall not willfully make a

1 false or fraudulent statement in or relating to an application
2 for membership or for the purpose of obtaining money from or a
3 benefit in any society.

4 (b) Solicitation by unlicensed society.--Any person who
5 solicits membership for or in any manner assists in procuring
6 membership in any society not licensed to do business in this
7 Commonwealth commits a misdemeanor of the third degree.

8 (c) Other criminal penalties.--Any person guilty of a
9 willful violation of, or neglect or refusal to comply with, this
10 chapter for which a penalty is not otherwise prescribed commits
11 a summary offense.

12 (d) Civil penalties.--Upon satisfactory evidence of a
13 violation of this chapter, the department may, in lieu of
14 seeking criminal prosecution, suspend, revoke or refuse to renew
15 the license of the offending party or impose a civil penalty of
16 not more than \$1,000 for each violation.

17 CHAPTER 47

18 MUTUAL COMPANIES

19 Sec.

20 4701. Definition.

21 4702. Licensing of foreign or alien companies.

22 4703. Investment of assets.

23 4704. Investments in real estate.

24 4705. Policy provisions.

25 4706. Countersigning and delivery of policies.

26 4707. Premiums.

27 4708. Reserves.

28 4709. Assessments.

29 4710. Loans to companies.

30 4711. Surplus.

1 § 4701. Definition.

2 As used in this chapter, the term "mutual company" means a
3 mutual insurance company, other than a mutual life insurance
4 company.

5 § 4702. Licensing of foreign or alien companies.

6 Any foreign mutual company authorized to transact the
7 business of insurance on the mutual plan may, on application,
8 obtain authority to transact the kinds of insurance authorized
9 by its charter or articles of association, subject to its
10 compliance with the provisions and requirements of this title
11 applicable to mutual companies transacting such insurance. Any
12 alien mutual insurance company desiring such authority shall
13 make and maintain the deposit required of alien stock insurance
14 companies transacting the same kind of insurance. Such authority
15 shall be subject to all the provisions of law relating to
16 information to and examinations by the department, annual
17 reports, taxes and the renewal of certificates of authority
18 applicable to stock insurance companies transacting the same
19 kinds of insurance, except as otherwise provided in this
20 chapter.

21 § 4703. Investment of assets.

22 A domestic mutual company shall not invest any of its assets
23 except in accordance with this title as it relates to the
24 investment of the capital and surplus of domestic stock
25 insurance companies authorized to transact the same class or
26 classes of insurance, and in accordance with the following
27 provisions:

28 (1) A mutual company that writes assessable policies
29 shall invest its assets only in accordance with the
30 provisions of this title relating to the investment of the

1 capital of domestic stock insurance companies authorized to
2 transact the same class or classes of insurance.

3 (2) A mutual company that writes nonassessable policies
4 shall invest its assets in accordance with the provisions of
5 this title relating to the investment of the capital of
6 domestic stock insurance companies authorized to transact the
7 same class or classes of insurance, and may invest any of its
8 excess over and above an amount equal to the minimum capital
9 requirements of such stock companies in accordance with the
10 provisions of this title relating to the investment of the
11 surplus of domestic stock insurance companies authorized to
12 transact such class or classes of insurance.

13 § 4704. Investments in real estate.

14 A domestic mutual company may purchase, receive, hold and
15 convey only the following kinds of real estate:

16 (1) Real estate necessary for its accommodation in the
17 transaction of its business.

18 (2) Real estate conveyed to it in satisfaction of debts
19 previously contracted in the course of its dealings.

20 (3) Real estate purchased at sales upon judgments,
21 decrees or mortgages obtained or made for debts due the
22 company or for debts due other persons if the company has
23 liens or encumbrances on the same, and the purchase is
24 believed necessary to save the company from loss.

25 All real estate other than that purchased and held under
26 paragraph (1) shall be sold and disposed of within five years
27 after the company has acquired title thereto.

28 § 4705. Policy provisions.

29 Mutual companies may insert in any form of policy prescribed
30 by this title any provision or condition required by its plan of

1 insurance which is not inconsistent or in conflict with this
2 title. The policy, in lieu of conforming to the language and
3 form prescribed by this title, may conform thereto in substance,
4 if the policy includes a provision or endorsement reciting that
5 the policy shall be construed as if in the language and form
6 prescribed by this title, and a copy of the policy and
7 endorsements is first filed with and is not disapproved by the
8 department.

9 § 4706. Countersigning and delivery of policies.

10 A mutual company shall comply with the provisions of this
11 title applicable to stock insurance companies transacting the
12 same kind of insurance, requiring that policies be countersigned
13 and delivered through a resident agent, unless no commission is
14 paid to any local agent on the policy.

15 § 4707. Premiums.

16 (a) Maximum premium.--The maximum premium payable by any
17 member of a mutual company shall be expressed in the policy or
18 in the application for the insurance if attached to the policy.
19 The maximum premium shall be a cash premium and an additional
20 contingent premium not less than the cash premium or may be
21 solely a cash premium.

22 (b) Surplus.--A policy shall not be issued for a cash
23 premium without an additional contingent premium, unless the
24 company has and maintains a surplus which is not less in amount
25 than the minimum capital required of domestic stock insurance
26 companies authorized to transact the same class or classes of
27 insurance.

28 (c) Nonassessable policies.--Before a mutual company may
29 issue a nonassessable policy, the president and secretary shall
30 furnish the department a certified copy of the resolution of the

1 board of directors providing for the issuance of a nonassessable
2 policy, and shall certify that the company possesses a surplus
3 as required under subsection (b) and that the company is
4 otherwise qualified under its charter and bylaws. When the
5 department is satisfied that the company meets the requirements
6 as certified, it shall issue to the company a certificate of
7 authority for the issuance of nonassessable policies. Any
8 nonassessable policy issued while the certificate is in force
9 shall remain nonassessable under all conditions, including any
10 surplus deficiency and including liquidation of the company.
11 This certificate shall continue in effect until revoked under
12 this section. The president and secretary of the company shall
13 file with the department, on or before April 1 of each year, a
14 certification that the resolution of the board of directors
15 providing for the issuance of nonassessable policies has not
16 been modified or revoked and that the company has the surplus as
17 required under subsection (b). The department may, after
18 hearing, revoke the certificate of authority to issue a
19 nonassessable policy if it finds that the company does not have
20 the surplus as required under subsection (b), and shall revoke
21 the certificate upon receipt of certification by the president
22 and secretary that the company no longer qualifies to issue
23 nonassessable policies.

24 (d) Violations and penalties.--Any officer or director who
25 willfully makes a false certification that the company possesses
26 the surplus as required under subsection (b) commits a
27 misdemeanor of the third degree.

28 § 4708. Reserves.

29 A mutual company shall maintain unearned premium and other
30 reserves separately, for each kind of insurance, upon the same

1 basis as that required of domestic stock insurance companies
2 transacting the same kind of insurance, except that the
3 department may, by written order, fix a different basis of
4 reserve for losses and claim in workmen's compensation
5 insurance. Any reserve for losses or claims based upon the
6 premium income shall be computed upon the net premium income,
7 after deducting any so-called dividend or premium returned or
8 credited to the member. The provisions relating to unearned
9 premium reserve do not apply to a policy issued by a domestic
10 mutual fire insurance company under the authority of section
11 3302(b)(1) (relating to authorized classes of insurance) if the
12 policy includes or if a promissory note attached thereto
13 includes a limited or unlimited liability to assessment.

14 § 4709. Assessments.

15 (a) General rule.--A mutual company lacking assets at least
16 equal to the unearned premium reserve and other liabilities
17 shall make an assessment upon its members liable to assessment
18 to provide for the deficiency. The assessment shall be against
19 each member in proportion to the liability as expressed in his
20 policy.

21 (b) Limitations.--An assessment shall not be made without
22 the prior written approval of the department. A member shall not
23 be assessed for any loss that occurred when his policy was not
24 in effect, and an assessment shall not be made after two years
25 from the expiration or cancellation date of a policy. For each
26 year the policy is in force, the assessment shall be an amount
27 not greater than the annual or the average yearly cost or
28 premium of the policy for the period it has been in effect. The
29 assessment shall not exceed two times the average yearly cost or
30 premium of the policy for the period it has been in effect.

1 (c) Powers of department.--The department may, by written
2 order, relieve the company from an assessment or other
3 proceedings to restore its assets during the time fixed in such
4 order. Any domestic company which is deficient in providing the
5 unearned premium reserve may, notwithstanding the deficiency, be
6 authorized under this chapter on the condition that it shall
7 each year thereafter reduce the deficiency by at least 15% of
8 the original amount thereof, and in such case it may increase
9 its assessments accordingly.

10 (d) Applicability.--This section is not applicable to
11 assessments made upon the members of a company by the department
12 pursuant to its authority under Chapter 59 (relating to fire and
13 marine insurance).

14 § 4710. Loans to companies.

15 Any director, officer or member of any mutual company, or any
16 other person, may loan the company any sum of money necessary
17 for the purpose of its business or to enable it to comply with
18 any of the requirements of law. These loans and the interest
19 thereon as agreed upon, not exceeding 10% a year, shall not be a
20 liability or claim against the company or any of its assets, and
21 shall be repaid only out of the surplus earnings of the company.
22 Commission or promotion expenses shall not be paid in connection
23 with the loan and the amount thereof shall be reported in each
24 annual statement. The company shall prior to obtaining such a
25 loan provide the department with such evidence as it may by
26 regulation prescribe concerning the making of any loan or the
27 making of any payments, whether of principal or interest, on
28 account thereof.

29 § 4711. Surplus.

30 A mutual company shall not transact the class of insurance

1 mentioned in section 3302(c)(1) (relating to authorized classes
2 of insurance) until it has and maintains at all times a surplus
3 over all liabilities including unearned premiums, computed in
4 accordance with this title, of not less than \$250,000. This
5 section does not reduce the surplus required under section
6 4707(b) (relating to premiums).

7 PART IV

8 SPECIAL PROVISIONS RELATING TO

9 PARTICULAR CLASSES OF RISK

10 Chapter

- 11 51. General Provisions (Reserved)
- 12 53. Life Insurance
- 13 55. Property and Casualty Insurance
- 14 57. Pennsylvania Fair Plan
- 15 59. Fire and Marine Insurance
- 16 61. Eligibility for Motor Vehicle Insurance
- 17 63. Motor Vehicle Financial Responsibility
- 18 65. Credit Insurance
- 19 67. Title Insurance
- 20 69. Health and Accident Insurance
- 21 71. Health Care Services Malpractice
- 22 73. Health Maintenance Organizations
- 23 74. Continuing Care Providers
- 24 75. Hospital Plan Corporations
- 25 77. Professional Health Services Plan Corporations
- 26 79. Surety Companies
- 27 81. Property and Casualty Insurance Guaranty Association
- 28 83. Life and health Insurance Guaranty Association
- 29 85. Insurance Premium Finance Companies

30 CHAPTER 51

1 GENERAL PROVISIONS

2 (Reserved)

3 CHAPTER 53

4 LIFE INSURANCE

5 Subchapter

6 A. Investments and Corporate Operations

7 B. Conduct of Business

8 C. Conversion of Stock Companies into Mutual Companies

9 D. Mutual Life Insurance Companies

10 E. Group Insurance

11 F. Industrial Insurance

12 G. Limited Life Insurance Companies

13 SUBCHAPTER A

14 INVESTMENTS AND CORPORATE OPERATIONS

15 Sec.

16 5301. General investment provisions.

17 5302. Permitted investments.

18 5303. Valuation.

19 5304. Additional investment authority for subsidiaries.

20 5305. Authorized holdings of real estate.

21 5306. Capital of foreign and alien stock companies.

22 5307. Separate accounts.

23 5308. Impairment of reserve liability.

24 5309. Penalty.

25 5310. Corporations operating under prior statutes.

26 5311. Dividends.

27 5312. (Reserved).

28 5313. Vouchers for payment.

29 § 5301. General investment provisions.

30 Investment pursuant to section 5302 (relating to permitted

1 investments) and holdings of real estate pursuant to section
2 5305 (relating to authorized holdings of real estate) by any
3 domestic life insurance company shall be subject to the
4 following provisions:

5 (1) The department may permit the company to invest
6 sufficient assets exclusive of the amounts permitted under
7 section 5302(3) in the securities of a foreign government in
8 order to comply with the law of the foreign government and
9 transact business in the foreign country.

10 (2) An investment under section 5302 or 5305 shall not
11 be made in the equity interest, as defined in section
12 5302(10), of any unincorporated business or enterprise other
13 than a business trust, joint-stock company or limited
14 partnership in which a life insurance company acts as a
15 limited partner. A subsidiary of a life insurance company may
16 act as a general partner.

17 (3) An investment shall not be made in any loan solely
18 upon personal security of an individual or individuals, but
19 this paragraph does not forbid the taking of a bona fide
20 obligation with legal interest in payment of any premium or a
21 loan for defraying the expenses of an employee transferred or
22 about to be transferred to a new place of employment with the
23 company.

24 (4) An investment shall not be made by any life
25 insurance company in any loan upon the stock, shares or
26 obligations of the company or any other insurance company
27 transacting like classes of business, but any stock life
28 insurance company may, with the approval of its board of
29 directors, acquire, retain, cancel or dispose of shares of
30 its own capital stock. The company shall not acquire such

1 stock without the prior approval of the department, or
2 directly or indirectly vote shares of its own stock held by
3 it.

4 (5) With the approval of the department, the company may
5 enter into agreements with one or more authorized insurance
6 companies whereby the companies shall participate in
7 ownership, management and control of real estate held or to
8 be acquired by the company or companies under section 5305(6)
9 or held by a corporation whose stock is held or to be
10 acquired by such company or companies.

11 (6) This chapter does not prevent the company from
12 investing any of its assets or from holding any of such funds
13 in cash or deposits in banks or trust companies or from
14 acquiring or holding property taken in reorganization or
15 foreclosure proceedings or which may be obtained in
16 satisfaction of or on account of any debt previously
17 contracted.

18 (7) Any such company may continue its investment of any
19 of its assets in any corporate bonds, notes or obligations
20 held by it on May 9, 1947, under authority of section 404 of
21 the former act of May 17, 1921 (P.L.682, No.284), known as
22 The Insurance Company Law of 1921, as amended by the act of
23 May 12, 1939 (P.L.131, No.63), in corporations which have
24 earned, in each of its three fiscal years next preceding the
25 investment, an amount equal to one and one-half times the
26 total interest on its debt.

27 (8) If any investment is made in a manner not authorized
28 by this chapter, the officers, directors and trustees making
29 or authorizing the investment shall be personally liable for
30 any loss resulting therefrom.

1 (9) Notwithstanding the provisions of this chapter, the
2 department may, after notice and hearing, order a company to
3 limit or withdraw from certain investments, or discontinue
4 certain investment practices, to the extent that the
5 department finds that such investments or investment
6 practices endanger the solvency of the company.

7 (10) No investment or loan, except loans on life
8 policies, or investment practice shall be made or engaged in
9 by any domestic life insurance company unless it has been
10 authorized or ratified by the board of directors or by a
11 committee thereof charged with the duty of supervising
12 investments and loans. No such company shall subscribe to or
13 participate in any underwriting of the purchase or sale of
14 securities or property or enter into any agreement to
15 withhold from sale any of its property, but the disposition
16 of its property shall be at all times within the control of
17 the board of directors. Any agreement or contract providing
18 for the lawful disposition of property in which the
19 disposition may be determined at the option of a third person
20 at some specified future price or condition or specified time
21 or upon demand shall be construed to be within the control of
22 the board of directors. This section does not prevent the
23 board of directors of any such company from depositing any of
24 its securities with a committee appointed for the purpose of
25 protecting the interest of security holders or with
26 authorities of any state or country where it is necessary to
27 do so in order to secure permission to transact its
28 appropriate business therein; nor does this section prevent
29 the board of directors of the company from depositing
30 securities as collateral for the securing of any bond

1 required for the business of the company.

2 (11) As used in this subchapter, the term "date of
3 investment" means the date of commitment in the case of a
4 commitment to invest.

5 § 5302. Permitted investments.

6 Subject to sections 5301 (relating to general investment
7 provisions) and 5304 (relating to additional investment
8 authority for subsidiaries), the assets of any domestic life
9 insurance company shall be invested in the following classes of
10 investment, provided the value of which, as determined for
11 annual statement purposes, but in no event in excess of cost,
12 shall not exceed the specified percentage of the company's
13 assets as of December 31 next preceding the date of investment:

14 (1) Bonds, notes or obligations issued, assumed or
15 guaranteed by the United States or by any state, or by any
16 county, city, town, village, municipality or district therein
17 or by any political subdivision thereof or by a public
18 instrumentality of one or more of the foregoing, if, by
19 statutory or other legal requirements applicable thereto, the
20 obligations are payable, as to both principal and interest,
21 from taxes levied or required to be levied upon all taxable
22 property or all taxable income within the jurisdiction of the
23 governmental unit, or from adequate special revenues pledged
24 or otherwise appropriated or by law required to be provided
25 for the purpose of such payment, but not including any
26 obligation payable solely out of special assessments on
27 properties benefited by local improvements, unless adequate
28 security is evidenced by the ratio of assessment to the value
29 of the property or the obligation additionally secured by an
30 adequate guaranty fund required by law.

1 (2) Bonds, notes, obligations and stock where stated,
2 issued, assumed or guaranteed by the following Federal
3 agencies, or in which the Federal Government is a
4 participant, whether or not the obligations are guaranteed by
5 the Federal Government:

6 (i) Farm Loan Bank.

7 (ii) Commodity Credit Corporation.

8 (iii) Federal intermediate credit banks.

9 (iv) Federal land banks.

10 (v) Central Bank for Cooperatives.

11 (vi) Federal home loan banks and stock thereof.

12 (vii) Federal National Mortgage Association and
13 stock thereof.

14 (viii) International Bank for Reconstruction and
15 Development.

16 (ix) Inter-American Development Bank.

17 (x) Asian Development Bank.

18 (xi) African Development Bank.

19 (xii) Any other similar agency of, or participated
20 in by, the Federal Government and of similar financial
21 quality, if the department has determined that investment
22 therein is of similar financial quality.

23 (3) Bonds, notes, obligations or other investments of or
24 in any business or governmental unit in or of any foreign
25 country which are of the same kinds, classes and investment
26 grades as those eligible for investment under this section.
27 Investments under this paragraph in the Dominion of Canada
28 shall not exceed 10% of the company's admitted assets.
29 Investments under this paragraph in all other foreign
30 countries shall not exceed 10% of the admitted assets of the

1 company except as provided in section 5301(1).

2 (4) Business obligations:

3 (i) Bonds, notes or obligations issued, assumed,
4 guaranteed or accepted by any corporation, joint-stock
5 association, business trusts, business partnerships and
6 business joint ventures, incorporated or existing under
7 the law of the United States or of any state.

8 (ii) Preferred stock of any person described in
9 subparagraph (i). Investments permitted under this
10 subparagraph shall be limited to an aggregate of 5% of
11 the admitted assets of the company.

12 (iii) Interest-bearing deposits or certificates of
13 deposit in banks, bank and trust companies, savings
14 banks, savings associations, savings and loan
15 associations or national banking associations,
16 incorporated or existing under the law of the United
17 States or any state and branches of foreign banking
18 institutions located in the United States or any state.

19 (iv) Obligations which are not issued, assumed,
20 guaranteed or accepted by any person described in
21 subparagraph (i) but are secured by an assignment of a
22 right to receive rent, purchase or other payment or
23 revenues for the use or purchase of real or personal
24 property sufficient to repay the investment and payable
25 or guaranteed by any one or more persons or entities
26 whose bonds, notes or obligations would qualify for
27 investment under this section or a mortgage, interest in
28 mortgage pool or mortgage participation, or lien or
29 security interest in real or personal property or any
30 interest therein.

1 (5) Trustees', receivers' or equipment trust
2 obligations:

3 (i) Certificates, notes or obligations issued by
4 trustees or receivers of any corporation or business
5 trust created or existing under the law of the United
6 States or of any state, which, or the assets of which,
7 are being administered under the direction of any court
8 having jurisdiction, if the obligation is adequately
9 secured as to principal and interest.

10 (ii) Equipment trust obligations or certificates,
11 which are adequately secured, or other adequately secured
12 instruments, evidencing an interest in transportation
13 equipment, wholly or in part within the United States,
14 and a right to receive determined portions of rental,
15 purchase or other fixed obligatory payments for the use
16 or purchase of such transportation equipment.

17 (6) Obligations secured by real property or any
18 interests therein, obligations or participations therein,
19 secured by liens on real property, or interests therein,
20 located within the United States or any state. The value of
21 such real property or interest, together with such other
22 security as shall secure the obligation, shall be adequate to
23 secure the investment as well as any lien senior to the lien
24 created by the investment in the real property made pursuant
25 to this paragraph. No investment in a single transaction
26 shall exceed 5% of the admitted assets of the company.

27 (7) Loans upon the security of its own policies not
28 exceeding the net value of the policy at the time of making
29 the loan.

30 (8) Such real estate or interests therein located within

1 the United States or any state as such company is authorized
2 to hold under this part.

3 (9) Subsidiaries as permitted under this part.

4 (10) Equity interests:

5 (i) Investments, other than investments under
6 paragraphs (11) and (14) and sections 5304(b) (relating
7 to additional investment authority for subsidiaries) and
8 5305 (relating to authorized holdings of real estate), in
9 common stocks, limited partnership interests, trust
10 certificates, except equipment trust certificates
11 described in paragraph (5), or other equity interests,
12 other than preferred stock, of corporations, joint-stock
13 associations, business trusts, business partnerships and
14 business joint ventures incorporated, organized or
15 existing under the law of the United States or of any
16 state.

17 (ii) Stocks or shares of any regulated investment
18 company which is registered as an investment company
19 under the Investment Company Act of 1940 (54 Stat. 789,
20 15 U.S.C. §§ 80a-1 through 80a-52) and which has no
21 preferred stock, bonds, loans or any other outstanding
22 securities having preference or priority as to the assets
23 or earnings over its common stock at the date of
24 purchase.

25 (iii) Investments under this paragraph shall not
26 exceed 25% of the admitted assets of the company, and no
27 investment in any single corporation or entity under this
28 paragraph shall exceed 5% of such admitted assets.

29 (11) Investments in or investments in interests in
30 machinery, equipment, facilities, furnishings, fixtures or

1 other tangible personal property used for, in or as part of
2 or connected with any commercial, industrial, manufacturing,
3 processing or financial, business activity or operation and
4 which may be subject to contractual or other similar
5 arrangements for the purchase, sale or use thereof.

6 Investments under this paragraph shall not exceed 15% of the
7 admitted assets of the company.

8 (12) The investment practice of put options and call
9 options issued under terms and conditions regulated by, or
10 substantially similar to those terms and conditions required
11 by, a national securities exchange registered under the
12 Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. §
13 78a et seq.), or any board of trade designated as a contract
14 market by the Commodity Futures Trading Commission (CFTC)
15 under the Commodity Exchange Act (49 Stat. 1491, 7 U.S.C. § 1
16 et seq.), is authorized on the following conditions:

17 (i) A company shall not sell a call option on
18 securities it does not own, or in an amount greater than
19 securities which it presently owns. However, in the case
20 of financial futures contracts and stock or bond index
21 contracts where it is not feasible to own the underlying
22 security, a company may sell a call option only in
23 connection with a hedging transaction.

24 (ii) A company shall not sell a put option unless
25 its obligations under the put option are fully secured by
26 a deposit by the company with a bank or other custodian
27 of cash or cash equivalents.

28 (iii) A company shall not purchase as opening
29 transactions under this paragraph more than 10% of the
30 excess of its capital and surplus over the minimum

1 requirements of a new stock or mutual company to qualify
2 for a certificate of authority to write the kind of
3 insurance which the company is authorized to write.
4 The department may promulgate reasonable regulations for
5 transactions under this paragraph, including, but not limited
6 to, regulations which impose financial solvency standards,
7 valuation standards and reporting requirements.

8 (13) The investment practice of financial futures
9 contracts issued under terms and conditions regulated by a
10 Federal regulatory agency is authorized on the following
11 conditions:

12 (i) The company shall not enter into financial
13 future contracts except as a hedging transaction as that
14 term is defined by regulation of the department.

15 (ii) The company shall not have initial or
16 maintenance margin outstanding under this section of more
17 than 10% of the excess of its capital and surplus over
18 the minimum requirements of a new stock or mutual company
19 to qualify for a certificate of authority to write the
20 kind of insurance which the company is authorized to
21 write.

22 The department may promulgate reasonable regulations for
23 transactions under this paragraph, including, but not limited
24 to, regulations imposing financial solvency standards,
25 valuation standards and reporting requirements.

26 (14) Investment in properties and facilities for the
27 exploration, development, production and distribution of
28 energy-producing substances. These investments may include
29 ownership and control of such properties and facilities or
30 interest therein, including royalty interests and production

1 payments from such activities or investments in limited
2 partnerships engaged in such activities. Investments under
3 this paragraph shall not exceed 5% of the admitted assets of
4 the company. The investments in activities producing royalty
5 interests and production payments shall not exceed an
6 additional 10% of those admitted assets. An additional 1% of
7 those admitted assets may be invested in properties,
8 facilities, royalty interests or production payments under
9 this paragraph if the properties and facilities are located
10 in or operated principally in this Commonwealth.

11 (15) Lending of securities, repurchase agreements and
12 reverse repurchase agreements:

13 (i) Lending of securities, repurchase agreements and
14 reverse repurchase agreements transactions are authorized
15 on the following conditions:

16 (A) The agreement for each transaction or the
17 master agreement for a series of transactions shall
18 be reduced to writing.

19 (B) Securities acquired by a company and owned
20 subject to reacquisition pursuant to an outstanding
21 repurchase agreement shall not be sold pursuant to a
22 reverse repurchase agreement nor lent pursuant to a
23 lending of securities agreement. Consideration or
24 collateral received from a reverse repurchase
25 agreement or lending of securities agreement may be
26 used to acquire securities which are equivalent or
27 similar to the securities transferred pursuant to the
28 repurchase agreement or lending of securities
29 agreement. However, such acquired securities shall
30 not be sold pursuant to a reverse repurchase

1 agreement or lent pursuant to a lending of securities
2 agreement.

3 (C) No more than 2% of the admitted assets of a
4 company shall be subject to lending of securities,
5 repurchase or reverse repurchase agreements
6 transactions outstanding with any one business entity
7 under this paragraph.

8 (D) A company may engage in lending its
9 securities or repurchase or reverse repurchase
10 agreements up to 40% of its admitted assets if the
11 transactions are fully collateralized.

12 (ii) The department may promulgate reasonable
13 regulations for investments and transactions under this
14 paragraph, including, but not limited to, regulations
15 which impose financial solvency standards, valuation
16 standards and reporting requirements.

17 (iii) As used in this paragraph, the following words
18 and phrases shall have the meanings given to them in this
19 subparagraph:

20 "Lending of securities." An investment other than a
21 repurchase agreement, whereby an agreement is entered
22 into which transfers ownership rights and possession of
23 securities to the borrower of the securities with the
24 agreement providing for a return of ownership rights and
25 possession of the securities to the lender at a specified
26 date or upon demand.

27 "Repurchase agreement." A bilateral agreement
28 whereby a company purchases securities with a related
29 agreement that the seller will purchase or repurchase at
30 a specified price the equivalent or similar securities

1 within a specified period of time or on demand.

2 "Reverse repurchase agreement." A bilateral
3 agreement whereby a company:

4 (A) sells securities with a related agreement to
5 purchase or repurchase at a specified price the
6 equivalent or similar securities within a specified
7 period of time or upon demand; or

8 (B) borrows funds and transfers securities to
9 the lender with a related agreement that equivalent
10 or similar securities will be returned to the company
11 upon repayment of the loan within a specified period
12 of time or on demand.

13 (16) Other loans and investments:

14 (i) Loans or investments not otherwise authorized
15 under this section, to an amount not exceeding the
16 aggregate of 20% of the admitted assets of the company.
17 However, this limitation shall be increased in the same
18 amount that investments approved by the department are
19 made in the following categories of investments in
20 persons described as follows whose principal operations
21 or places of business are located in this Commonwealth,
22 up to a maximum of 25% of the admitted assets:

23 (A) Investments in venture capital limited
24 partnerships or in new and young small businesses
25 which are making an initial public offering of
26 securities or utilizing a limited private placement.

27 (B) Investments in minority-owned and operated
28 businesses domiciled in Pennsylvania as provided in
29 the act of July 22, 1974 (P.L.598, No.206), known as
30 the Pennsylvania Minority Business Development

1 Authority Act.

2 (C) Investments in businesses located in
3 enterprise zones designated by the Department of
4 Community Affairs.

5 (D) Investments in housing for families and
6 persons of low income or in housing in enterprise
7 zones designated by the Department of Community
8 Affairs.

9 (E) Investments in seed capital funds
10 established under the act of July 2, 1984 (P.L.555,
11 No.111), known as the Small Business Incubators Act.

12 (F) Investments in business development credit
13 corporations established under the act of December 1,
14 1959 (P.L.1647, No.606), known as the Business
15 Development Credit Corporation Law.

16 (G) Investments in small business investment
17 corporations and minority enterprise small business
18 investment companies certified pursuant to applicable
19 Federal law.

20 (H) Investments in and direct management of or
21 participation in private placement accounts,
22 including investments by private and public employee
23 pension funds, and investments in and direct
24 management of or participation in long and
25 intermediate loans to corporations for purposes such
26 as plant construction, equipment purchases and
27 working capital.

28 (I) Investments in and financial assistance to
29 employee-owned enterprises, as defined and described
30 by the Internal Revenue Code of 1986 (68A Stat. 3, 26

1 U.S.C. § 1 et seq.), including worker cooperatives,
2 employee stock ownership plans and businesses in
3 which a majority of the voting rights are held or
4 controlled by employees or held in trust for and
5 passed through to employees.

6 (J) Investments in, and financial assistance to,
7 employee-ownership groups, including corporations,
8 labor unions or other entities formed by or on behalf
9 of the current or former employees of an industrial
10 or commercial firm or facility for the purpose of
11 assuming ownership or control of the firm or facility
12 and operating it as an employee-owned enterprise.

13 (K) Investments in construction loans to
14 builders and developers of low-income to moderate-
15 income housing in Pennsylvania involved in the new
16 construction or rehabilitation of single-family or
17 multifamily housing in census tracts or
18 neighborhoods, in urban and rural communities,
19 designated by State or Federal law as economically
20 deprived or financially underserved, and mortgage
21 loans and other credit to individuals seeking to
22 purchase such housing.

23 (ii) For each 0.5% of the admitted assets of the
24 company invested pursuant to subparagraph (i)(A) through
25 (K), investments under other paragraphs of this section
26 may exceed the limitations set forth in the other
27 paragraphs by an aggregate of 2.5% of the admitted assets
28 of the company, but such excess investments shall not
29 exceed 5% of the admitted assets. However, such excess
30 investments shall be charged against the limitation under

1 subparagraph (i).

2 § 5303. Valuation.

3 (a) General rule.--Investments under section 5302 (relating
4 to permitted investments) shall be valued in accordance with the
5 published valuation standards of the National Association of
6 Insurance Commissioners. Securities investments as to which the
7 National Association of Insurance Commissioners has not
8 published valuation standards in its valuation of securities
9 manual or its successor publication shall be valued as follows:

10 (1) Any investment by any insurer that is not valued by
11 standards published by the National Association of Insurance
12 Commissioners shall, at the time of acquisition, be submitted
13 to the National Association of Insurance Commissioners for
14 valuation.

15 (2) Other securities investments shall be valued in
16 accordance with regulations promulgated by the department
17 under subsection (d).

18 (b) Other investments.--Other investments, including real
19 property, shall be valued in accordance with regulations
20 promulgated by the department under subsection (d), but such
21 other investments shall not be valued at more than their
22 purchase price. For the purposes of this section, the purchase
23 price for real property includes capitalized permanent
24 improvements, less depreciation spread evenly over the life of
25 the property or, at the option of the company, less depreciation
26 computed on any basis permitted under the Internal Revenue Code
27 of 1986 (68A Stat. 3, 26 U.S.C. § 1 et seq.). Such investments
28 that have been affected by permanent declines in value shall be
29 valued at not more than their market value.

30 (c) Property not acquired by purchase.--Any investment,

1 including real property, not purchased by a company but acquired
2 in satisfaction of a debt or otherwise shall be valued in
3 accordance with the applicable procedures for that type of
4 investment contained in this section. For the purposes of
5 applying the valuation procedures, the purchase price shall be
6 deemed to be the market value at the time the investment is
7 acquired or, in the case of any investment acquired in
8 satisfaction of debt, the amount of the debt, including
9 interest, taxes and expenses, whichever amount is less.

10 (d) Regulations.--The department may promulgate regulations
11 for determining and calculating values to be used in financial
12 statements submitted to the department for investments not
13 subject to published valuation standards of the National
14 Association of Insurance Commissioners.

15 § 5304. Additional investment authority for subsidiaries.

16 (a) General rule.--Any domestic life insurance company,
17 either by itself or in cooperation with one or more persons,
18 may, in addition to any authority to acquire or hold securities
19 in corporations provided for elsewhere in this title, organize
20 or acquire one or more subsidiaries. Such subsidiaries may
21 conduct any kind of business or businesses and their authority
22 to do so shall not be limited by reason of the fact that they
23 are subsidiaries of a domestic life insurance company. No
24 domestic life insurance company may participate in or form a
25 general partnership with any other person.

26 (b) Limitations and exemptions.--

27 (1) A domestic life insurance company shall not make an
28 investment in any subsidiary which will bring the aggregate
29 value of its investments, as determined for annual statement
30 purposes but not in excess of cost, in all subsidiaries under

1 this subsection to an amount in excess of 10% of the total
2 admitted assets of the company as of the immediately
3 preceding December 31. In determining the amount of
4 investments of any domestic life insurance company in
5 subsidiaries for the purposes of this subsection, there shall
6 be included investments made directly by the insurance
7 company and if such investment is made by another subsidiary,
8 then to the extent that funds for such investments are
9 provided by the insurance company for that purpose.

10 (2) The limitations set forth in paragraph (1) do not
11 apply to investments in any subsidiary which is:

12 (i) An insurance company.

13 (ii) A holding company to the extent its business
14 consists of the holding of the stock of, or otherwise
15 controlling, its own subsidiaries.

16 (iii) A corporation whose business primarily
17 consists of direct or indirect ownership, operation or
18 management of assets authorized as investments pursuant
19 to sections 5302 (relating to permitted investments) and
20 5305 (relating to authorized holdings of real estate).

21 (iv) A company engaged in any combination of the
22 activities described in subparagraphs (i) through (iii).

23 (3) Investments made pursuant to paragraph (2)(i) shall
24 not be restricted in amount if, after such investment, as
25 calculated for NAIC annual statement purposes, the surplus of
26 the insurer will be reasonable in relation to the insurer's
27 outstanding liabilities and adequate to its financial needs.
28 Investments made pursuant to paragraph (2)(ii) or, to the
29 extent applicable, (2)(iv) shall, in addition, not be subject
30 to any limitations otherwise applicable under this title on

1 the amount of a domestic life insurance company's assets.
2 However, the life insurance company's investments, to the
3 extent that the life insurance company provided the funds
4 therefor, in each of the subsidiaries of such holding company
5 shall be subject to any limitations applicable to the
6 investment as if the holding company's interest in each such
7 subsidiary were instead owned directly by the life insurance
8 company. Investments made pursuant to paragraph (2)(iii) or,
9 to the extent applicable, (2)(iv) shall be counted in
10 determining the limitations contained in applicable
11 subsections of sections 5302 and 5305. However, the value as
12 calculated for annual statement purposes but not in excess of
13 the cost thereof, of such investment, shall include only
14 funds provided by the insurance company therefor. Investments
15 made in other subsidiaries of such life insurance company by
16 any subsidiary described in paragraph (2) or by a person
17 whose business primarily consists of direct or indirect
18 ownership, operation or management of real property and
19 interest therein under section 5305, shall be deemed
20 investments made by the insurance company only to the extent
21 the funds for the investment were provided by the insurance
22 company.

23 (4) No restrictions, prohibitions or limitations
24 contained in this title otherwise applicable to investments
25 of domestic life insurers shall be applicable to investments
26 in common stock, preferred stock, debt obligations or other
27 securities of subsidiaries made pursuant to this subsection,
28 nor shall the additional investment authority granted by this
29 subsection have the effect of restricting, prohibiting or
30 limiting the rights of a domestic life insurer to make

1 investments permitted under any other section of this title.

2 (c) Determination of compliance.--Whether any investment
3 made pursuant to subsection (b) meets at any time thereafter the
4 applicable requirements thereof is to be determined when the
5 investment is made, taking into account the then outstanding
6 principal balance on all previous investments in debt
7 obligations, and the value, but not in excess of the cost
8 thereof, of all previous investments in equity securities as
9 calculated for annual statement purposes. In calculating the
10 amount of such investments, there shall be included the
11 following, as determined for NAIC annual statement purposes:

12 (1) Total net moneys or other consideration expended and
13 obligations assumed in the acquisition or formation of a
14 subsidiary, including all organizational expenses and
15 contributions to capital and surplus of the subsidiary
16 whether or not represented by the purchase of capital stock
17 or issuance of other securities.

18 (2) All amounts expended by the domestic life insurance
19 company in acquiring additional common stock, preferred
20 stock, debt obligations and other securities, and all
21 contributions to the capital or surplus, or a subsidiary
22 subsequent to its acquisition or formation.

23 (d) Disposal of certain investments.--If a domestic life
24 insurer ceases to own, directly or indirectly through one or
25 more intermediaries, a majority of the voting securities of a
26 subsidiary held pursuant to subsection (b), it shall dispose of
27 any investment therein made pursuant to such subsection within
28 five years from the time of the cessation of control or within
29 such further time as the department may prescribe, unless, at
30 any time after the investment has been made, the investment

1 meets the requirements for investment under any other section of
2 this title.

3 (e) Definitions.--As used in this section, the following
4 words and phrases shall have the meanings given to them in this
5 subsection:

6 "Insurance company" or "insurer." Includes any entity
7 authorized to conduct an insurance business in the jurisdiction
8 of its domicile.

9 "NAIC." The National Association of Insurance Commissioners.

10 "Owner" or "holder." With respect to securities of a
11 specified person, one who owns any security of the person,
12 including common stock, preferred stock, debt obligations and
13 any other security convertible into or evidencing the right to
14 acquire any of the foregoing.

15 "Person." Includes any joint-stock company, business trust,
16 unincorporated organization, any similar entity or any
17 combination of persons acting in concert.

18 "Subsidiary." A corporation in which another person owns or
19 holds with the power to vote directly, or through one or more
20 intermediaries, a majority of the outstanding voting securities.
21 A person whose business consists primarily of real property and
22 interests therein or a corporation which is held in a separate
23 account pursuant to section 5307 (relating to separate accounts)
24 shall not be deemed a subsidiary for the purposes of determining
25 the volume limitations set forth in subsection (b)(1). A person
26 which is controlled by another person solely as a result of the
27 temporary assumption of control by the owner of securities upon
28 the happening of a prescribed event of default shall not be
29 deemed a subsidiary or affiliate for the purposes of this
30 section, if such securities are disposed of within five years

1 from the date of acquisition, unless such period is extended by
2 the department to enable the owner to dispose of such securities
3 in a reasonable and orderly manner.

4 "Voting security." Stock of any class or any ownership
5 interest having the power to elect the directors, trustees or
6 management of a person, other than securities having such power
7 only by reason of the happening of a contingency.

8 § 5305. Authorized holdings of real estate.

9 Subject to section 5301 (relating to general investment
10 provisions), any domestic life insurance company may, directly
11 or indirectly, alone or together with one or more persons or
12 entities of any nature, purchase, receive, hold and convey real
13 estate or any interest therein if the real estate is:

14 (1) required for its convenient accommodation in the
15 transaction of its business with reasonable regard to future
16 needs;

17 (2) residential real estate purchased from employees
18 transferred or about to be transferred to new places of
19 employment with the company;

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

23 (4) acquired in part payment of the consideration of the
24 sale of real property owned by it if the transaction will
25 result in a net reduction in the company's investment in real
26 estate;

27 (5) reasonably necessary for the purpose of maintaining
28 or enhancing the sale value of real property previously
29 acquired or held by it under paragraph (1), (2), (3) or (4);

30 (6) purchased, leased or owned for residential,

1 business, commercial or industrial use, or for development,
2 improvement, maintenance or construction and maintenance.
3 Investments under this paragraph, including investments in
4 limited partnership interests or other entities of any nature
5 where the entities are engaged primarily in holding real
6 estate or interests therein under this paragraph and
7 corporations which are engaged primarily in holding real
8 estate or interests therein as described in this paragraph
9 and the majority of whose voting securities are owned
10 directly or indirectly through one or more intermediaries,
11 shall not exceed 25% of the admitted assets of the company.

12 § 5306. Capital of foreign and alien stock companies.

13 Foreign and alien stock life insurance companies, in order to
14 be licensed to do business in this Commonwealth, shall have a
15 paid-up and safely invested capital, if a foreign company, or a
16 deposit in the United States, if an alien company, of not less
17 than the capital required under section 3306 (relating to
18 minimum capital stock and financial requirements) for domestic
19 stock life insurance companies.

20 § 5307. Separate accounts.

21 (a) General requirements.--Any domestic life insurance
22 company may establish one or more separate accounts and may
23 allocate thereto any amounts, including proceeds applied under
24 optional modes of settlement or under dividend options, to
25 provide for life insurance or annuities and benefits incidental
26 thereto, payable in fixed or variable amounts or both, and for
27 any other investment purpose consistent with the investment
28 powers of the company under sections 5301 (relating to general
29 investment provisions), 5302 (relating to permitted investments)
30 and 5305 (relating to authorized holdings of real estate) or

1 this subsection in connection with any product permissible to
2 the company under this title and subject to the following:

3 (1) The income, gains and losses, realized or
4 unrealized, from assets allocated to a separate account
5 shall, in accordance with applicable contracts, be credited
6 to or charged against the account, without regard to other
7 income, gains or losses of the company. Companies may
8 maintain one or more separate accounts subject to reasonable
9 regulations promulgated by the department with respect to:

10 (i) Separate accounts with all or any portion of the
11 benefits guaranteed as to dollar amounts and duration.

12 (ii) Separate accounts with all or any portion of
13 the funds guaranteed as to the principal amount or stated
14 rate of interest.

15 (2) Except as provided in this section, the amounts
16 allocated to each separate account established by the insurer
17 pursuant to this section, together with any accumulations
18 thereon, may be invested and reinvested in any class of
19 investments which may be authorized in the written contract
20 or agreement without regard to any investment limitations
21 otherwise applicable to the investment of life insurance
22 companies. The investments in such separate account or
23 accounts shall not be taken into account in the investment
24 limitations applicable to the insurance company under this
25 chapter.

26 (3) Assets allocated to a separate account shall be
27 valued at their market value on the date of valuation, or at
28 amortized cost if it approximates market value. If there is
29 no readily available market, then as provided under the terms
30 of the contract or the rules or other written agreement

1 applicable to the separate account or by regulation
2 promulgated by the department.

3 (4) Amounts allocated to a separate account shall be
4 owned by the company, and the company shall not be, nor hold
5 itself out to be, a trustee with respect to these amounts. To
6 the extent so provided under the applicable contracts, that
7 portion of the assets of any such separate account equal to
8 the reserves and other contract liabilities with respect to
9 the account shall not be chargeable with liabilities arising
10 out of any other business conducted by the company. Sales,
11 exchanges or other transfers of assets may be made by a
12 company at any time between any of its separate accounts or
13 between any other investment account and one or more of its
14 separate accounts if the transfer into or from a separate
15 account is made by:

16 (i) a transfer of cash;

17 (ii) a transfer of assets having a valuation which
18 could be readily determined in the marketplace; or

19 (iii) such other method of transfer as the
20 department may approve.

21 (5) If pursuant to the terms of the applicable contracts
22 amounts allocated to a separate account are to be invested in
23 shares of a specified investment company registered under the
24 Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §
25 80a-1 et seq.), which shares are to be held for the exclusive
26 benefit of the applicable contracts, such shares shall, to
27 the extent provided in the applicable contracts, be deemed to
28 be a separate account under this section.

29 (6) To the extent the company deems it necessary to
30 comply with Federal or State law, the company, with respect

1 to any separate account, including any separate account which
2 is a management investment company or a unit investment
3 trust, may provide for persons having an interest therein
4 appropriate voting and other rights and special procedures
5 for the conduct of the business of the account, including
6 special rights and procedures relating to investment policy,
7 investment advisory services, selection of independent public
8 accountants and the selection of a committee, whose members
9 need not be otherwise affiliated with the company, to manage
10 the business of the account.

11 (b) Disclosure.--Any contract providing benefits for life
12 insurance or annuities payable in variable amounts delivered or
13 issued for delivery in this Commonwealth shall contain a
14 statement of the essential features of the procedures to be
15 followed by the insurance company in determining the amount of
16 such variable benefits. Any such contract under which the
17 benefits vary to reflect investment experience, including a
18 group contract and any certificate in evidence of variable
19 benefits issued under the contract, shall state that the amount
20 will so vary and shall contain on its first page a statement to
21 the effect that the benefits are on a variable basis.

22 (c) Authorization.--A company shall not deliver or issue for
23 delivery in this Commonwealth variable contracts unless it is
24 licensed or organized to do a life insurance business in this
25 Commonwealth, and the department is satisfied that the company's
26 condition or method of operation, including investment policy,
27 in connection with the issuance of such contracts will not
28 render its operation hazardous to the public or its
29 policyholders in this Commonwealth. In this connection, the
30 department shall consider all relevant circumstances, including

1 the following:

2 (1) The history and financial condition of the company.

3 (2) The character, responsibility and general fitness of
4 the officers and directors or trustees of the company, and
5 whether these individuals command the public confidence and
6 warrant the belief that the business of the company will be
7 lawfully, honestly and efficiently conducted.

8 (3) The law and regulation under which the company is
9 authorized in the state of domicile to issue variable
10 contracts. The state of entry of an alien company shall be
11 deemed its place of domicile for this purpose.

12 If the company is a subsidiary of an admitted life insurance
13 company, or affiliated with such a company through common
14 management or ownership, it may be deemed by the department to
15 have met the requirements of this subsection if either it, the
16 parent or the affiliated company meets such requirements.

17 (d) Regulation by department.--The department shall have
18 sole authority to regulate the issuance and sale of variable
19 contracts, including the approval or disapproval of provisions
20 of the contracts under section 3515 (relating to approval of
21 contracts by department) and the annual statements furnished to
22 contract holders. The department shall promulgate such
23 reasonable regulations as are appropriate to implement this
24 section including regulations to insure that the premiums
25 charged are not excessive, inadequate or unfairly discriminatory
26 and to prevent excessive management, administrative and sales
27 charges. The reserve liability for variable contracts shall be
28 established in accordance with actuarial procedures acceptable
29 to the department that recognize the variable nature of the
30 benefits provided and any mortality guarantees.

1 (e) Applicability of other provisions.--Except for sections
2 5321(a)(2), (3), (8), (9), (10) and (11) (relating to uniform
3 policy provisions), 5322 (relating to standard nonforfeiture law
4 for life insurance), 5325 (relating to notice of right to
5 examine policies) and 5367(c)(1) (relating to standard policy
6 provisions), in the case of a variable life insurance contract,
7 and sections 5323(a)(1), (6) and (7) and (b)(3) (relating to
8 annuity and endowment contracts) and 5325, in the case of a
9 variable annuity contract, and except as otherwise provided in
10 this section, this title shall apply to separate accounts and
11 contracts relating thereto. Any individual variable life
12 insurance or variable annuity contract delivered or issued for
13 delivery in this Commonwealth shall contain grace,
14 reinstatement, incontestability, nonforfeiture and right-to-
15 review provisions as shall be provided in regulations
16 promulgated by the department appropriate to such contract. Any
17 group variable life insurance contract delivered or issued for
18 delivery in this Commonwealth shall contain a grace provision as
19 shall be provided in regulations promulgated by the department
20 appropriate for such contract. Variable contracts, and agents or
21 other persons who sell variable contracts, shall not be subject
22 to the act of December 5, 1972 (P.L.1280, No.284), known as the
23 Pennsylvania Securities Act of 1972, or to regulation by the
24 Pennsylvania Securities Commission.

25 § 5308. Impairment of reserve liability.

26 A stock or mutual life insurance company, after receiving
27 notice from the department that its reserve liability has been
28 impaired and after all other debts and claims against the
29 reserve liability, including 50% of its capital, have been
30 deducted, shall not issue new policies under its authority to do

1 business in this Commonwealth until the department finds that
2 its funds have become equal to its liabilities and it obtains
3 from the department a certificate of authority to resume
4 business. When a domestic life insurance company has been
5 notified to cease doing new business, the department may, if no
6 fraud, gross incompetence or recklessness is shown to exist in
7 the management, permit the officers of the company to continue
8 in charge of its business for one year. The department may renew
9 this permission, if the company is likely to retrieve its
10 affairs, or it may institute proceedings to determine what
11 further shall be done.

12 § 5309. Penalty.

13 Subject to sections 5301(3) (relating to general investment
14 provisions) and 5305(2) (relating to authorized holdings of real
15 estate), a director, trustee or officer of any domestic stock or
16 mutual life insurance company shall not receive any money or
17 valuable thing for negotiating, procuring, recommending or
18 aiding in any purchase by or sale to the company of any property
19 or any loan from the company, nor be directly or indirectly
20 pecuniarily interested, either as principal, agent or
21 beneficiary, in any such purchase, sale or transaction. Any
22 person violating this section commits a summary offense.

23 § 5310. Corporations operating under prior statutes.

24 (a) Applicability.--For the purposes of this section the
25 term "the prior statutes" means the following:

26 (1) The act of April 28, 1903 (P.L.329, No.259),
27 relating to incorporation and regulation of corporations for
28 the purpose of transacting certain types of insurance.

29 (2) The act of April 20, 1927 (P.L.317, No.190),
30 relating to reincorporation of beneficial or protective

1 societies for the purpose of transacting certain types of
2 insurance.

3 (3) The act of June 24, 1939 (P.L.686, No.320), relating
4 to reincorporation of beneficial or protective societies as
5 limited life insurance companies for the purpose of
6 transacting certain types of insurance.

7 (4) The act of July 15, 1957 (P.L.929, No.400), relating
8 to incorporation of limited life insurance companies for the
9 purpose of transacting certain types of insurance.

10 (b) Authorization.--In the case of any company incorporated
11 or reincorporated under the prior statutes:

12 (1) if it is a stock company having capital of not less
13 than \$300,000 and a surplus at least equal to 50% of the
14 capital; or

15 (2) if it is a mutual company having insurance in force
16 in an aggregate amount of not less than \$1,000,000, or not
17 less than 400 persons and a surplus of not less than
18 \$200,000;

19 the company may, notwithstanding any limitation to the contrary
20 under any statute or under its charter, transact any insurance
21 described in section 3302(a)(1) (relating to authorized classes
22 of insurance).

23 (c) Issuance of stock.--The capital stock of every stock
24 company incorporated or reincorporated under the prior statutes
25 or of every company incorporated or reincorporated under any
26 statute enacted after July 15, 1957, authorizing existing
27 incorporated beneficial or protective societies to reincorporate
28 or new companies to incorporate under the provisions thereof as
29 limited life insurance companies having in the case of a stock
30 company capital stock divided into shares with a par value not

1 less than the amounts stated in those statutes, respectively,
2 shall be divided into shares with a par value of not less than
3 \$1 per share, any provision in any of those statutes to the
4 contrary notwithstanding. The charter or articles of agreement
5 of the corporation shall be amended to authorize stock having
6 such par value in the manner provided by section 3552 (relating
7 to amendment of charter).

8 § 5311. Dividends.

9 A stock life insurance company shall not make any dividend on
10 its capital except from the profits arising from its business.
11 In estimating such profits, there shall be first charged as a
12 liability all of the following:

13 (1) The capital stock of the company.

14 (2) The amount of paid-in surplus required under the
15 provisions of section 3306(a) (relating to minimum capital
16 stock and financial requirements).

17 (3) All unpaid losses or other claims.

18 (4) All liabilities for reserves as required by law.

19 (5) All sums due the company on bonds and mortgages,
20 stocks and book accounts, of which none of the principal or
21 interest thereon has been paid during the last calendar year,
22 and for which the foreclosure or other collection proceedings
23 have not been commenced, or which, after judgment obtained
24 thereon, have remained more than two years unsatisfied, and
25 on which interest has not been paid.

26 (6) All interest due or accrued and remaining unpaid.

27 (7) All other debts or obligations of the company.

28 § 5312. (Reserved).

29 § 5313. Vouchers for payment.

30 A domestic stock or mutual life insurance company shall not

1 make any disbursement of \$500 or more unless evidenced by a
2 voucher signed by or on behalf of the person receiving the money
3 and describing the consideration for the payment. If the
4 expenditure is for both services and disbursements, the voucher
5 shall set forth the services rendered and an itemized statement
6 of the disbursements made. If the expenditure is in connection
7 with any matter pending before any government unit of this
8 Commonwealth or any state, the voucher shall also describe the
9 nature of the matter and of the interest of the company therein.
10 When a voucher cannot be obtained, the expenditure shall be
11 evidenced by an affidavit describing the character and object of
12 the expenditure and stating the reason for not obtaining the
13 voucher.

14 SUBCHAPTER B

15 CONDUCT OF BUSINESS

16 Sec.

17 5321. Uniform policy provisions.

18 5322. Standard nonforfeiture law for life insurance.

19 5323. Annuity and endowment contracts.

20 5324. Standard nonforfeiture law for individual deferred
21 annuities.

22 5325. Notice of right to examine policies.

23 5326. Policy loan interest rates.

24 5327. Prohibited policy provisions.

25 5328. Medical examinations.

26 5329. Insurance on the life of another person.

27 5330. Statements by prospective insured.

28 5331. Insurance proceeds.

29 5332. (Reserved).

30 5333. (Reserved).

1 5334. Exchange, alteration and conversion of policies.

2 5335. Penalty for misrepresentation.

3 § 5321. Uniform policy provisions.

4 (a) Specific provisions.--A policy of life or endowment
5 insurance, except policies of industrial insurance where the
6 premiums are payable monthly or more often, shall not be
7 delivered in this Commonwealth unless it contains, in substance,
8 the following provisions or provisions which, in the opinion of
9 the department, are more favorable to the policyholder:

10 (1) A provision that all premiums shall be payable in
11 advance.

12 (2) A provision that the insured is entitled to a grace
13 period, either of 30 days or one month, within which the
14 payment of any premium after the first year may be made,
15 subject, at the option of the company, to an interest charge
16 not in excess of 8% per year for the grace period elapsing
17 before the payment of the premium. During this grace period
18 the policy shall continue in full force; but if the policy
19 becomes a claim during the grace period, before the overdue
20 premium or the deferred premiums of the current policy year
21 are paid, the amount of the premiums, with interest on any
22 overdue premiums, may be deducted in any settlement under the
23 policy.

24 (3) A provision that the policy shall be incontestable
25 after it has been in force, during the lifetime of the
26 insured, two years from its date of issue, except for
27 nonpayment of premiums, and that, at the option of the
28 company, provisions relating to disability benefits and those
29 granting additional insurance specifically against death by
30 accident or accidental means, may also be excepted. A clause

1 in any policy of life insurance providing that the policy
2 shall be incontestable after a specified period shall
3 preclude only a contest of the validity of the policy and
4 shall not preclude the assertion, at any time, of defenses
5 based upon provisions in the policy which exclude or restrict
6 coverage, whether or not such restrictions or exclusions are
7 excepted in that clause.

8 (4) A provision that the policy constitutes the entire
9 contract between the parties. If the company desires to make
10 the application a part of the contract, it may do so, if a
11 copy of the application is endorsed upon or attached to the
12 policy when issued; in this case the policy shall contain a
13 provision that the policy and the application constitute the
14 entire contract between the parties.

15 (5) A provision that, if the age of the insured or of
16 any other person whose age is considered in determining the
17 premium has been misstated, the amount payable or benefit
18 accruing under the policy shall be that which the premium
19 would have purchased at the correct age.

20 (6) (i) A provision that the policy shall participate
21 in the surplus of the company; that, beginning not later
22 than the end of the third policy year, the company shall
23 annually determine the portion of the divisible surplus
24 accruing on the policy; and that the party entitled to
25 elect this option may have the dividend arising from such
26 participation paid in cash or applied in accordance with
27 any one of such other dividend options as may be provided
28 by the policy. If any such other dividend options are
29 provided, the policy shall further state which option
30 shall be automatically effective, if the party has not

1 elected some other option.

2 (ii) In lieu of the provision set forth in
3 subparagraph (i), the policy may contain a provision that
4 the policy shall participate in the surplus of the
5 company; that, beginning not later than the end of the
6 fifth policy year, the company shall determine the
7 portion of the divisible surplus accruing on the policy;
8 that the party entitled thereto may have the current
9 dividend arising from such participation paid in cash;
10 and that, at periods of not more than five years
11 thereafter, such apportionment and payment, at the option
12 of that party, shall be made.

13 (iii) A renewable term policy of ten years or less
14 may provide that the surplus accruing to the policy shall
15 be determined and apportioned each year after the second
16 policy year, and accumulated during each renewal period;
17 and that at the end of any renewal period, or upon
18 renewal of the policy by the insured, the company shall
19 apply the accumulated surplus as an annuity for the next
20 succeeding renewal term in the reduction of premiums.

21 (7) A provision specifying the options, if any, to which
22 the policyholder is entitled in the event of default in a
23 premium payment.

24 (8) Except for term insurance, a provision for a loan
25 value at any time after the premiums have been paid for three
26 full years and while no premium is in default beyond the
27 grace period of payment.

28 (i) In the case of any policy issued prior to the
29 operative date of section 5322 (relating to the standard
30 nonforfeiture law for life insurance), it shall be

1 provided that the company will advance, on proper
2 assignment or pledge of the policy, and on the sole
3 security thereof, at a specified rate of interest, a sum
4 equal to, or at the option of the owner of the policy,
5 less than, the reserve at the end of the current policy
6 year on the policy, and on any dividend additions
7 thereto. A deduction shall be made from the loan value of
8 an amount in accordance with one of the following
9 alternative policy provisions:

10 (A) Not more than 2.5% of the amount insured by
11 the policy and any dividend additions thereto.

12 (B) One-fifth of the entire reserve on the
13 policy.

14 (C) 2.5% of the amount insured by the policy and
15 any dividend additions thereto, or one-fifth of the
16 entire reserve of the policy, at the option of the
17 company.

18 It shall further be provided that the company will deduct
19 from the loan value any existing indebtedness on the
20 policy, and any unpaid balance of the premium for the
21 current policy year, and may collect interest in advance
22 on the loan to the end of the current policy year. The
23 policy may further provide that the loan may be deferred
24 for not more than six months after the application
25 therefor is made.

26 (ii) In the case of any policy issued on or after
27 the operative date of section 5322, the loan provision
28 shall provide that the company will advance, on proper
29 assignment or pledge of the policy, and on the sole
30 security thereof, at a specified rate of interest not

1 exceeding 8% per year for policies issued prior to April
2 8, 1982, a sum equal to, or, at the option of the party
3 entitled thereto, less than, the cash surrender value at
4 the end of the current policy year as required by section
5 5322, and that the company may deduct from such loan
6 value, in addition to any indebtedness deducted in
7 determining such value, any unpaid balance of the premium
8 for the current policy year, and may collect interest in
9 advance on the loan to the end of the current policy
10 year. The company shall reserve the right to defer the
11 loan, except any made to pay premiums to the company, for
12 six months after application for the loan is made.

13 (9) A provision for a nonforfeiture and cash surrender
14 value.

15 (i) In the case of any policy issued prior to the
16 operative date of section 5322, a nonforfeiture benefit
17 shall be provided in event of default in premium payments
18 after premiums have been paid for three years, which
19 shall secure to the owner of the policy a stipulated form
20 of insurance. The net value of this benefit shall be at
21 least equal to the reserve at the date of default on the
22 policy and on any dividend additions thereto, specifying
23 the mortality table and rate of interest adopted for
24 computing the reserves, less a sum not more than 2.5% of
25 the amount insured by the policy and of any existing
26 dividend additions thereto, and less any existing
27 indebtedness to the company on the policy. This provision
28 shall stipulate that the policy may be surrendered to the
29 company at its home office within one month from date of
30 default for a specified cash value at least equal to the

1 sum which would otherwise be available for the purchase
2 of insurance. The provision may stipulate that the
3 company may defer payment for not more than six months
4 after the application therefor is made. This provision
5 shall not be required in term insurance of 20 years or
6 less.

7 (ii) In the case of any policy issued on or after
8 the operative date of section 5322, a nonforfeiture
9 benefit and cash surrender value shall be provided in
10 accordance with section 5322.

11 (10) A table showing in figures the loan value and the
12 options, if any, available under the policy each year, upon
13 default in premium payments, during at least the first 20
14 years of the policy. If the proceeds of the policy are
15 payable in installments which are determinable prior to
16 maturity of the policy, the policy shall include a table
17 showing the amount of the guaranteed installments.

18 (11) A provision that the holder of a policy may have
19 the policy reinstated, upon written application, at any time
20 within three years from the date of default in premium
21 payments, unless the policy has been duly surrendered or the
22 extension period expired, upon the production of evidence of
23 insurability satisfactory to the company, and the payment of
24 all overdue premiums with interest at a rate to be specified
25 in the policy but not exceeding 8% per year, and the payment
26 of any other indebtedness to the company upon the policy with
27 interest determined under section 5326 (relating to policy
28 loan interest rates), compounded annually.

29 (12) A provision that when a policy becomes a claim by
30 the death of the insured settlement shall be made upon

1 receipt of due proof of death.

2 (b) Exceptions.--Any of the provisions set forth in
3 subsection (a), or parts thereof, which are inapplicable to
4 single premium or nonparticipating policies, shall to that
5 extent not be incorporated therein. The policies of an alien or
6 foreign insurance company may contain, when delivered in this
7 Commonwealth, any provision prescribed by the law of the state
8 or government under which the company is organized. The policies
9 of a domestic life insurance company may, when delivered in any
10 other state or a foreign country, contain any provision required
11 by the laws of that state or foreign country to be contained in
12 policies delivered therein.

13 § 5322. Standard nonforfeiture law for life insurance.

14 (a) Short title of section.--This section shall be known and
15 may be cited as the Standard Nonforfeiture Law for Life
16 Insurance.

17 (b) General rule.--In the case of policies issued on or
18 after the operative date of this section, as defined in
19 subsection (m), and except as stated in subsection (l) or where
20 this section is not applicable because of the plan of insurance,
21 a life insurance policy shall not be delivered or issued for
22 delivery in this Commonwealth unless it contains in substance
23 the following provisions, or corresponding provisions which the
24 department determines are at least as favorable to the
25 defaulting or surrendering policyholder as the requirements
26 specified in this subsection and are essentially in compliance
27 with subsection (i):

28 (1) That, in the event of default in any premium
29 payment, the company will grant, upon proper request not
30 later than 60 days after the due date of the premium in

1 default, a paid-up nonforfeiture benefit on a plan stipulated
2 in the policy, effective as of the due date, of an amount as
3 provided in this section. In lieu of such a benefit, the
4 company may substitute, upon proper request not later than 60
5 days after the due date of the premium in default, an
6 actuarially equivalent alternative paid-up nonforfeiture
7 benefit which provides a greater amount or longer period of
8 death benefits or, if applicable, a greater amount or earlier
9 payment of endowment benefits.

10 (2) That, upon surrender of the policy within 60 days
11 after the due date of any premium payment in default after
12 premiums have been paid for at least three full years in the
13 case of ordinary insurance or five full years in the case of
14 industrial insurance, the company will pay, in lieu of any
15 paid-up nonforfeiture benefit, a cash surrender value of an
16 amount as provided in this section.

17 (3) That a specified paid-up nonforfeiture benefit shall
18 become effective as specified in the policy unless the person
19 entitled to make such election elects another available
20 option not later than 60 days after the due date of the
21 premium in default.

22 (4) That, if the policy becomes paid-up by completion of
23 all premium payments or if it is continued under any paid-up
24 nonforfeiture benefit which became effective on or after the
25 third policy anniversary in the case of ordinary insurance or
26 the fifth policy anniversary in the case of industrial
27 insurance, the company will pay, upon surrender of the policy
28 within 30 days after any policy anniversary, a cash surrender
29 value of such amount as provided in this section.

30 (5) In the case of policies which cause on a basis

1 guaranteed in the policy unscheduled changes in benefits or
2 premiums, or which provide an option for changes in benefits
3 or premiums other than a change to a new policy, a statement
4 of the mortality table, interest rate and method used in
5 calculating cash surrender values and the paid-up
6 nonforfeiture benefits available under the policy. In the
7 case of all other policies, a statement of the mortality
8 table and interest rate used in calculating the cash
9 surrender values and the paid-up nonforfeiture benefits
10 available under the policy, together with a table showing any
11 cash surrender value and paid-up nonforfeiture benefit
12 available under the policy on each policy anniversary either
13 during the first 20 policy years or during the term of the
14 policy, whichever is shorter. These values and benefits shall
15 be calculated upon the assumption that there are no dividends
16 or paid-up additions credited to the policy and that there is
17 no indebtedness to the company on the policy.

18 (6) That the cash surrender values and the paid-up
19 nonforfeiture benefits available under the policy are not
20 less than the minimum values and benefits required under any
21 statute of the state in which the policy is delivered; an
22 explanation of the manner in which the cash surrender values
23 and the paid-up nonforfeiture benefits are altered by the
24 existence of any paid-up additions credited to the policy or
25 any indebtedness to the company on the policy; if a detailed
26 statement of the method of computation of the values and
27 benefits shown in the policy is not stated therein, a
28 statement that the method of computation has been filed with
29 the insurance supervisory official of the state in which the
30 policy is delivered; and a statement of the method to be used

1 in calculating the cash surrender value and paid-up
2 nonforfeiture benefit available under the policy on any
3 policy anniversary beyond the last anniversary for which such
4 values and benefits are consecutively shown in the policy.

5 (7) That the company shall reserve the right to defer
6 the payment of any cash surrender value for a period of six
7 months after demand therefor with surrender of the policy.

8 (c) Calculation of cash surrender values.--

9 (1) Any cash surrender value available under the policy
10 in the event of default in a premium payment due on any
11 policy anniversary, whether or not required by subsection
12 (b), shall be an amount not less than the excess of the
13 present value, on that anniversary, of the future guaranteed
14 benefits which would have been provided for by the policy,
15 including any existing paid-up additions, if there had been
16 no default, over the sum of:

17 (i) the then present value of the adjusted premiums,
18 as defined in subsections (e) and (f), corresponding to
19 premiums which would have fallen due on and after the
20 anniversary; and

21 (ii) the amount of any indebtedness to the company
22 on the policy.

23 (2) For any policy issued on or after the operative date
24 of subsection (f) which provides supplemental life insurance
25 or annuity benefits at the option of the insured and for an
26 identifiable additional premium by rider or supplemental
27 policy provision, the cash surrender value shall be an amount
28 not less than the sum of:

29 (i) the cash surrender value under paragraph (1) for
30 an otherwise similar policy issued at the same age

1 without the rider or supplemental policy provision; and

2 (ii) the cash surrender value under paragraph (1)
3 for a policy which provides only the benefits otherwise
4 provided by the rider or supplemental policy provision.

5 (3) For any family policy issued on or after the
6 operative date of subsection (f) which defines a primary
7 insured and provides term insurance on the life of the spouse
8 of the primary insured expiring before the spouse reaches 71
9 years of age, the cash surrender value shall be an amount not
10 less than the sum of:

11 (i) the cash surrender value under paragraph (1) for
12 an otherwise similar policy issued at the same age
13 without term insurance on the life of the spouse; and

14 (ii) the cash surrender value under paragraph (1)
15 for a policy which provides only the benefits otherwise
16 provided by the term insurance on the life of the spouse.

17 (4) Any cash surrender value available within 30 days
18 after any policy anniversary under any policy paid-up by
19 completion of all premium payments or any policy continued
20 under any paid-up nonforfeiture benefit, whether or not
21 required by subsection (b), shall be an amount not less than
22 the present value on the anniversary of the future guaranteed
23 benefits provided for by the policy, including any existing
24 paid-up additions, decreased by any indebtedness to the
25 company on the policy.

26 (d) Paid-up nonforfeiture benefits.--Any paid-up
27 nonforfeiture benefit available under the policy in the event of
28 default in a premium payment due on any policy anniversary shall
29 be such that its present value as of the anniversary shall be at
30 least equal to the cash surrender value then provided for by the

1 policy or, if none is provided for, the cash surrender value
2 which would have been required by this section in the absence of
3 the condition that premiums shall have been paid for at least a
4 specified period.

5 (e) Adjusted premiums for prior policies.--

6 (1) (i) This paragraph does not apply to policies
7 issued on or after the operative date of subsection (f).
8 Except as provided in subparagraph (iii), the adjusted
9 premiums for any policy shall be calculated on an annual
10 basis and shall be such uniform percentage of the
11 respective premiums specified in the policy for each
12 policy year, excluding any extra premiums charged because
13 of impairments or special hazards, that the present
14 value, at the date of issue of the policy, of all
15 adjusted premiums shall be equal to the sum of:

16 (A) the then present value of the future
17 guaranteed benefits provided for by the policy;

18 (B) two percent of the amount of insurance, if
19 the insurance is uniform in amount, or of the
20 equivalent uniform amount, as defined in subparagraph
21 (ii), if the amount of insurance varies with duration
22 of the policy;

23 (C) forty percent of the adjusted premium for
24 the first policy year; and

25 (D) twenty-five percent of either the adjusted
26 premium for the first policy year or the adjusted
27 premium for a whole life policy of the same uniform
28 or equivalent uniform amount with uniform premiums
29 for the whole of life issued at the same age for the
30 same amount of insurance, whichever is less.

1 In applying the percentages specified in clauses (C) and
2 (D), no adjusted premium shall be deemed to exceed 4% of
3 the amount of insurance or uniform amount equivalent
4 thereto. The date of issue of a policy for the purpose of
5 this subsection shall be the date as of which the rated
6 age of the insured is determined.

7 (ii) In the case of a policy providing an amount of
8 insurance varying with the duration of the policy, the
9 equivalent uniform amount for the purpose of this
10 subsection shall be the uniform amount of insurance
11 provided by an otherwise similar policy, containing the
12 same endowment benefits issued at the same age and for
13 the same term, the amount of which does not vary with
14 duration and the benefits under which have the same
15 present value at the date of issue as the benefits under
16 the policy. In the case of a policy providing a varying
17 amount of insurance issued on the life of a child under
18 ten years of age, the equivalent uniform amount may be
19 computed as if the amount of insurance provided by the
20 policy prior to the attainment of ten years of age was
21 the amount provided by the policy at ten years of age.

22 (iii) The adjusted premiums for any policy providing
23 term insurance benefits by rider or supplemental policy
24 provision shall be equal to:

25 (A) the adjusted premiums for an otherwise
26 similar policy issued at the same age without such
27 term insurance benefits, increased, during the period
28 for which premiums for such term insurance benefits
29 are payable, by;

30 (B) the adjusted premiums for such term

1 insurance.

2 The amounts stated in clauses (A) and (B) shall be
3 calculated separately and as specified in subparagraphs
4 (i) and (ii), except that for the purposes of
5 subparagraph (i)(B), (C) and (D), the amount of insurance
6 or equivalent uniform amount of insurance used in the
7 calculation of the adjusted premiums referred to in
8 clause (B) of this subparagraph shall be equal to the
9 excess of the corresponding amount determined for the
10 entire policy over the amount used in the calculation of
11 the adjusted premiums in clause (A) of this subparagraph.

12 (iv) Except as otherwise provided in paragraphs (2)
13 and (3), all adjusted premiums and present values
14 referred to in this section shall, for all policies of
15 ordinary insurance, be calculated on the basis of the
16 Commissioners 1941 Standard Ordinary Mortality Table. For
17 any category of ordinary insurance issued on female
18 risks, adjusted premiums and present values may be
19 calculated according to an age not more than three years
20 younger than the actual age of the insured. Such
21 calculations for all policies of industrial insurance
22 shall be made on the basis of the 1941 Standard
23 Industrial Mortality Table. All calculations shall be
24 made using the rate of interest not exceeding 3.5% a
25 year, specified in the policy for calculating cash
26 surrender values and paid-up nonforfeiture benefits. In
27 calculating the present value of any paid-up term
28 insurance with any accompanying pure endowment offered as
29 a nonforfeiture benefit, the rates of mortality assumed
30 may be not more than 130% of the rates of mortality

1 according to the applicable table. For insurance issued
2 on a substandard basis, the calculation of any adjusted
3 premiums and present values may be based on such other
4 table of mortality as may be specified by the company and
5 approved by the department.

6 (2) This paragraph does not apply to ordinary policies
7 issued on or after the operative date of subsection (f). In
8 the case of ordinary policies issued on or after the
9 operative date of this paragraph, all adjusted premiums and
10 present values referred to in this section shall be
11 calculated on the basis of the Commissioners 1958 Standard
12 Ordinary Mortality Table and the rate of interest specified
13 in the policy for calculating cash surrender values and paid-
14 up nonforfeiture benefits. This rate of interest shall not
15 exceed 3.5% a year except that a rate of interest not
16 exceeding 4% a year may be used for policies issued on or
17 after June 23, 1976, and prior to July 3, 1980. A rate of
18 interest not exceeding 5.5% a year or such higher rate of
19 interest as may be approved by the department may be used for
20 policies issued on or after July 3, 1980. For any category of
21 ordinary insurance issued on female risks, adjusted premiums
22 and present values may be calculated according to an age not
23 more than six years younger than the actual age of the
24 insured. In calculating the present value of any paid-up term
25 insurance with any accompanying pure endowment offered as a
26 nonforfeiture benefit, the rates of mortality assumed may be
27 not more than those shown in the Commissioners 1958 Extended
28 Term Insurance Table. For insurance issued on a substandard
29 basis, the calculation of any such adjusted premiums and
30 present values may be based on such other table of mortality

1 as specified by the company and approved by the department.

2 The operative date of this paragraph is the operative date of
3 former section 410A(d)(2) of the act of May 17, 1921
4 (P.L.682, No.284), known as The Insurance Company Law of
5 1921, and is not later than January 1, 1966.

6 (3) This paragraph does not apply to industrial policies
7 issued on or after the operative date of subsection (f). In
8 the case of industrial policies issued on or after the
9 operative date of this paragraph, all adjusted premiums and
10 present values referred to in this section shall be
11 calculated on the basis of the Commissioners 1961 Standard
12 Industrial Mortality Table and the rate of interest specified
13 in the policy for calculating cash surrender values and paid-
14 up nonforfeiture benefits. This rate of interest shall not
15 exceed 3.5% a year except that a rate of interest not
16 exceeding 4% a year may be used for policies issued on or
17 after June 23, 1976, and prior to July 3, 1980. A rate of
18 interest not exceeding 5.5% a year or such higher rate of
19 interest as may be approved by the department may be used for
20 policies issued on or after July 3, 1980. In calculating the
21 present value of any paid-up term insurance with accompanying
22 pure endowment, if any, offered as a nonforfeiture benefit,
23 the rates of mortality assumed may be not more than those
24 shown in the Commissioners 1961 Industrial Extended Term
25 Insurance Table. For insurance issued on a substandard basis,
26 the calculation of any such adjusted premiums and present
27 values may be based on such other table of mortality as
28 specified by the company and approved by the department. The
29 operative date of this paragraph is the operative date of
30 former section 410A(d)(3) of The Insurance Company Law of

1 1921 and is not later than January 1, 1970.

2 (f) Adjusted premiums for recent policies.--

3 (1) This subsection applies to all policies issued on or
4 after the operative date of this subsection as defined in
5 paragraph (11). Except as provided in subsection (c)(2) and
6 in paragraph (7) of this subsection, the adjusted premiums
7 for any policy shall be calculated on an annual basis and
8 shall be a uniform percentage of the respective premiums
9 specified in the policy for each policy year, excluding any
10 extra premiums charged because of impairments or special
11 hazards and also excluding any uniform annual contract charge
12 or policy fee specified in the policy in a statement of the
13 method to be used in calculating the cash surrender values
14 and paid-up nonforfeiture benefits. The present value, at the
15 date of issue of the policy, of all adjusted premiums shall
16 be equal to the sum of:

17 (i) the then present value of the future guaranteed
18 benefits provided for by the policy;

19 (ii) one percent of either the amount of insurance,
20 if the insurance be uniform in amount, or the average
21 amount of insurance at the beginning of each of the first
22 ten policy years; and

23 (iii) one hundred twenty-five percent of the
24 nonforfeiture net level premium as defined in paragraph

25 (2).

26 However, in applying the percentage specified in subparagraph
27 (iii) no nonforfeiture net level premium shall be deemed to
28 exceed 4% of either the amount of insurance, if the insurance
29 is uniform in amount, or the average amount of insurance at
30 the beginning of each of the first ten policy years. The date

1 of issue of a policy for the purpose of this subsection shall
2 be the date as of which the rated age of the insured is
3 determined.

4 (2) The nonforfeiture net level premium shall be equal
5 to the present value, at the date of issue of the policy, of
6 the guaranteed benefits provided for by the policy divided by
7 the present value, at the date of issue of the policy, of an
8 annuity of one per year payable on the date of issue of the
9 policy and on each anniversary of the policy on which a
10 premium falls due.

11 (3) In the case of policies which cause on a basis
12 guaranteed in the policy unscheduled changes in benefits or
13 premiums, or which provide an option for changes in benefits
14 or premiums other than a change to a new policy, the adjusted
15 premiums and present values shall initially be calculated on
16 the assumption that future benefits and premiums do not
17 change from those stipulated at the date of issue of the
18 policy. At the time of any such change in the benefits or
19 premiums the future adjusted premiums, nonforfeiture net
20 level premiums and present values shall be recalculated on
21 the assumption that future benefits and premiums do not
22 change from those stipulated by the policy immediately after
23 the change.

24 (4) Except as otherwise provided in paragraph (7), the
25 recalculated future adjusted premiums for the policy shall be
26 such uniform percentage of the respective future premiums
27 specified in the policy for each policy year, excluding
28 amounts payable as extra premiums to cover impairments and
29 special hazards and also excluding any uniform annual
30 contract charge or policy fee specified in the policy in a

1 statement of the method to be used in calculating the cash
2 surrender values and paid-up nonforfeiture benefits, that the
3 present value, at the time of change to the newly defined
4 benefits or premiums, of all such future adjusted premiums
5 shall be equal to the excess of:

6 (i) the sum of the then present value of the then
7 future guaranteed benefits provided for by the policy and
8 any additional expense allowance; over

9 (ii) the then cash surrender value, if any, or
10 present value of any paid-up nonforfeiture benefit under
11 the policy.

12 (5) The additional expense allowance, at the time of the
13 change to the newly defined benefits or premiums, shall be
14 the sum of:

15 (i) one percent of the excess, if positive, of the
16 average amount of insurance at the beginning of each of
17 the first ten policy years subsequent to the change over
18 the average amount of insurance prior to the change at
19 the beginning of each of the first ten policy years
20 subsequent to the time of the most recent previous change
21 or, if there has been no previous change, the date of
22 issue of the policy; and

23 (ii) one hundred twenty-five percent of the
24 increase, if positive, in the nonforfeiture net level
25 premium.

26 (6) The recalculated nonforfeiture net level premium
27 shall be equal to the sum of:

28 (i) the nonforfeiture net level premium applicable
29 prior to the change times the present value of an annuity
30 of one per year payable on each anniversary of the policy

1 on or subsequent to the date of the change on which a
2 premium would have fallen due had the change not
3 occurred; and

4 (ii) the present value of the increase in future
5 guaranteed benefits provided for by the policy;
6 divided by the present value of an annuity of one a year
7 payable on each anniversary of the policy on or subsequent to
8 the date of change on which a premium falls due.

9 (7) Notwithstanding any other provisions of this
10 subsection, in the case of a policy issued on a substandard
11 basis which provides reduced graded amounts of insurance so
12 that, in each policy year, the policy has the same tabular
13 mortality cost as an otherwise similar policy issued on the
14 standard basis which provides higher uniform amounts of
15 insurance, adjusted premiums and present values for the
16 policy may be calculated as if it were issued to provide such
17 higher uniform amounts of insurance on the standard basis.

18 (8) The adjusted premiums and present values referred to
19 in this subsection for policies of ordinary insurance shall
20 be calculated on the basis of the Commissioners 1980 Standard
21 Ordinary Mortality Table or, at the election of the company
22 for any one or more specified plans of life insurance, the
23 Commissioners 1980 Standard Ordinary Mortality Table with
24 Ten-Year Select Mortality Factors. The adjusted premiums and
25 present values for policies of industrial insurance shall be
26 calculated on the basis of the Commissioners 1961 Standard
27 Industrial Mortality Table, and for policies issued in a
28 particular calendar year shall be calculated on the basis of
29 a rate of interest not exceeding the nonforfeiture interest
30 rate under paragraph (9) for policies issued in that calendar

1 year. These provisions are subject to the following:

2 (i) At the option of the company, calculations for
3 all policies issued in a particular calendar year may be
4 made on the basis of a rate of interest not exceeding the
5 nonforfeiture interest rate under paragraph (9) for
6 policies issued in the immediately preceding calendar
7 year.

8 (ii) Under any paid-up nonforfeiture benefit,
9 including any paid-up dividend additions, any cash
10 surrender value available, whether or not required by
11 subsection (b), shall be calculated on the basis of the
12 mortality table and rate of interest used in determining
13 the amount of the paid-up nonforfeiture benefit and any
14 paid-up dividend additions.

15 (iii) A company may calculate the amount of any
16 guaranteed paid-up nonforfeiture benefit including any
17 paid-up additions under the policy on the basis of an
18 interest rate no lower than that specified in the policy
19 for calculating cash surrender values.

20 (iv) In calculating the present value of any paid-up
21 term insurance with any accompanying pure endowment
22 offered as a nonforfeiture benefit, the rates of
23 mortality assumed may be not more than those in the
24 Commissioners 1980 Extended Term Insurance Table for
25 policies of ordinary insurance or in the Commissioners
26 1961 Industrial Extended Term Insurance Table for
27 policies of industrial insurance.

28 (v) For insurance issued on a substandard basis, the
29 calculation of adjusted premiums and present values may
30 be based on appropriate modifications of the tables

1 mentioned in this paragraph.

2 (vi) Any ordinary mortality tables adopted after
3 1980 by the National Association of Insurance
4 Commissioners and approved by regulation promulgated by
5 the department for use in determining the minimum
6 nonforfeiture standard, may be substituted for the
7 Commissioners 1980 Standard Ordinary Mortality Table with
8 or without Ten-Year Select Mortality Factors or for the
9 Commissioners 1980 Extended Term Insurance Table.

10 (vii) Any industrial mortality tables adopted after
11 1980 by the National Association of Insurance
12 Commissioners and approved by regulation promulgated by
13 the department for use in determining the minimum
14 nonforfeiture standard, may be substituted for the
15 Commissioners 1961 Standard Industrial Mortality Table or
16 the Commissioners 1961 Industrial Extended Term Insurance
17 Table.

18 (9) The nonforfeiture interest rate per year for any
19 policy issued in a particular calendar year shall be equal to
20 125% of the calendar year statutory valuation interest rate
21 for the policy under section 703(c) (relating to computation
22 of reserves on recent policies), rounded to the nearest
23 0.25%.

24 (10) Notwithstanding any other provision in this title
25 to the contrary, any refiling of nonforfeiture values or
26 their methods of computation for any previously approved
27 policy form which involves only a change in the interest rate
28 or mortality table used to compute nonforfeiture values shall
29 not require refiling of any other provisions of that policy
30 form.

1 (11) The operative date of this subsection is the
2 operative date of former section 410A(e) of The Insurance
3 Company Law of 1921 and is not later than January 1, 1989.

4 (g) Special approved methods of determination.--In the case
5 of any plan of life insurance which provides for future premium
6 determination, the amounts of which are to be determined by the
7 insurance company based on then estimates of future experience,
8 or in the case of any plan of life insurance which is of such a
9 nature that minimum values cannot be determined by the methods
10 described in subsections (b), (c), (d), (e) and (f), then:

11 (1) The company shall satisfy the department that the
12 benefits provided under the plan are substantially as
13 favorable to policyholders and insureds as the minimum
14 benefits otherwise required by subsections (b), (c), (d), (e)
15 and (f).

16 (2) The company shall satisfy the department that the
17 benefits and the pattern of premiums of that plan are not
18 such as to mislead prospective policyholders or insureds.

19 (3) The cash surrender values and paid-up nonforfeiture
20 benefits provided by the plan shall not be less than the
21 minimum values and benefits required for the plan computed by
22 a method consistent with the principles of this section, as
23 determined by regulations promulgated by the department.

24 (h) Default on premiums not due on anniversary date.--Any
25 cash surrender value and any paid-up nonforfeiture benefit,
26 available under the policy in the event of default in a premium
27 payment due at any time other than on the policy anniversary,
28 shall be calculated with allowance for the lapse of time and the
29 payment of fractional premiums beyond the beginning of the
30 policy year in which the default occurs. All values referred to

1 in subsections (c), (d), (e) and (f) may be calculated upon the
2 assumption that any death benefit is payable at the end of the
3 policy year of death.

4 (i) Progression of cash surrender values.--

5 (1) This subsection applies to all policies issued on or
6 after January 1, 1985. Any cash surrender value available
7 under the policy in the event of default in a premium payment
8 due on any policy anniversary shall be in an amount which
9 does not differ by more than 0.2% of either the amount of
10 insurance, if the insurance be uniform in amount, or the
11 average amount of insurance at the beginning of each of the
12 first ten policy years, from the sum of:

13 (i) the greater of zero and the basic cash value
14 under paragraph (2); and

15 (ii) the present value of any existing paid-up
16 additions less the amount of any indebtedness to the
17 company under the policy.

18 (2) The basic cash value shall be equal to the present
19 value, on the policy anniversary, of the future guaranteed
20 benefits which would have been provided for by the policy,
21 excluding any existing paid-up additions and before deduction
22 of any indebtedness to the company, if there had been no
23 default, less the then present value of the nonforfeiture
24 factors corresponding to premiums which would have fallen due
25 on and after the anniversary. The effect on the basic cash
26 value of supplemental life insurance or annuity benefits or
27 of family coverage, as described in subsection (c) or (e),
28 whichever is applicable, shall be the same as the effect
29 under subsection (c) or (e), whichever is applicable, on the
30 cash surrender value under that subsection.

1 (3) The nonforfeiture factor for each policy year shall
2 be an amount equal to a percentage of the adjusted premium
3 for the policy year, under subsection (e) or (f), whichever
4 is applicable. Except as is required by paragraph (4), this
5 percentage:

6 (i) shall be the same percentage for each policy
7 year between the second policy anniversary and the later
8 of:

9 (A) the fifth policy anniversary; or

10 (B) the first policy anniversary at which there
11 is available under the policy a cash surrender value
12 in an amount, before including any paid-up additions
13 and before deducting any indebtedness, of at least
14 0.2% of either the amount of insurance, if the
15 insurance is uniform in amount, or the average amount
16 of insurance at the beginning of each of the first
17 ten policy years; and

18 (ii) shall be such that no percentage after the
19 later of the policy anniversaries specified in
20 subparagraph (i) may apply to fewer than five consecutive
21 policy years.

22 (4) The basic cash value shall not be less than the
23 value which would be obtained if the adjusted premiums for
24 the policy under subsection (e) or (f), whichever is
25 applicable, were substituted for the nonforfeiture factors in
26 the calculation of the basic cash value.

27 (5) All adjusted premiums and present values referred to
28 in this subsection shall for a particular policy be
29 calculated on the same mortality and interest bases as are
30 used in demonstrating the policy's compliance with this

1 section. The cash surrender values referred to in this
2 subsection shall include any endowment benefits provided for
3 by the policy.

4 (6) Any cash surrender value available other than in the
5 event of default in a premium payment due on a policy
6 anniversary, and the amount of any paid-up nonforfeiture
7 benefit available under the policy in the event of default in
8 a premium payment, shall be determined consistently with the
9 provisions for determining the analogous minimum amounts in
10 subsections (b), (c), (d), (e), (f), (g), (h) and (j). The
11 amounts of any cash surrender values and of any paid-up
12 nonforfeiture benefits granted in connection with additional
13 benefits such as those listed in subsection (k) shall conform
14 with the principles of this subsection.

15 (j) Paid-up additions.--The net value of any paid-up
16 additions, other than paid-up term additions, shall not be less
17 than the amounts used to provide such additions.

18 (k) Additional benefits.--Notwithstanding subsection (c),
19 additional benefits payable:

20 (1) in the event of death or dismemberment by accident
21 or accidental means;

22 (2) in the event of total and permanent disability;

23 (3) as reversionary annuity or deferred reversionary
24 annuity benefits;

25 (4) as term insurance benefits provided by a rider or
26 supplemental policy provision to which, if issued as a
27 separate policy, this section would not apply;

28 (5) as term insurance on the life of a child or on the
29 lives of children, provided in a policy on the life of a
30 parent of the child, if such term insurance expires before

1 the child reaches 26 years of age, is uniform in amount after
2 the child reaches one year of age and has not become paid-up
3 by reason of the death of a parent of the child; and

4 (6) as other policy benefits additional to life
5 insurance and endowment benefits;

6 and premiums for all such additional benefits, shall be
7 disregarded in ascertaining cash surrender values and
8 nonforfeiture benefits required by this section. These
9 additional benefits shall not be required to be included in any
10 paid-up nonforfeiture benefits.

11 (1) Exclusions.--This section does not apply to any of the
12 following:

13 (1) Reinsurance.

14 (2) Group insurance.

15 (3) Pure endowment.

16 (4) Annuity or reversionary annuity contracts.

17 (5) Term policies of uniform amount, which provide no
18 guaranteed nonforfeiture or endowment benefits, or renewal
19 thereof, of 20 years or less expiring before the insured
20 reaches 71 years of age, for which uniform premiums are
21 payable during the entire term of the policy.

22 (6) Term policies of decreasing amount, which provide no
23 guaranteed nonforfeiture or endowment benefits, on which each
24 adjusted premium, calculated as specified in subsections (e)
25 and (f), is less than the adjusted premium so calculated on a
26 term policy of uniform amount, or renewal thereof, which
27 provides no guaranteed nonforfeiture or endowment benefits,
28 issued at the same age and for the same initial amount of
29 insurance and for a term of 20 years or less expiring before
30 the insured reaches 71 years of age, for which uniform

1 premiums are payable during the entire term of the policy.

2 (7) Policies providing no guaranteed nonforfeiture or
3 endowment benefits, for which no cash surrender value or
4 present value of any paid-up nonforfeiture benefit, at the
5 beginning of any policy year, calculated as specified in
6 subsections (c), (d), (e) and (f), exceeds 2.5% of the amount
7 of insurance at the beginning of the same policy year.

8 (8) Policies delivered outside this Commonwealth through
9 an agent or other representative of the company issuing the
10 policy.

11 For the purposes of this subsection, the age at expiry for a
12 joint term life insurance policy shall be the age at expiry of
13 the oldest life.

14 (m) Operative date.--The operative date of this section is
15 the operative date of former section 410A of The Insurance
16 Company Law of 1921 and is not later than January 1, 1948.
17 § 5323. Annuity and endowment contracts.

18 (a) Uniform provisions for annuities and pure endowments.--
19 An annuity or pure endowment contract shall not be delivered in
20 this Commonwealth, except policies of industrial insurance where
21 the premiums are payable monthly or more often, and except in
22 the case of a reversionary annuity, otherwise called a
23 survivorship annuity, or an annuity contracted by an employer on
24 behalf of his employees, unless it contains in substance the
25 following provisions:

26 (1) A provision that there shall be a grace period,
27 either of 30 days or of one month, within which any
28 stipulated payment to the company falling due after the first
29 year may be made, subject, at the option of the company, to
30 an interest charge thereon at a rate to be specified in the

1 contract, but not exceeding 8% a year, for the grace period
2 elapsing before payment, during which grace period the
3 contract shall continue in full force; that if a claim arises
4 under the contract on account of death during the grace
5 period before any overdue payment or deferred payments of the
6 current year are made, the amount of the payments, with
7 interest on any overdue payments, may be deducted from any
8 amount payable under the contract in settlement. If the
9 contract contains a loan provision, the rate of interest for
10 contracts issued prior to April 8, 1982, may not exceed 8% a
11 year.

12 (2) If statements, other than those relating to age and
13 identity, are required as a condition of issuing the
14 contract, a provision that the contract shall be
15 incontestable after it has been in force during the lifetime
16 of the person or each of the persons as to whom such
17 statements are required for a period of two years from its
18 date of issue, except where stipulated payments to the
19 company have not been made, and except for violation of the
20 conditions of the contract relating to military or naval
21 service in time of war. At the option of the company,
22 provisions relative to benefits in the event of total and
23 permanent disability and relative to insurance specifically
24 against death by accident may also be excepted.

25 (3) A provision that the contract constitutes the entire
26 contract between the parties. If the company desires to make
27 the application a part of the contract, it may do so, if a
28 copy of the application is endorsed upon or attached to the
29 contract when issued; in this case, the contract shall
30 contain a provision that the insurance contract and the

1 application constitute the entire contract between the
2 parties.

3 (4) A provision that, if the age of any of the persons
4 upon whose lives the contract is based has been misstated,
5 the amount payable under the contract shall be that which the
6 stipulated payments to the company would have purchased at
7 the correct age. Any overpayment by the company on account of
8 misstatement of age shall, with interest thereon at a rate to
9 be specified in the contract but not exceeding 6% a year, be
10 charged against the current or next succeeding payment to be
11 made by the company under the contract.

12 (5) If the contract is participating, a provision that
13 the divisible surplus shall be apportioned annually, and
14 dividends shall be payable in cash or shall be applicable to
15 any stipulated payment to the company under the contract.

16 (6) A provision specifying the options available upon
17 cessation of payment of consideration under the contract.

18 (i) In the case of contracts issued prior to July 3,
19 1980, the provision shall specify that, if the contract,
20 after having been in force for three full years, shall by
21 its terms lapse or become forfeited because any
22 stipulated payment to the company has not been made, the
23 reserve on the contract, computed according to the
24 standard adopted by the company under Chapter 7 (relating
25 to reserve liability) shall, after deducting 20% of the
26 entire reserve and any indebtedness to the company under
27 the contract, be applied as a net single payment
28 according to that standard for the purchase of a paid-up
29 annuity or pure endowment contract, which may be
30 nonparticipating and which shall be payable by the

1 company under the same terms and conditions, except as to
2 the amount of the original contract. A company may
3 provide, in lieu of the paid-up values, for a paid-up
4 annuity or pure endowment contract in an amount bearing
5 the same proportion to the original annuity or pure
6 endowment contract as the number of stipulated payments
7 made to the company bears to the total number of
8 stipulated payments required to be made to the company
9 under the contract. If there is any indebtedness to the
10 company under the contract, the amount of the paid-up
11 annuity or pure endowment shall be reduced by an amount
12 bearing the same proportion to the paid-up annuity or
13 pure endowment as the indebtedness bears to the reserve
14 on the paid-up annuity or pure endowment, computed
15 according to the standard adopted by the company under
16 Subchapter A of Chapter 7.

17 (ii) In the case of contracts issued on or after
18 July 3, 1980, the provisions shall be in accordance with
19 section 5324 (relating to standard nonforfeiture law for
20 individual deferred annuities).

21 (7) A provision that the contract may be reinstated at
22 any time within one year from the date of default in making
23 stipulated payments to the company, if all overdue stipulated
24 payments are made with interest thereon at a rate to be
25 specified in the contract, but not exceeding 8% a year, and
26 any indebtedness to the company on the contract is paid with
27 interest determined in accordance with section 5326 (relating
28 to policy loan interest rates), compounded annually. If
29 necessary, a company may also include a requirement of
30 evidence of insurability satisfactory to the company.

1 (b) Standard provisions for reversionary annuities.--A
2 contract for a reversionary annuity shall not be so issued or
3 delivered in this Commonwealth unless it contains in substance
4 the following provisions:

5 (1) Provisions described in subsection (a)(1), (2), (3)
6 and (5), except that under the provision described in
7 subsection (a)(1) the company may provide for an equitable
8 reduction of the amount of the annuity payments in
9 settlement, or an overdue or deferred payments in lieu of
10 providing for a deduction of the payments from any amount
11 payable upon a settlement under the contract.

12 (2) A provision that, if the age of any of the persons
13 upon whose lives the contract is based has been misstated,
14 the amount payable under the contract shall be that which the
15 stipulated payments to the company would have purchased at
16 the correct ages.

17 (3) A provision that the contract may be reinstated at
18 any time within three years from the date of default in
19 making stipulated payments to the company upon production of
20 evidence of insurability satisfactory to the company, if all
21 overdue payments are made with interest thereon at a rate to
22 be specified in the contract, but not exceeding 8% a year,
23 and any indebtedness to the company is paid with interest
24 thereon at a rate or rates determined in accordance with
25 section 5326, compounded annually.

26 (c) Alternative provisions.--Provisions of this section
27 which do not apply to nonparticipating contracts or to contracts
28 for which a single stipulated payment to the company is made
29 shall to that extent not be incorporated in the contract. Any
30 such contract may be delivered in this Commonwealth if, in the

1 opinion of the department, it contains provisions, on any one or
2 more of the requirements of this section, more favorable to the
3 holder of the contract than required by this section.

4 (d) Permitted policies.--This section does not prohibit a
5 life insurance corporation, which issues life insurance on a
6 participating basis, from issuing annuities, reversionary
7 annuities or pure endowments on a nonparticipating basis.

8 (e) Construction of contracts.--Any contract, or any
9 application, endorsement or rider form used in connection
10 therewith, issued in violation of this section shall
11 nevertheless be held valid, but shall be construed as provided
12 in this section. When any provision in the contract,
13 application, endorsement or rider is in conflict with this
14 section or with any other provision of this title or the rights,
15 duties and obligations of the company, the holder of the
16 contract and the beneficiary or annuitant thereunder shall be
17 governed by the provisions thereof. This section does not apply
18 to contracts of reinsurance or to contracts for deferred
19 annuities or reversionary annuities included in life insurance
20 policies.

21 § 5324. Standard nonforfeiture law for individual deferred
22 annuities.

23 (a) Short title of section.--This section shall be known and
24 may be cited as the Standard Nonforfeiture Law for Individual
25 Deferred Annuities.

26 (b) Applicability.--This section does not apply to any of
27 the following:

28 (1) Reinsurance.

29 (2) Group annuity purchased under a retirement plan or
30 plan of deferred compensation established or maintained by an

1 employer or an employee organization, or by both, other than
2 a plan providing individual retirement accounts or individual
3 retirement annuities under section 408 of the Internal
4 Revenue Code (Public Law 93-406, 26 U.S.C. § 408).

5 (3) Premium deposit fund.

6 (4) Variable annuity.

7 (5) Investment annuity.

8 (6) Immediate annuity.

9 (7) Deferred annuity contract after annuity payments
10 have commenced.

11 (8) Reversionary annuity.

12 (9) Contracts delivered outside this Commonwealth
13 through an agent or other representative of the company
14 issuing the contract.

15 (c) Required contract provisions.--Except as stated in
16 subsection (b), no annuity contract shall be delivered or issued
17 for delivery in this Commonwealth unless it contains in
18 substance the following provisions, or corresponding provisions
19 which in the opinion of the department are at least as favorable
20 to the contract holder, upon cessation of payment of
21 consideration under the contract:

22 (1) That upon cessation of payment of consideration
23 under a contract, the company will grant a paid-up annuity
24 benefit on a plan stipulated in the contract of the value
25 determined under subsections (e), (f), (g), (h), (i) and (k).

26 (2) If a contract provides for a lump-sum settlement at
27 maturity or at any other time, that upon surrender of the
28 contract at or prior to the commencement of any annuity
29 payments, the company will pay, in lieu of any paid-up
30 annuity benefit, a cash surrender benefit of the amount

1 determined under subsections (e), (f), (i) and (k). The
2 company shall reserve the right to defer the payment of the
3 cash surrender benefit for a period of six months after
4 demand therefor with surrender of the contract.

5 (3) A statement of the mortality table, if any, and
6 interest rates used in calculating any minimum paid-up
7 annuity, cash surrender or death benefits guaranteed under
8 the contract, together with sufficient information to
9 determine the amounts of those benefits.

10 (4) A statement that any paid-up annuity, cash surrender
11 or death benefits available under the contract are not less
12 than the minimum benefits required by any statute of the
13 state in which the contract is delivered and an explanation
14 of the manner in which the benefits are altered by the
15 existence of any additional amounts credited by the company
16 to the contract, any indebtedness to the company on the
17 contract or any prior withdrawals from or partial surrenders
18 of the contract. Notwithstanding this subsection, any
19 deferred annuity contract may provide that if no
20 consideration has been received under a contract for a period
21 of two full years and the portion of the paid-up annuity
22 benefit at maturity on the plan stipulated in the contract
23 arising from consideration paid prior to the period would be
24 less than \$20 per month, the company may at its option
25 terminate the contract by payment in cash of the then present
26 value of that portion of the paid-up annuity benefit,
27 calculated on the basis of the mortality table, if any, and
28 interest rate specified in the contract for determining the
29 paid-up annuity benefit; by this payment the company shall be
30 relieved of any further obligation under the contract.

1 (d) Minimum nonforfeiture amount.--The minimum values as
2 specified in subsections (e), (f), (g), (h), (i) and (k) of any
3 paid-up annuity, cash surrender or death benefits available
4 under an annuity contract shall be based upon minimum
5 nonforfeiture amounts determined under this subsection.

6 (1) With respect to contracts providing for flexible
7 consideration, the minimum nonforfeiture amount at any time
8 at or prior to the commencement of any annuity payments shall
9 be equal to an accumulation up to that time at a rate of
10 interest of 3% a year of percentages of the net consideration
11 (as set forth in paragraph (2)), paid prior to that time,
12 plus any existing additional amounts credited to the
13 contract, decreased by the sum of:

14 (i) any prior withdrawals from or partial surrenders
15 of the contract accumulated at a rate of interest of 3% a
16 year; and

17 (ii) any indebtedness to the company on the
18 contract, including interest due and accrued.

19 (2) The net consideration for a given contract year used
20 to define the minimum nonforfeiture amount shall be an amount
21 not less than zero and shall be equal to the corresponding
22 gross consideration credited to the contract during that
23 contract year less an annual contract charge of \$30 and less
24 a collection charge of \$1.25 a payment credited to the
25 contract during that contract year. The percentages of net
26 considerations shall be 65% of the net consideration for the
27 first contract year and 87.5% of the net consideration for
28 the second and later contract years; however, the percentage
29 shall be 65% of the portion of the total net consideration
30 for any renewal contract year which exceeds by not more than

1 two times the sum of those portions of the net consideration
2 in all prior contract years for which the percentage was 65%.

3 (3) With respect to contracts providing for fixed
4 scheduled payments of consideration, minimum nonforfeiture
5 amounts shall be calculated on the assumption that the
6 payments are made annually in advance and shall be defined as
7 for contracts with flexible consideration which is paid
8 annually with the following exceptions:

9 (i) The portion of the net consideration for the
10 first contract year to be accumulated shall be the sum of
11 65% of the net consideration for the first contract year
12 plus 22.5% of the excess of the net consideration for the
13 first contract year over the lesser of the net
14 consideration for the second or third contract years.

15 (ii) The annual contract charge shall be \$30 or 10%
16 of the gross annual consideration, whichever is less.

17 (4) With respect to contracts providing for a single
18 payment of consideration, minimum amount shall be defined as
19 for contracts with flexible consideration except that the
20 percentage of net consideration used to determine the minimum
21 nonforfeiture amount shall be equal to 90% and the net
22 consideration shall be the gross consideration less a
23 contract charge of \$75.

24 (e) Paid-up annuity benefits.--Any paid-up annuity benefit
25 available under a contract shall be such that its present value
26 on the date the annuity payments are to commence is at least
27 equal to the minimum nonforfeiture amount on that date. The
28 present value shall be computed using the mortality table, if
29 any, and the interest rate specified in the contract for
30 determining the minimum paid-up benefits guaranteed in the

1 contract.

2 (f) Cash surrender benefits.--For contracts which provide
3 cash surrender benefits, cash surrender benefits available prior
4 to maturity shall not be less than the present value as of the
5 date of surrender of that portion of the maturity value of the
6 paid-up annuity benefit which would be provided under the
7 contract at maturity arising from consideration paid prior to
8 the time of cash surrender reduced by the amount appropriate to
9 reflect any prior withdrawals from or partial surrenders of the
10 contract. The present value shall be calculated on the basis of
11 an interest rate not more than 1% higher than the interest rate
12 specified in the contract for accumulating the net consideration
13 to determine maturity value, decreased by the amount of any
14 indebtedness to the company on the contract, including interest
15 due and accrued, and increased by any existing additional
16 amounts credited by the company to the contract. The cash
17 surrender benefit shall not be less than the minimum
18 nonforfeiture amount at that time. The death benefit under such
19 contracts shall be at least equal to the cash surrender benefit.

20 (g) Contracts without cash surrender benefits.--For
21 contracts which do not provide cash surrender benefits, the
22 present value of any paid-up annuity benefit available as a
23 nonforfeiture option at any time prior to maturity shall not be
24 less than the present value of that portion of the maturity
25 value of the paid-up annuity benefit provided under the contract
26 arising from consideration paid prior to the time the contract
27 is surrendered in exchange for, or changed to, a deferred paid-
28 up annuity. Subject to subsection (e), the present value shall
29 be calculated for the period prior to that maturity date on the
30 basis of the interest rate specified in the contract for

1 accumulating the net consideration to determine the maturity
2 value, and increased by any existing additional amount credited
3 by the company to the contract.

4 (h) Contracts limiting death benefits.--For contracts which
5 do not provide any death benefits prior to the commencement of
6 any annuity payments, the present values shall be calculated
7 subject to subsection (e), on the basis of the interest rate and
8 the mortality table specified in the contract for determining
9 the maturity value of the paid-up annuity benefit.

10 (i) Maturity date.--For the purpose of determining the
11 benefits calculated under subsections (f), (g) and (h), in the
12 case of annuity contracts under which an election may be made to
13 have annuity payments commence at optional maturity dates, the
14 maturity date shall be deemed to be the latest date for which
15 election shall be permitted by the contract, but shall not be
16 deemed to be later than the anniversary of the contract next
17 following the 70th birthday of the annuitant or the 10th
18 anniversary of the contract, whichever is later.

19 (j) Disclosure of omitted benefits.--Any contract which does
20 not provide cash surrender benefits or does not provide death
21 benefits at least equal to the minimum nonforfeiture amount
22 prior to the commencement of any annuity payments shall include
23 a statement in a prominent place in the contract that such
24 benefits are not provided.

25 (k) Calculation factors.--Any paid-up annuity, cash
26 surrender or death benefit available at any time, other than on
27 the contract anniversary under any contract with fixed scheduled
28 payments of consideration, shall be calculated with allowance
29 for the lapse of time and the payment of any scheduled
30 consideration beyond the beginning of the contract year in which

1 cessation of payment of consideration under the contract occurs.

2 (l) Contract including life insurance benefits.--For any
3 contract which provides, within the same contract by rider or
4 supplemental contract provision, both annuity benefits and life
5 insurance benefits that are in excess of the greater of cash
6 surrender benefits or a return of the gross considerations with
7 interest, the minimum nonforfeiture benefits shall be equal to
8 the sum of the minimum nonforfeiture benefits for the annuity
9 portion and the minimum nonforfeiture benefits for the life
10 insurance portion computed as if each portion were a separate
11 contract.

12 (m) Additional benefits.--Notwithstanding subsections (e),
13 (f), (g), (h), (i) and (k), additional benefits payable in the
14 event of total and permanent disability, as reversionary annuity
15 or deferred reversionary annuity benefits or as other policy
16 benefits additional to life insurance, endowment and annuity
17 benefits, and consideration for all such additional benefits,
18 shall be disregarded in ascertaining the minimum nonforfeiture
19 amounts, paid-up annuity, cash surrender and death benefits that
20 may be required by this section. The inclusion of these
21 additional benefits shall not be required in any paid-up
22 benefits, unless such additional benefits separately would
23 require minimum nonforfeiture amounts, paid-up annuity, cash
24 surrender and death benefits.

25 § 5325. Notice of right to examine policies.

26 (a) Life and endowment policies.--A policy of individual
27 life insurance or endowment insurance shall not be delivered in
28 this Commonwealth unless it has prominently printed on the first
29 page or attached a notice stating in substance that the
30 policyholder shall be permitted to return the policy within at

1 least ten days of its delivery and to have the premium paid
2 refunded, if after examination of the policy, the policyholder
3 is not satisfied with it for any reason.

4 (b) Annuity or pure endowment contracts.--An individual
5 fixed dollar annuity or pure endowment contract shall not be
6 delivered in this Commonwealth unless it has prominently printed
7 on the first page or attached a notice stating in substance that
8 the policyholder shall be permitted to return the policy within
9 at least ten days of its delivery and to have the stipulated
10 payment or premium paid refunded if, after examination of the
11 contract, the contractholder is not satisfied with it for any
12 reason.

13 (c) Individual variable annuities.--An individual variable
14 annuity contract shall not be entered into in this Commonwealth
15 unless it has prominently printed on the first page or attached
16 a notice stating in substance that the contractholder shall be
17 permitted to return the contract within at least ten days of its
18 delivery if, after examination of the contract, the
19 contractholder is not satisfied with it for any reason and that,
20 if the contract is returned, the insurer will pay to the
21 contractholder an amount equal to the sum of:

22 (1) the difference between the premiums paid including
23 any contract fees or other charges and the amounts, if any,
24 allocated to any separate accounts under the contract; and

25 (2) the cash value of the contract or, if the contract
26 does not have a cash value, the reserve for the contract, on
27 the date of surrender attributable to the amounts so
28 allocated.

29 (d) Returned policies or contracts.--If a policyholder or
30 contractholder returns the contract, pursuant to the notice

1 required under this section, to the insurer at its home or
2 branch office or to the agent through whom it was purchased, it
3 shall be void from the beginning, and the parties shall be in
4 the same position as if no policy or contract had been entered
5 into.

6 § 5326. Policy loan interest rates.

7 (a) Statement of purpose.--The purpose of this section is to
8 permit and set guidelines for companies to include in life
9 insurance policies and annuity contracts containing a loan
10 provision, a provision for periodic adjustment of policy loan
11 interest rates.

12 (b) Definitions.--For the purposes of this section:

13 (1) The rate of interest on policy loans includes the
14 interest rate charged on reinstatement of policy loans for
15 the period during and after any lapse of a policy.

16 (2) The term "policy loan" includes any premium loan
17 made under a policy to pay one or more premiums that were not
18 paid to the company as they fell due.

19 (3) The term "policyholder" includes the owner of the
20 policy or the person designated to pay premiums as shown on
21 the records of the company.

22 (4) The term "policy" includes certificates issued by a
23 fraternal benefit society and annuity contracts which provide
24 for policy loans.

25 (5) The term "published monthly average" means Moody's
26 Corporate Bond Yield Average - Monthly Average Corporates as
27 published by Moody's Investors Service, Inc. or any successor
28 thereto, or if Moody's Corporate Bond Yield Average - Monthly
29 Average Corporates is no longer published, a substantially
30 similar average established by regulation promulgated by the

1 department.

2 (c) Provisions and disclosures.--

3 (1) Policies providing for policy loan interest rates
4 shall have:

5 (i) a provision permitting a maximum interest rate
6 of not more than 8% a year; or

7 (ii) a provision permitting an adjustable maximum
8 interest rate established from time to time by the
9 company as permitted by law.

10 (2) The rate of interest charged on a policy loan made
11 under paragraph (1)(ii) shall not exceed the higher of the
12 following:

13 (i) the published monthly average for the calendar
14 month ending two months before the date on which the rate
15 is determined; or

16 (ii) the rate used to compute the cash surrender
17 values under the policy during the applicable period plus
18 1% a year.

19 (3) If the maximum rate of interest is determined under
20 paragraph (1)(ii), the policy shall contain a provision
21 setting forth the frequency at which the rate is to be
22 determined for that policy.

23 (4) The maximum rate for each policy shall be determined
24 at regular intervals at least once every 12 months, but not
25 more frequently than once in any three-month period. At the
26 intervals specified in the policy:

27 (i) The rate being charged may be increased whenever
28 such increase as determined under paragraph (2) would
29 increase that rate by 0.5% a year or more.

30 (ii) The rate being charged shall be reduced

1 whenever such reduction as determined under paragraph (2)
2 would decrease that rate by 0.5% a year or more.

3 (5) The company shall:

4 (i) Notify the policyholder at the time a cash loan
5 is made of the initial rate of interest on the loan.

6 (ii) Notify the policyholder with respect to premium
7 loans of the initial rate of interest on the loan as soon
8 as it is reasonably practical to do so after making the
9 initial loan. Notice need not be given to the
10 policyholder when a further premium loan is added, except
11 as provided in subparagraph (iii).

12 (iii) Send to policyholders with loans reasonable
13 advance notice of any increase in the rate.

14 (iv) Include in the notices required above the
15 substance of the pertinent provisions of paragraphs (1)
16 and (3).

17 (6) The loan value of the policy shall be determined as
18 provided in section 5321(8) (relating to uniform policy
19 provisions).

20 (7) A policy shall not terminate in a policy year as the
21 sole result of change in the interest rate during that policy
22 year, and the company shall maintain coverage during that
23 policy year until the time at which it would otherwise have
24 terminated if there had been no change during that policy
25 year.

26 (8) The substance of the pertinent provisions of
27 paragraphs (1) and (3) shall be set forth in the policies to
28 which they apply.

29 (9) No other statute applies to policy loan interest
30 rates unless made specifically applicable to such rates.

1 (d) Applicability.--This section does not apply to any
2 insurance contract issued before April 8, 1982, unless the
3 policyholder agrees in writing to its applicability.

4 § 5327. Prohibited policy provisions.

5 A policy of life insurance shall not be delivered in this
6 Commonwealth, except policies of industrial insurance where the
7 premiums are payable monthly or more often, if it contains any
8 of the following provisions:

9 (1) Any provision for forfeiture of the policy for
10 failure to repay any loan on the policy or to pay interest on
11 the loan, while the total indebtedness on the policy is less
12 than the cash value thereof. In ascertaining the indebtedness
13 due upon the policy loan, the interest, if not paid when due,
14 shall be added to the principal of the loan, and shall bear
15 interest at the rate specified in the note or loan agreement.

16 (2) Any provision limiting the time within which any
17 action at law or equity may be commenced to less than two
18 years after the cause of action accrues.

19 (3) Any provision by which the policy purports to be
20 issued or to take effect more than six months before the
21 original application for the insurance was made.

22 (4) Any provision for a mode of settlement at maturity
23 of less value than the amount insured on the face of the
24 policy, plus any dividend additions, less the indebtedness to
25 the company on the policy, and less any premiums that may be
26 deducted by the terms of the policy.

27 § 5328. Medical examinations.

28 In any case where the medical examiner or physician acting as
29 such, or the agent of the insurer recording the answers of the
30 applicant where a medical examination is waived, of any

1 insurance company doing business in this Commonwealth issues a
2 certificate of health, declares the applicant a fit subject for
3 insurance or so reports to the company under its rules and
4 regulations, the company shall thereby be estopped from setting
5 up in defense of an action on the policy or certificate issued
6 to the insured, that the insured was not in the condition of
7 health required by the policy or certificate or by the company
8 issuing the same at the time of the medical examination, or the
9 recording of the answers of the applicant where a medical
10 examination is waived, unless the policy or certificate is
11 procured by means of fraud, deceit or misrepresentation of or on
12 behalf of the insured.

13 § 5329. Insurance on the life of another person.

14 (a) General rule.--Except as provided in this section, a
15 policy of life insurance shall not be delivered in this
16 Commonwealth except upon the application of the person insured.
17 A person liable for the support of a child may take out a policy
18 of insurance on the child. Individuals, partnerships,
19 associations and corporations may insure the lives and health of
20 officers, directors, principals, partners and employees without
21 signing a personal application.

22 (b) Insurable interest.--Any individual may insure his own
23 life for the benefit of any person, but no person shall cause to
24 be insured the life of another, unless the beneficiary named in
25 the life insurance policy or contract, whether himself or a
26 third person, has an insurable interest in the life of the
27 insured. If a policy of life insurance has been issued in
28 conformity with this section, a transfer of the policy or any
29 interest thereunder shall not be invalid by reason of a lack of
30 insurable interest of the transferee in the life of the insured

1 or the payment of premiums thereafter by the transferee. As used
2 in this section the term "insurable interest" means:

3 (1) In the case of persons related by blood or law, an
4 interest engendered by love and affection.

5 (2) In the case of other persons, a lawful economic
6 interest in having the life of the insured continue, as
7 distinguished from an interest which would arise only by the
8 death of the insured.

9 § 5330. Statements by prospective insured.

10 All statements made by the applicant for an annuity or pure
11 endowment contract, or statements made by the insured or on his
12 behalf in the negotiation for a policy or certificate of life,
13 endowment, accident or health insurance, or any reinstatement
14 thereof issued by any insurance entity, fraternal benefit
15 society, beneficial society doing business in this Commonwealth,
16 shall be deemed, in the absence of fraud, to be representations
17 and not warranties.

18 § 5331. Insurance proceeds.

19 (a) Retention by insurer.--Whenever, under the terms of any
20 annuity or policy of life insurance issued by any domestic or
21 foreign stock or mutual life insurance company doing business in
22 this Commonwealth, the proceeds are retained by the company at
23 maturity or otherwise, the company shall not be required to
24 segregate these funds, but may hold the funds as part of its
25 general corporate funds.

26 (b) Limitations on use by insureds.--A person entitled to
27 any part of the proceeds, or any installment of interest due or
28 to become due thereon, shall not be permitted to commute,
29 anticipate, encumber, alienate or assign them in whole or in
30 part, if permission is expressly withheld by the terms of the

1 policy.

2 § 5332. (Reserved).

3 § 5333. (Reserved).

4 § 5334. Exchange, alteration and conversion of policies.

5 (a) General rule.--Any life insurance company may, at the
6 request of a policyholder, exchange, alter or convert any policy
7 of life or endowment insurance, annuity policy contract, or any
8 other policy benefits issued by it, for or into any policy which
9 conforms with the law in force on the date of the original
10 policy, if the rewritten policy is by its terms made effective
11 as of that date, or which conforms with the law in force on a
12 subsequent date, if the rewritten policy is by its terms made
13 effective on the subsequent date.

14 (b) Retroactive change.--If the rewritten policy is made
15 effective as of a date earlier than the date on which the
16 exchange, alteration or conversion occurs:

17 (1) the rewritten policy, if evidence of insurability is
18 required in conjunction with an exchange, alteration or
19 conversion to a policy on a plan requiring a lower premium
20 rate or to a policy to which benefits or features are added
21 differing from those in the original policy, may provide that
22 the date on which the transaction pursuant to this section
23 occurs shall be used in determining the applicability of an
24 incontestability clause in the rewritten policy to the right
25 of the company to contest the transaction, or in determining
26 the applicability of a clause in the rewritten policy
27 limiting liability in the event of suicide of the insured;
28 and

29 (2) the amount of insurance under the rewritten policy
30 shall not exceed the amount of insurance under the original

1 policy, or the amount of insurance which the premium paid for
2 the original policy would have purchased if the rewritten
3 policy had been originally applied for, whichever amount is
4 the greater.

5 (c) Applicability of other sections.--Sections 3582
6 (relating to rebates and inducements) and 5327(3) (relating to
7 prohibited policy provisions) do not prohibit transactions
8 pursuant to this section.

9 § 5335. Penalty for misrepresentation.

10 (a) Criminal penalty.--Any agent of a stock or mutual life
11 insurance company, physician or other person who knowingly
12 makes, directly or indirectly, any misrepresentation or false
13 statement for the purpose of securing, from any stock or mutual
14 life insurance company, a policy of insurance upon his own life
15 or the life of any other person, commits a misdemeanor of the
16 third degree.

17 (b) Civil penalties.--Upon satisfactory evidence of
18 violation of subsection (a) by any agent of any insurance entity
19 or any insurance broker, the department may do any or all of the
20 following:

21 (1) Suspend or revoke the license of the offending agent
22 or broker.

23 (2) Refuse, for a period of not to exceed one year, to
24 issue a new license to the offending agent or broker.

25 (3) Impose a penalty of not more than \$1,000 for each
26 violation.

27 SUBCHAPTER C

28 CONVERSION OF STOCK COMPANIES INTO MUTUAL COMPANIES

29 Sec.

30 5341. Power to effect conversion.

1 5342. Approval of plan of conversion.

2 5343. Filing of plan.

3 5344. Rights of dissenters.

4 5345. Completion of conversion.

5 § 5341. Power to effect conversion.

6 Any domestic corporation with capital stock transacting the
7 business of life insurance on the mutual plan of any domestic
8 life insurance corporation having capital stock may acquire its
9 own shares of the capital stock for the benefit of its
10 policyholders and convert the corporation into a mutual life
11 insurance corporation as provided in this subchapter.

12 § 5342. Approval of plan of conversion.

13 (a) General rule.--The corporation may carry out a plan for
14 the acquisition of the shares of its capital stock for the
15 purposes of conversion into a mutual life insurance corporation.
16 The plan shall become effective if it is adopted under the
17 procedure set forth in this section.

18 (b) Approval by directors.--The plan shall be adopted by a
19 majority of the entire number of the directors of the
20 corporation.

21 (c) Approval by department.--The plan shall be submitted for
22 approval to the department.

23 (d) Approval by shareholders.--The plan shall be approved by
24 vote of the stockholders of the corporation, representing a
25 majority in amount of the entire capital stock of the
26 corporation, at a special meeting of stockholders called for the
27 purpose. Notice of the time, place and object of the meeting
28 shall be given to the stockholders by publication, once a week
29 for three successive weeks before the meeting, in at least two
30 daily or weekly newspapers and in the legal periodical

1 designated by the rules of the court for the publication of
2 legal notices, published in the municipality where the
3 corporation has its principal office. At the meeting a vote of
4 the stockholders shall be taken on the plan. The vote shall be
5 conducted by three judges, who shall be stockholders of the
6 corporation, appointed by the board of directors to hold the
7 vote. If any judge is absent, the judges present shall appoint a
8 replacement. The judges shall swear that they will conduct the
9 vote according to law and to the best of their ability. The
10 corporation shall furnish the judges at the meeting with a
11 statement of the amount of its capital stock with the names of
12 the persons holding the stock and the number of shares held by
13 each, which shall be signed and sworn to by one of the chief
14 officers of the corporation. The stockholders may vote in person
15 or by proxy, and all votes shall be cast by ballot. Each share
16 of stock shall entitle its holder to one vote. The judges shall
17 decide upon the qualifications of voters, count the number of
18 shares voted for and against the plan and declare whether the
19 persons holding a majority in amount of capital stock of the
20 corporation have approved or disapproved the plan. The judges
21 shall prepare triplicate returns of the vote, stating the number
22 of shares of stock that voted for and against the plan, and
23 subscribe and deliver the returns to one of the chief officers
24 of the corporation. Each ballot shall have endorsed on it the
25 number of shares represented thereby, but no share or shares
26 transferred within 21 days shall entitle its holder to vote at
27 the meeting.

28 (e) Approval by policyholders.--The plan shall be approved
29 by a majority vote of the policyholders of the corporation whose
30 insurance is in force, voting at a meeting called for the

1 purpose. Notice of the time, place and object of the meeting
2 shall be given to the policyholders by publication, once a week
3 for three successive weeks before the meeting, in at least two
4 daily or weekly newspapers and in the legal periodical
5 designated by the rules of the court for the publication of
6 legal notices, published in the municipality where the
7 corporation has its principal office, and in at least one daily
8 or weekly newspaper published in the capital city of each state
9 in which the corporation does business. At this meeting, a vote
10 of the policyholders shall be taken on the plan. The vote shall
11 be conducted by three judges, who shall be the policyholders of
12 the corporation, appointed by the department to hold the
13 election. If any judge is absent, the judges present shall
14 appoint a replacement. The judges shall swear that they will
15 conduct the vote according to law and to the best of their
16 ability. The corporation shall supply the judges with such
17 books, records and papers of the corporation as they may request
18 in order to assist them in the proper conduct of the meeting.
19 All votes cast shall be cast by ballot. Each policyholder may
20 cast one vote in person or by proxy, but no proxy shall be
21 received or entitle the holder to vote unless it bears the date
22 or has been executed within two months next preceding the vote.
23 The judges shall decide upon the qualifications of voters, count
24 the number of votes cast for and against the plan, and declare
25 whether a majority of policyholders voting at the meeting have
26 approved or disapproved the plan. The judges shall prepare
27 triplicate returns of the vote, stating the number of
28 policyholders who voted for and against the plan, and subscribe
29 and deliver the returns to one of the chief officers of the
30 corporation.

1 § 5343. Filing of plan.

2 The corporation shall, within 30 days after the plan is
3 adopted and approved under section 5342 (relating to approval of
4 plan of conversion), file with the Secretary of the Commonwealth
5 and with the department:

6 (1) A copy of the plan.

7 (2) A copy of the resolution of the directors adopting
8 the plan.

9 (3) One of the copies of the return of the meeting of
10 the stockholders.

11 (4) One of the copies of the return of the meeting of
12 the policyholders.

13 This filing shall constitute notice to all interested parties of
14 the adoption and approval of the plan.

15 § 5344. Rights of dissenters.

16 (a) Petition for appraisal.--Any stockholder of the
17 corporation who does not consent to the plan may, within 30 days
18 from the filing of the papers under section 5343 (relating to
19 filing of plan), petition the court in the county where the
20 principal office of the corporation is located to appoint an
21 assessor to appraise the shares of stock of the stockholder in
22 the corporation. If the stockholder fails to petition for the
23 appointment of an assessor within the 30-day period, the
24 corporation may do so. Upon the filing of the petition, the
25 court shall direct such notice to be given as the court deems
26 proper to the corporation or the stockholder as respondent. Upon
27 proof of proper notice, and upon hearing all parties in interest
28 appearing in response to the petition, the court shall appoint
29 the assessor.

30 (b) Method of appraisal.--The assessor shall appraise the

1 shares of the stockholder without regard to any appreciation or
2 depreciation in consequence of the plan.

3 (c) Effect of confirmed appraisal.--The appraisal, when
4 confirmed by the court, shall be final and conclusive. The
5 corporation shall at its election either:

6 (1) pay to the stockholder the value of the shares so
7 ascertained, at which time the stockholder shall transfer the
8 shares to the corporation; or

9 (2) deposit the value so ascertained of the shares of
10 the stockholder with the court, at which time the stockholder
11 shall cease to have any interest in the corporation and the
12 shares shall become the property of the corporation.

13 (d) Default.--If the value of the shares is not paid or
14 deposited within 30 days after the appraisal is made and
15 confirmed by the court, the appraisal shall be filed as a
16 judgment against the corporation and may be collected as a
17 judgment.

18 (e) Costs.--The cost of the court proceedings, including a
19 reasonable allowance to the assessor, shall be paid by the
20 corporation pursuant to order of court.

21 § 5345. Completion of conversion.

22 When the corporation has acquired all its shares of the
23 capital stock, the stock shall be canceled by the corporation,
24 and the cancellation shall be certified in duplicate by the
25 secretary of the corporation under the corporate seal. One of
26 the certificates shall be filed with the Department of State,
27 and the other shall be filed with the department. When these
28 certificates are filed, all rights of the stockholders of the
29 corporation to vote at any meeting of the corporation or to
30 retain any interest in the corporation or in its property or

1 assets shall cease. The corporation shall then become a mutual
2 life insurance corporation under the new corporate name adopted
3 under the plan. The Department of State shall issue the
4 corporation a signed and sealed certificate, granting the
5 corporation the use of the new corporate name. The corporation
6 shall be subject to any provisions of this title applicable to
7 the incorporation and operation of mutual life insurance
8 companies.

9 SUBCHAPTER D

10 MUTUAL LIFE INSURANCE COMPANIES

11 Sec.

12 5351. Foreign and alien companies.

13 5352. Guarantee capital subscriptions.

14 5353. Surplus or safety fund.

15 § 5351. Foreign and alien companies.

16 Foreign mutual life insurance companies may be admitted to do
17 business in this Commonwealth if they have the requisite funds
18 of a mutual life insurance company and, in the opinion of the
19 department, are in sound financial condition and have policies
20 in force upon not less than 500 lives for an aggregate amount of
21 not less than \$1,000,000. Any foreign or alien stock or mutual
22 life insurance company licensed to transact business in this
23 Commonwealth on May 17, 1921, having less capital or assets than
24 that required under this title for domestic life insurance
25 companies, may be relicensed so long as, in the opinion of the
26 department, it is in a sound financial condition and otherwise
27 complies with all requirements of law.

28 § 5352. Guarantee capital subscriptions.

29 (a) Assessments.--Every person subscribing to the guarantee
30 capital of any mutual life insurance company organized under

1 this title shall give to the company his note or obligation, in
2 such form as the bylaws of the company may prescribe, for the
3 unpaid portion of the guarantee capital so subscribed. This note
4 or obligation shall be liable to assessment as necessary by the
5 directors or trustees of the company for the successful conduct
6 of its business. These assessments may be made to meet the
7 losses, expenses, insurance reserve and other obligations of the
8 company until the whole amount of the note or obligation is
9 paid. All assessments shall be made pro rata upon the entire
10 amount of unpaid subscriptions, and, if the assessments are not
11 paid, they shall be collected by legal proceedings.

12 (b) Interest.--The subscribers to the guarantee capital of
13 any mutual life insurance company shall receive interest from
14 the company, payable semiannually at the rate, not exceeding 6%,
15 agreed upon at the time of subscribing, if the net surplus over
16 a requisite reservation for liabilities and contingencies is
17 sufficient to pay the interest. If the interest paid is less
18 than the sum originally agreed on, the interest paid shall be
19 made equal to the sum agreed on when the profits of the company
20 are sufficient.

21 (c) Retirement.--Whenever the lawful invested assets of any
22 mutual life insurance company exceed the reserve and other
23 liabilities to an amount equal to the amount of the guarantee
24 capital subscribed, the directors or trustees may retire or
25 return all or any portion of the guarantee capital to the
26 subscribers. The amount returned shall not exceed that actually
27 paid in, with the interest due and unpaid.

28 § 5353. Surplus or safety fund.

29 Any domestic mutual life insurance company transacting
30 business in this Commonwealth may establish or maintain a

1 surplus or safety fund to an amount not in excess of 10% of its
2 reserve, or \$100,000, whichever is greater, and the excess of
3 the market value of its securities over their book value. For
4 cause shown, the department may permit any corporation to
5 accumulate and maintain a surplus or safety fund in excess of
6 this limit for a prescribed period by making a ruling stating
7 its reasons and publishing the ruling in its next annual report.
8 The ruling shall be effective for one year only, but may be
9 renewed for additional periods of one year by the department.

10 SUBCHAPTER E

11 GROUP INSURANCE

12 Sec.

13 5361. Authorized types of group insurance.

14 5362. Coverage of spouse and children.

15 5363. Policies issued to employers or trustees.

16 5364. Policies issued to trustees of joint funds.

17 5365. Policies issued to creditors.

18 5366. Policies issued to employee organizations.

19 5367. Standard policy provisions.

20 5368. Notice of conversion privileges.

21 5369. Assignment of incidents of ownership.

22 5370. Existing policies.

23 5371. Basis of premiums.

24 5372. Voting power of employers.

25 5373. Insurance for public employees.

26 5374. Payment of public employee group premiums.

27 § 5361. Authorized types of group insurance.

28 (a) General rule.--A policy of group life insurance shall
29 not be delivered in this Commonwealth unless it conforms to one
30 of the following descriptions and to the requirements as to each

1 set forth in sections 5363 (relating to policies issued to
2 employers or trustees) through 5366 (relating to policies issued
3 to employee organizations):

4 (1) A policy issued to an employer or to the trustees of
5 a fund established by an employer, which employer or trustees
6 shall be deemed the policyholder, to insure the employees of
7 the employer for the benefit of persons other than the
8 employer.

9 (2) A policy issued to the trustees of a fund
10 established by two or more employers in the same industry or
11 by one or more labor unions, or by one or more employers and
12 one or more labor unions, which trustees shall be deemed the
13 policyholder, to insure employees of the employers or members
14 of the unions for the benefit of persons other than the
15 employers or the unions.

16 (3) A policy issued to a creditor, who shall be deemed
17 the policyholder, to insure debtors of the creditor.

18 (4) A policy issued to a labor union, credit union,
19 police fraternity, firemen's fraternity or teachers'
20 association or federation, which shall be deemed the
21 policyholder, to insure members thereof for the benefit of
22 persons other than the union, fraternity, association or
23 federation or any of their officials, representatives or
24 agents.

25 (5) Life insurance covering the members of any units of
26 the National Guard or Naval Militia of any state, written
27 under a policy issued to the commanding general of the
28 National Guard or commanding officer of the Naval Militia,
29 who shall be deemed to be the employer for the purposes of
30 this subchapter, the premium on which is to be paid by the

1 members of the units for the benefit of persons other than
2 the employer. When the benefits of the policy are offered to
3 all eligible members of the unit, not less than 75% of the
4 members of the unit shall be so insured.

5 (b) Exclusions.--This subchapter shall not be construed to
6 define as a group the lives covered by:

7 (1) A policy insuring only individuals related by
8 marriage, blood or legal adoption.

9 (2) A joint life policy insuring only individuals having
10 an insurable interest in the lives of each other.

11 § 5362. Coverage of spouse and children.

12 A policy issued pursuant to section 5361(a)(1), (2), (4) or
13 (5) (relating to authorized types of group insurance) may
14 include provisions for the payment by the insurer of life
15 insurance benefits upon the death of the spouse of the insured
16 employee or member, and upon the death of one or more of the
17 children of the insured dependent upon the insured for support
18 and maintenance. The insurance upon the life of the spouse shall
19 not exceed \$10,000 or one-half of the amount of insurance on the
20 life of the insured employee or member under the policy,
21 whichever is less. The insurance upon the life of each dependent
22 child shall not exceed \$5,000 or one-third of the amount of
23 insurance on the life of the insured employee or member under
24 the policy, whichever is less.

25 § 5363. Policies issued to employers or trustees.

26 A policy issued pursuant to section 5361(a)(1) (relating to
27 authorized types of group insurance) is subject to the following
28 requirements:

29 (1) The employees eligible for insurance under the
30 policy shall be all of the employees of the employer, or all

1 of any class or classes thereof determined by conditions
2 pertaining to their employment. The policy may provide that
3 the term "employees" shall include any or all of the
4 following:

5 (i) The employees of one or more subsidiary
6 corporations, and the employees, individual proprietors
7 and partners of any affiliated corporations, proprietors
8 or partnerships if the business of the employer and of
9 the affiliated corporations, proprietors or partnerships
10 is under common control through stock ownership or
11 contract.

12 (ii) The individual proprietor or partners, if the
13 employer is an individual proprietor or a partnership.

14 (iii) Retired employees.

15 (iv) In the case of a policy issued to insure
16 employees of a public body, elected or appointed
17 officials.

18 (2) The premium for the policy shall be paid by the
19 policyholder, either wholly from funds contributed by the
20 employer or partly from such funds and partly from funds
21 contributed by the insured employees. A policy may not be
22 issued on which the entire premium is to be derived from
23 funds contributed by the insured employees. A policy on which
24 part of the premium is to be derived from funds contributed
25 by the insured employees may be placed in force only if at
26 least 75% of the then eligible employees, excluding any as to
27 whom evidence of individual insurability is not satisfactory
28 to the insurer, elect to make the required contributions. A
29 policy on which none of the premium is to be derived from
30 funds contributed by the insured employees shall insure all

1 eligible employees, or all except any as to whom evidence of
2 individual insurability is not satisfactory to the insurer.

3 (3) The policy shall cover at least ten employees at the
4 date of issue.

5 (4) The amounts of insurance under the policy shall be
6 based upon a plan precluding individual selection either by
7 the employees or by the employer or trustees.

8 § 5364. Policies issued to trustees of joint funds.

9 A policy issued pursuant to section 5361(a)(2) (relating to
10 authorized types of group insurance) is subject to the following
11 requirements:

12 (1) The persons eligible for insurance shall be all of
13 the employees of the employers or all of the members of the
14 unions, or all of any class or classes thereof determined by
15 conditions pertaining to their employment to membership in
16 the unions, or to both. The policy may provide that the term
17 "employees" shall include any or all of the following:

18 (i) Retired employees.

19 (ii) The individual proprietor or partners if an
20 employer is an individual proprietor or a partnership.

21 (iii) The trustees or their employees, or both, if
22 their duties are principally connected with the
23 trusteeship.

24 (2) The premium for the policy shall be paid by the
25 trustees wholly from funds contributed by the employer or
26 employers of the insured persons, by the union or unions, or
27 by both, or partly from such funds and partly from funds
28 contributed by the insured persons. A policy on which part of
29 the premium is to be derived from funds contributed by the
30 insured persons specifically for their insurance may be

1 placed in force only if at least 75% of the then eligible
2 persons, excluding any as to whom evidence of insurability is
3 not satisfactory to the insurer, elect to make the required
4 contributions. A policy on which none of the premium is to be
5 derived from funds contributed by the insured persons
6 specifically for their insurance shall insure all eligible
7 persons, or all except any as to whom evidence of individual
8 insurability is not satisfactory to the insurer.

9 (3) The policy shall cover at date of issue at least 100
10 persons and not less than an average of five persons per
11 employer unit. If the fund is established by the members of
12 an association of employers:

13 (i) either the participating employers shall
14 constitute at date of issue at least 60% of those
15 employer members whose employees are not already covered
16 for group life insurance, or the total number of persons
17 covered at date of issue shall exceed 600; and

18 (ii) the policy shall not require that, if a
19 participating employer discontinues membership in the
20 association, the insurance of his employees shall cease
21 solely by reason of the discontinuance.

22 (4) The amounts of insurance under the policy shall be
23 based upon a plan precluding individual selection either by
24 the insured persons or by the policyholder, employers or
25 unions.

26 § 5365. Policies issued to creditors.

27 A policy issued pursuant to section 5361(a)(3) (relating to
28 authorized types of group insurance) is subject to the following
29 requirements:

30 (1) The debtors eligible for insurance under the policy

1 shall be all of the debtors of the creditor whose
2 indebtedness is repayable in installments, or all of any
3 class or classes thereof determined by conditions pertaining
4 to the indebtedness or to the purchase giving rise to the
5 indebtedness. The policy may provide that the term "debtors"
6 shall include the debtors of any subsidiary corporations, and
7 the debtors of one or more affiliated corporations,
8 proprietors or partnerships if the business of the
9 policyholder and of the affiliated corporations, proprietors
10 or partnerships is under common control through stock
11 ownership, contract or otherwise.

12 (2) The premium for the policy shall be paid by the
13 policyholder, either from the funds of the creditor, or from
14 charges collected from the insured debtors, or from both. A
15 policy on which part or all of the premium is to be derived
16 from the collection from the insured debtors of identifiable
17 charges not required of uninsured debtors shall not include
18 in any class of debtors eligible for insurance debtors under
19 obligations outstanding at its date of issue without evidence
20 of individual insurability unless at least 75% of the then
21 eligible debtors elect to pay the required charges. A policy
22 on which none of the premium is to be derived from the
23 collection of identifiable charges shall insure all eligible
24 debtors, or all except any as to whom evidence of individual
25 insurability is not satisfactory to the insurer.

26 (3) The policy may be issued only if the group of
27 eligible debtors is then receiving new entrants at the rate
28 of at least 100 persons yearly, or may reasonably be expected
29 to receive at least 100 new entrants during the first policy
30 year, and only if the policy reserves to the insurer the

1 right to require evidence of individual insurability if less
2 than 75% of the new entrants become insured.

3 (4) The amount of insurance on the life of any debtor
4 shall not exceed the amount owed by him which is repayable in
5 installments to the creditor, or \$60,000, whichever is less.

6 (5) The insurance shall be payable to the policyholder.
7 The payment shall reduce or extinguish the unpaid
8 indebtedness of the debtor to the extent of the payment.

9 § 5366. Policies issued to employee organizations.

10 A policy issued pursuant to section 5361(a)(4) (relating to
11 authorized types of group insurance) is subject to the following
12 requirements:

13 (1) The members eligible for insurance under the policy
14 shall be all of the members of the union, fraternity,
15 association or federation, or all of any class or classes
16 thereof determined by conditions pertaining to their
17 employment, or to membership in the union, fraternity,
18 association or federation, or both.

19 (2) The premium for the policy shall be paid by the
20 policyholder, either wholly from the funds of the union,
21 fraternity, association or federation, or partly from such
22 funds and partly from funds contributed by the insured
23 members specifically for their insurance. A policy may not be
24 issued on which the entire premium is to be derived from
25 funds contributed by the insured members specifically for
26 their insurance. A policy on which part of the premium is to
27 be derived from funds contributed by the insured members
28 specifically for their insurance may be placed in force only
29 if at least 75% of the then eligible members, excluding any
30 as to whom evidence of individual insurability is not

1 satisfactory to the insurer, elect to make the required
2 contributions. A policy on which none of the premium is to be
3 derived from funds contributed by the insured members
4 specifically for their insurance shall insure all eligible
5 members, or all except any as to whom evidence of individual
6 insurability is not satisfactory to the insurer.

7 (3) The policy shall cover at least 25 members at the
8 date of issue.

9 (4) The amounts of insurance under the policy shall be
10 based upon a plan precluding individual selection either by
11 the members or by the union, fraternity, association or
12 federation.

13 § 5367. Standard policy provisions.

14 (a) General rule.--A policy of group life insurance shall
15 not be delivered in this Commonwealth unless it contains in
16 substance the provisions described in subsection (c), or
17 provisions which in the opinion of the department are more
18 favorable to the persons insured, or at least as favorable to
19 the persons insured and more favorable to the policyholder.

20 (b) Exceptions.--The provisions described in subsection
21 (c)(6), (7), (8), (9) and (10) do not apply to policies issued
22 pursuant to section 5361(a)(3) (relating to authorized types of
23 group insurance). The standard provisions required for
24 individual life insurance policies do not apply to group life
25 insurance policies. If the group life insurance policy is on a
26 plan other than the term plan, it shall contain nonforfeiture
27 provisions which in the opinion of the department are equitable
28 to the insured persons and to the policyholder. This section
29 does not require that group life insurance policies contain the
30 same nonforfeiture provisions as are required for individual

1 life insurance policies.

2 (c) Mandatory provisions.--The provisions required under
3 this section are as follows:

4 (1) A provision that the policyholder is entitled to a
5 grace period of 31 days for the payment of any premium due
6 except the first; and that during the grace period the death
7 benefit coverage shall continue in force, unless the
8 policyholder has given the insurer written notice of
9 discontinuance in advance of the date of discontinuance and
10 in accordance with the terms of the policy. The policy may
11 provide that the policyholder is liable to the insurer for
12 the payment of a pro rata premium for the time the policy was
13 in force during the grace period.

14 (2) A provision that the validity of the policy shall
15 not be contested, except for nonpayment of premiums, after it
16 has been in force for two years from its date of issue; and
17 that no statement made by any person insured under the policy
18 relating to his insurability shall be used in contesting the
19 validity of the insurance with respect to which the statement
20 was made after the insurance has been in force prior to the
21 contest for a period of two years during the lifetime of the
22 person or it is not contained in a written instrument signed
23 by him.

24 (3) A provision that a copy of any application of the
25 policyholder shall be attached to the policy when issued;
26 that all statements made by the policyholder or by the
27 persons insured shall be deemed representations and not
28 warranties; and that no statement made by any person insured
29 shall be used in any contest unless a copy of the instrument
30 containing the statement was furnished to the person or his

1 beneficiary.

2 (4) A provision setting forth all conditions under which
3 the insurer reserves the right to require a person eligible
4 for insurance to furnish evidence of individual insurability
5 satisfactory to the insurer as a condition to part or all of
6 his coverage.

7 (5) A provision specifying an equitable adjustment of
8 premiums or benefits, or both, to be made if the age of a
9 person insured has been misstated, including a clear
10 statement of the method of adjustment to be used.

11 (6) A provision that any sum becoming due by reason of
12 the death of the person insured shall be payable to the
13 beneficiary designated by the person insured, subject to:

14 (i) the provisions of the policy if there is no
15 designated beneficiary, as to all or any part of that
16 sum, living at the death of the person insured; and

17 (ii) any right reserved by the insurer in the policy
18 and set forth in the certificate to pay at its option a
19 part of that sum not exceeding \$250 to any person
20 appearing to the insurer to be equitably entitled thereto
21 by reason of having incurred funeral or other expenses
22 incident to the last illness or death of the insured.

23 (7) A provision that the insurer will issue to the
24 policyholder for delivery to each person insured an
25 individual certificate setting forth a statement as to the
26 insurance protection to which he is entitled, to whom the
27 insurance benefits are payable and the rights and conditions
28 under paragraphs (8), (9) and (10).

29 (8) A provision that if the insurance, or any portion of
30 it, on a person covered under the policy ceases because of

1 termination of employment or of membership in any class
2 eligible for coverage under the policy, the person may have
3 issued to him by the insurer, without evidence of
4 insurability, an individual policy of life insurance without
5 disability or other supplementary benefits, if an application
6 for the individual policy is made, and the first premium paid
7 to the insurer within 31 days after termination. The
8 individual policy shall, at the option of the person, be on
9 any one of the forms, except term insurance, customarily
10 issued by the insurer at the age and for the amount applied
11 for. The individual policy shall be in an amount not in
12 excess of the amount of life insurance which ceases because
13 of the termination, less, in the case of a person whose
14 membership in the class or classes eligible for coverage
15 terminates but who continues in employment in another class,
16 the amount of any life insurance for which the person is or
17 becomes eligible under any other group policy within 31 days
18 after termination; however, any amount of insurance which has
19 matured on or before the date of termination as an endowment
20 payable to the person insured, whether in one sum or in
21 installments or in the form of an annuity, shall not, for the
22 purposes of this sentence, be deemed included in the amount
23 which ceases because of the termination. The premium on the
24 individual policy shall be at the insurer's customary rate
25 applicable to the form and amount of the individual policy,
26 to the class of risk to which the person then belongs, and to
27 the person's age attained on the effective date of the
28 individual policy.

29 (9) A provision that if the group policy terminates or
30 is amended so as to terminate the insurance of any class of

1 insured persons, every person insured at the date of the
2 termination whose insurance terminates and who has been so
3 insured for at least five years prior to the termination date
4 may have issued to him by the insurer an individual policy of
5 life insurance, subject to the conditions and limitations
6 provided under paragraph (8). However, the group policy may
7 provide that the amount of the individual policy shall not
8 exceed the lesser of:

9 (i) the amount of the person's life insurance
10 protection ceasing because of such termination or
11 amendment, less the amount of any life insurance for
12 which he is eligible under any group policy issued or
13 reinstated by the same or another insurer within 31 days
14 after such termination; or

15 (ii) \$2,000.

16 (10) A provision that if a person insured under the
17 group policy dies during the period within which he would
18 have been entitled to have an individual policy issued to him
19 in accordance with paragraph (8) or (9) and before the
20 individual policy becomes effective, the amount of life
21 insurance which he would have been entitled to have issued to
22 him under the individual policy shall be payable as a claim
23 under the group policy, whether or not application for the
24 individual policy or the payment of the first premium has
25 been made.

26 § 5368. Notice of conversion privileges.

27 If any individual insured under a group life insurance policy
28 delivered in this Commonwealth becomes entitled under the terms
29 of the policy to have an individual policy of life insurance
30 issued to him without evidence of insurability, subject to

1 making of application and payment of the first premium within
2 the period specified in the policy, and if the individual is not
3 given notice of the existence of this right at least 15 days
4 prior to the expiration date of the period, then the individual
5 shall have an additional period within which to exercise the
6 right. This section does not continue any insurance beyond the
7 period provided in the policy. This additional period shall
8 expire 15 days after the individual is given the notice but in
9 no event shall the additional period extend beyond 60 days after
10 the expiration date of the period provided in the policy.

11 Written notice presented to the individual or mailed by the
12 policyholder to the last known address of the individual or
13 mailed by the insurer to the last known address of the
14 individual as furnished by the policyholder shall constitute
15 notice for the purpose of this section.

16 § 5369. Assignment of incidents of ownership.

17 Notwithstanding any provision of law, a person whose life is
18 insured under any policy of group life insurance, whether or not
19 the policy is otherwise subject to this subchapter, may make an
20 assignment of all or any part of his incidents of ownership in
21 the insurance, including any right to designate a beneficiary
22 thereunder and any right to have an individual policy issued
23 upon termination either of employment or of the policy of group
24 life insurance. However, the insurer and the group policyholder
25 may prohibit or restrict such assignment by appropriate policy
26 provisions.

27 § 5370. Existing policies.

28 The provisions of this subchapter do not invalidate or
29 otherwise affect any policy or contract of group life insurance
30 in effect on September 1, 1949.

1 § 5371. Basis of premiums.

2 (a) Regulations.--The department shall promulgate
3 regulations, except with respect to group life insurance set
4 forth in sections 5361(a)(3) (relating to authorized types of
5 group insurance) and 5365 (relating to policies issued to
6 creditors) prescribing the minimum group life insurance premiums
7 to be charged for the first year of insurance, based on an
8 examination of the experience of the insurers and on reasonable
9 assumptions as to interest, mortality and expense. No such
10 regulation shall be promulgated except after hearing, of which
11 notice shall be given to all affected insurers.

12 (b) Policy provisions.--A domestic, foreign or alien life
13 insurance company shall not deliver in this Commonwealth any
14 policy of group life insurance the premium for which shall be
15 less than the premium prescribed in the regulations promulgated
16 by the department. However, any such policy may provide for a
17 readjustment of the rate based on experience at the end of the
18 first or any subsequent year of insurance, which readjustment
19 may be made retroactive for that policy year only.

20 § 5372. Voting power of employers.

21 In every group policy issued by a domestic life insurance
22 company where the employer is the policyholder under section
23 5361 (relating to authorized types of group insurance), the
24 employer, if entitled to vote at a meeting of the company, shall
25 be entitled to one vote.

26 § 5373. Insurance for public employees.

27 Any government unit may make contracts of insurance with any
28 insurance company, nonprofit hospitalization corporation or
29 nonprofit medical service corporation authorized to transact
30 business in this Commonwealth insuring its elected or appointed

1 officers and employees or any class thereof, or their
2 dependents, under a policy or policies of group insurance
3 covering life, health, hospitalization, medical service or
4 accident insurance, and may contract with any such company
5 granting annuities or pensions for the pensioning of the
6 employees. For these purposes, the government unit may agree to
7 pay part or all of the premiums or charges for carrying those
8 contracts and may appropriate out of its treasury any money
9 necessary to pay those premiums or charges. The proper officer,
10 agency, board or commission of any government unit may deduct
11 from the compensation of the officer or employee such part of
12 the premium as is payable by the officer or employee and as
13 authorized by the officer or employee in writing. All contracts
14 procured under this section shall conform and be subject to all
15 the applicable provisions of law concerning group insurance and
16 group annuity contracts. This section does not apply to cities
17 of the third class, boroughs, townships or school districts.

18 § 5374. Payment of public employee group premiums.

19 (a) Withholding.--Any officer or officers of any government
20 unit, whose duty it is to pay compensation to any elected or
21 appointed officer or employee, shall, upon receipt of written
22 authorization from the officer or employee so to do, withhold
23 from the compensation any premium or other charge due from the
24 officer or employee for group insurance covering life, health,
25 hospitalization, medical, osteopathic or dental service or
26 accident insurance, pursuant to any contract with any
27 corporation or association authorized to transact such business
28 with the Commonwealth. The duty imposed of making such salary
29 deductions shall extend to any premiums or other charges due
30 under such contracts, whether made by the officers or employees

1 directly as members of a group, or made on behalf of such
2 officers or employees by the government unit.

3 (b) Payment to insurer.--The deductions required to be made
4 shall be paid directly by the officer making the deductions to
5 the corporation or association entitled thereto under the
6 contract.

7 (c) Status of deductions.--A corporation or association
8 shall not have any right to any deductions under this section
9 until they are actually paid over to it by the officer making
10 the deductions. The government unit shall not be subject to any
11 liability with respect to the deductions, except as to the
12 amount actually deducted.

13 (d) Revocation of authority to withhold.--Any officer or
14 employee who has authorized the making of deductions from
15 compensation under this section may revoke the authority to make
16 the deductions by delivering a written revocation to the officer
17 making the deduction at least 15 days before the revocation is
18 to take effect. Upon receipt of the revocation the officer shall
19 cease to make the deduction.

20 SUBCHAPTER F

21 INDUSTRIAL INSURANCE

22 Sec.

23 5381. Definition.

24 5382. Uniform policy provisions.

25 5383. Prohibited policy provisions.

26 5384. Notice of right to examine policies.

27 § 5381. Definition.

28 As used in this subchapter, the term "industrial insurance"
29 means life or endowment insurance:

30 (1) under which premiums are payable weekly; or

1 (2) under which premiums are payable monthly or more
2 often, other than weekly, if the face amount of insurance
3 provided in the policy is less than \$1,000.

4 § 5382. Uniform policy provisions.

5 (a) Required provisions.--A policy of industrial insurance
6 shall not be delivered in this Commonwealth unless the words
7 "industrial insurance" are printed upon the policy as part of
8 the descriptive matter and unless it contains in substance the
9 following provisions:

10 (1) A provision that the insured is entitled to a grace
11 period of four weeks within which the payment of any premium
12 after the first may be made, except that if premiums are
13 payable monthly the insured shall be entitled to a grace
14 period of one month or 30 days. During the grace period the
15 policy shall continue in full force, but if the policy
16 becomes a claim during the grace period before the overdue
17 premiums are paid, the amount of overdue premiums may be
18 deducted in any settlement under the policy.

19 (2) A provision that the policy constitutes the entire
20 contract between the parties. If the company desires to make
21 the application a part of the contract, it may do so if a
22 copy of the application is endorsed upon or attached to the
23 policy when issued; in this case the policy shall contain a
24 provision that the policy and the application constitute the
25 entire contract between the parties.

26 (3) A provision that the policy shall be incontestable
27 after it has been in force, during the lifetime of the
28 insured, two years from its date of issue, except for
29 nonpayment of premium; and that, at the option of the
30 company, provisions relating to disability benefits and those

1 granting additional insurance specifically against death by
2 accident or accidental means may also be excepted. A clause
3 in any policy of industrial life insurance providing that the
4 policy shall be incontestable after a specified period shall
5 preclude only a contest of the validity of the policy and
6 shall not preclude the assertion, at any time, of defenses
7 based upon provisions in the policy which exclude or restrict
8 coverage, whether or not such restrictions or exclusions are
9 excepted in that clause.

10 (4) A provision that, if the age of the insured or of
11 any other person whose age is considered in determining the
12 premium has been misstated, the amount payable or benefit
13 accruing under the policy shall be that which the premium
14 would have purchased at the correct age.

15 (5) A provision that the policy shall participate in the
16 surplus of the company; that the company shall annually
17 determine the portion of any divisible surplus accruing on
18 the policy; and stating the conditions under which the
19 company shall apportion the surplus to the policyholder or
20 the party entitled thereto.

21 (6) A provision for a nonforfeiture benefit and cash
22 surrender value.

23 (i) In the case of any policy issued prior to the
24 operative date of section 5322 (relating to standard
25 nonforfeiture law for life insurance), a nonforfeiture
26 benefit shall be provided in event of default in premium
27 payments after premiums have been paid for three years.
28 The nonforfeiture benefit shall be a stipulated form of
29 insurance, effective from the due date of the defaulted
30 premium, the net value of which shall not be less than

1 the reserve on the policy, exclusive of any reserves for
2 provisions:

3 (A) relating to benefits in the event of
4 specific types of disability;

5 (B) granting additional insurance specifically
6 against death by accident; and

7 (C) granting other benefits in addition to life
8 insurance;

9 at the end of the last completed quarter of the policy
10 year for which premiums have been paid, and on any
11 dividend additions to such reserve. The policy shall
12 specify the mortality table, the rate of interest and the
13 method of valuation, if other than net level premium,
14 adopted for computing the reserve, less a specified
15 maximum percentage, not greater than 2.5% of the maximum
16 face amount insured by the policy and of any dividend
17 additions thereto and less any existing indebtedness to
18 the company on or secured by the policy. The percentage
19 or other rule of calculation, stated as to permit
20 determination of the value, shall be specified for each
21 year for which required values are not included in the
22 policy. A company may, in lieu of the provision permitted
23 under this section for the deduction from the reserve of
24 the specified maximum percentage, provide that a
25 deduction of 20% of the reserve may be made, or a
26 deduction of the 2.5% of the maximum face amount insured
27 or 20% of the reserve at the option of the company. After
28 premiums have been paid for five years, the policy may be
29 surrendered to the company at its home office within four
30 weeks of the due date of the defaulted premium for a

1 specific cash value at least equal to the sum which would
2 otherwise be available for the purchase of insurance. The
3 company may defer payment of the cash value for not more
4 than six months after the application is made. If the
5 cash or other nonforfeiture value is not requested within
6 the required period, it shall be provided that a
7 stipulated form of insurance shall automatically become
8 effective.

9 (ii) In the case of any policy issued on or after
10 the operative date of section 5322, a nonforfeiture
11 benefit and cash surrender value shall be provided in
12 accordance with section 5322.

13 (7) A table showing in figures the nonforfeiture options
14 available under the policy at the end of each year upon
15 default in premium payments during the premium payment
16 period, but not to exceed the first 20 years of the policy;
17 and a provision that the company will furnish upon request an
18 extension of the table beyond the years shown in the policy.

19 (8) A provision that, if the policy is not surrendered
20 for its cash value or if the period of extended insurance has
21 not expired, the policy may be reinstated, upon written
22 application, within one year from the date of default in
23 payment of premiums, upon:

24 (i) the payment of all overdue premiums and, at the
25 option of the company, interest at a rate not to exceed
26 8% a year;

27 (ii) the payment or reinstatement of any other
28 indebtedness to the company upon the policy, and, at the
29 option of the company, interest thereon at a rate
30 determined under section 5326 (relating to policy loan

1 interest rates) compounded annually; and

2 (iii) the presentation of evidence satisfactory to
3 the company of the insurability of the insured.

4 (9) A provision that when a policy becomes a claim by
5 the death of the insured, settlement shall be made upon
6 receipt of proof of death.

7 (10) A form number and title on the face of the policy
8 clearly describing its form.

9 (b) Optional provisions.--Any industrial insurance policy
10 may be delivered in this Commonwealth which, in the opinion of
11 the department, contains provisions more favorable to the
12 policyholder than required under subsection (a). The policies of
13 a foreign or alien insurance company may contain, when delivered
14 in this Commonwealth, any provision prescribed by the law of the
15 state or foreign country under which the company is organized
16 not contrary to the provisions of subsection (a). The policies
17 of a domestic life insurance company, when delivered in any
18 other state or any foreign country, may contain any provision
19 required by the law of the state or foreign country to be
20 contained in the policies delivered therein.

21 (c) Applicability.--Any of the provisions set forth in
22 subsection (a), or parts thereof, not applicable to
23 nonparticipating policies shall to that extent not be
24 incorporated therein. The provisions of this section do not
25 apply to policies issued or granted pursuant to the
26 nonforfeiture provisions prescribed in subsection (a)(6).

27 § 5383. Prohibited policy provisions.

28 A policy of industrial insurance shall not be delivered in
29 this Commonwealth if it contains any of the following
30 provisions:

1 (1) A provision limiting the time within which any
2 action at law or in equity may be commenced to less than two
3 years after the cause of action accrues.

4 (2) A provision by which the settlement on the maturity
5 of any policy shall be of less value than the amount promised
6 on the face of the policy plus any dividend additions less
7 any indebtedness to the company on or secured by the policy,
8 and less any premium that may be deducted by the terms of the
9 policy.

10 (3) A provision deeming the agent soliciting the
11 insurance to be the agent of the person insured under the
12 policy, or making the acts or representations of that agent
13 binding upon the person so insured.

14 (4) A provision by which the company may pay the
15 proceeds of the policy at the death of the insured to any
16 person other than the beneficiary designated in the policy.
17 However, the policy may provide that, if the beneficiary does
18 not within the period stated in the policy, which shall not
19 be less than 30 days after the death of the insured, submit
20 proof of claim in the manner and form required by the policy,
21 or if there is no beneficiary designated in the policy other
22 than the estate of the insured, or if the beneficiary is a
23 minor or is not legally qualified to give a valid release or
24 dies before the insured, then the company may pay the
25 proceeds of the policy to the executor or administrator of
26 the insured, or to any relative by blood or marriage of the
27 insured appearing to the company to be equitably entitled to
28 those proceeds.

29 (5) A provision by which the company may deny liability
30 under the policy for the reason that the insured has

1 previously obtained other insurance from the same company.

2 § 5384. Notice of right to examine policies.

3 A policy of industrial insurance shall not be delivered in
4 this Commonwealth unless it has prominently printed on the first
5 page or attached a notice stating in substance that the
6 policyholder may return the policy within at least ten days of
7 its delivery and to have the premium paid refunded if, after
8 examination of the policy, the policyholder is not satisfied
9 with it for any reason. If a policyholder pursuant to this
10 notice returns the policy to the insurer at its home or branch
11 office or to the agent through whom it was purchased, it shall
12 be void from the beginning and the parties shall be in the same
13 position as if no policy had been issued.

14 SUBCHAPTER G

15 LIMITED LIFE INSURANCE COMPANIES

16 Sec.

17 5391. Definition.

18 5392. Powers of limited life insurance companies.

19 5393. Reincorporation as limited life insurance company.

20 5394. Procedure for reincorporation.

21 5395. Authorization to do business.

22 5396. Reserves and capital stock requirements.

23 5397. Election of directors.

24 § 5391. Definition.

25 As used in this subchapter, the term "limited life insurance
26 company" means any corporation which writes life, personal
27 injury, disability or health insurance and which is incorporated
28 or reincorporated under this subchapter or under:

29 (1) the act of April 28, 1903 (P.L.329, No.259),

30 relating to incorporation and regulation of corporations for

1 the purpose of transacting certain types of insurance; or
2 (2) the act of April 20, 1927 (P.L.317, No.190),
3 relating to reincorporation of beneficial or protective
4 societies for the purpose of transacting certain types of
5 insurance.

6 § 5392. Powers of limited life insurance companies.

7 (a) General powers.--A limited life insurance company may
8 issue policies agreeing to pay not more than:

9 (1) \$50 per week in case of disability from sickness or
10 accident;

11 (2) \$1,000 in case of death from natural causes; or

12 (3) \$2,000 in case of death from accidental causes;

13 and issue policies of endowment insurance subject to the
14 provisions of this subchapter notwithstanding any limitation to
15 the contrary in any statute or in its charter.

16 (b) Additional life insurance.--The company may issue
17 policies agreeing to pay not more than \$1,500 in the event of
18 death from natural causes, nor more than double that amount in
19 the event of death from accidental causes, if it has:

20 (1) In the case of stock companies, capital of \$100,000,
21 and a surplus of at least \$25,000.

22 (2) In the case of mutual companies, a surplus of at
23 least \$100,000.

24 (c) Additional disability insurance.--The company may issue
25 policies agreeing to pay in excess of the weekly limitations
26 prescribed in subsection (a), but not exceeding \$105 per week,
27 and agreeing to pay an additional benefit for hospital and
28 medical expenses for any one sickness or accident not exceeding
29 \$300 in the event of disability from sickness or accident, if
30 the policies limit payment of benefits to periods during which

1 insured is admitted as a full-time patient in a licensed and
2 incorporated hospital if it has:

3 (1) In the case of stock companies, additional capital
4 of \$25,000 and a surplus of at least \$25,000.

5 (2) In the case of mutual companies, an additional
6 surplus in the sum of at least \$25,000.

7 The additional capital and additional surplus required by
8 paragraphs (1) and (2) are in addition to that required under
9 this section or otherwise under this title.

10 (d) Alternative limitations.--The company may issue policies
11 agreeing to pay a total of not more than \$5,000 in case of death
12 from natural causes or \$10,000 in case of death from accidental
13 causes. The company may issue policies of endowment insurance
14 agreeing to pay not more than \$5,000 upon maturity if the total
15 amount of insurance issued by the company on any one life does
16 not exceed the limits prescribed in this subsection. The company
17 may issue policies pursuant to this subsection if it has:

18 (1) In the case of stock companies, capital of \$150,000
19 and a surplus paid in at least equal to half the amount of
20 its capital stock. Any limited life insurance company may
21 revise its capital stock structure so that it shall have a
22 capital stock of \$150,000 divided into shares of not less
23 than \$10 par value, payment for which shall be made in cash
24 at the time of subscribing.

25 (2) In the case of mutual companies, a surplus of not
26 less than \$150,000.

27 § 5393. Reincorporation as limited life insurance company.

28 Any corporation or any two corporations now formed or
29 organized under the first paragraph IX of section 2 of the act
30 of April 29, 1874 (P.L.73, No.32), known as the Corporation Act

1 of 1874, except fraternal, benevolent, charitable or secret
2 societies issuing beneficial certificates and paying benefits to
3 their membership through the lodge system, and insurance or
4 relief associations formed by or for the exclusive benefit of
5 employees of corporations or firms or formed by or for the
6 exclusive benefit of members of any religious corporation or
7 association, may be reincorporated, or merged and
8 reincorporated, as a limited life insurance company. However, no
9 corporation may proceed under this section unless operating in
10 compliance with Chapter 41 (relating to beneficial societies).
11 § 5394. Procedure for reincorporation.

12 Any corporation desiring to proceed under section 5393
13 (relating to reincorporation as limited life insurance company)
14 shall proceed as prescribed in this section. A meeting of the
15 members of the corporation shall be held. If a majority of the
16 members of each corporation vote or authorize a vote in favor of
17 the reincorporation or merger and reincorporation, a resolution
18 to that effect shall be adopted, and each such resolution shall
19 be recorded in the office of the recorder of deeds in the county
20 where each corporation has its principal office. The directors
21 of the corporation or the respective directors of the two
22 corporations acting jointly, as the case may be, shall proceed
23 under Chapter 33 (relating to incorporation of insurance
24 companies). Upon the approval of the articles of agreement, the
25 corporation or corporations shall be deemed organized under
26 section 5393, and all the property rights, liabilities and
27 obligations of the former corporation or corporations shall be
28 deemed transferred to the successor corporation without further
29 act or deed.

30 § 5395. Authorization to do business.

1 (a) Stock companies.--When the entire amount of the
2 authorized capital of a stock insurance company incorporated
3 under section 5393 (relating to reincorporation as limited life
4 insurance company) has been paid in, certificates shall be
5 issued therefor to the persons entitled to receive them, which
6 shall be transferable upon the books of the company. The
7 president or secretary of the company shall then notify the
8 department that the entire capital of the company has been paid
9 in and that it is ready to commence business. Upon receipt of
10 the notice, the department shall examine the company and, if it
11 finds that the company has complied with the provisions of
12 section 5394 (relating to procedure for reincorporation) and has
13 funds equal to the amount of its capital, it shall issue to the
14 company a certificate showing that it is lawfully organized and
15 is authorized to transact the business of insurance in this
16 Commonwealth as a limited life insurance company under this
17 title.

18 (b) Mutual companies.--In the case of a mutual life
19 insurance company incorporated under section 5393, upon the
20 receipt of a notice from the president or secretary of the
21 company, the department shall make an examination and, if it
22 finds that the company has the necessary amount of insurance in
23 force and that the guaranteed capital has been paid in, it shall
24 issue a certificate authorizing the company to commence business
25 as a limited life insurance company under this title.

26 (c) Examination of companies.--The department may also
27 conduct such examination of any proposed company as is
28 necessary, to determine whether the responsibility, character
29 and general fitness for the business of the incorporators and
30 directors named in the articles are such as to command the

1 confidence of the public and to warrant the belief that the
2 business of the proposed company will be lawfully, honestly and
3 efficiently conducted. Until the department issues a certificate
4 authorizing companies to commence business under this section,
5 the companies shall have the same powers to transact the
6 business of insurance as were possessed by the companies prior
7 to the reincorporation.

8 § 5396. Reserves and capital stock requirements.

9 (a) Reserves.--Any corporation formed under the section 5393
10 (relating to reincorporation as limited life insurance company)
11 shall place reserves on the life portion contained in all
12 policies issued based upon a standard table of mortality, with
13 interest at a rate of not more than 3.5%, as approved by the
14 department. Reserves shall be carried on the disability feature
15 of 50% of the actual weekly, monthly or annual premiums in force
16 and shall be charged on all definite and outstanding incurred
17 claims.

18 (b) Capital stock.--Capital stock of a stock company formed
19 under section 5393 shall not be less than \$25,000 and shall be
20 divided into shares of not less than \$10 each. Payment for the
21 shares shall be made in cash, and 10% on each share shall be
22 paid at the time of subscribing, with the balance paid at such
23 times as the company may direct, not more than one year from the
24 time of subscription. The company may provide such rules with
25 regard to forfeiture of partial payments on subscriptions as
26 advisable; these rules shall be binding upon the subscribers, if
27 disclosed at the time of subscription. The company shall have a
28 surplus paid in at least equal to the amount of the capital
29 stock.

30 (c) Mutual companies.--Any mutual company formed under

1 section 5393 shall be authorized to do the business of insurance
2 when it has life insurance in force in an amount of not less
3 than \$250,000 upon at least 2,000 persons. The company shall not
4 be authorized to do the business of insurance until it has a
5 guaranteed capital of at least \$25,000 and a surplus of at least
6 \$25,000 and until it has deposited with the department \$25,000
7 in cash or approved securities. The department shall hold the
8 amount deposited for the benefit of the members of the
9 corporation and its creditors, preference being given in the
10 following order:

- 11 (1) Claims under policies.
- 12 (2) Salaries of employees.
- 13 (3) General creditors.

14 § 5397. Election of directors.

15 The annual meeting for election of directors of any company
16 formed under section 5393 (relating to reincorporation as
17 limited life insurance company) shall be held at such time, on
18 or before the May 1, as the bylaws of the company may direct.
19 The notice of the time and place of the meeting shall be given
20 to the stockholders or members as is provided in the bylaws. At
21 the annual meeting, the stockholders or members shall elect by
22 ballot not less than 5 nor more than 13 directors, to serve for
23 one year and until their successors are duly chosen. At any
24 annual meeting of the stockholders or members, the directors who
25 are to be chosen may be divided into not more than four classes
26 to be elected for staggered terms. If a vacancy occurs the
27 remaining directors shall elect a replacement to fill the
28 vacancy during the remainder of the term of the director
29 replaced.

1 PROPERTY AND CASUALTY INSURANCE

2 Subchapter

- 3 A. General Regulation
- 4 B. Workmen's Compensation Insurance
- 5 C. Employers' Mutual Liability Insurance Associations
- 6 D. Arson Reporting Immunity
- 7 E. Anti-Arson Applications
- 8 F. Notice of Premium Increases, Cancellations and
- 9 Nonrenewals
- 10 G. Miscellaneous Provisions

11 SUBCHAPTER A

12 GENERAL REGULATION

13 Sec.

- 14 5501. Applicability of chapter.
- 15 5502. Financial requirements of foreign or alien companies.
- 16 5503. Investment of capital.
- 17 5504. Investments in financial institutions.
- 18 5505. Investment of surplus.
- 19 5506. Authorized holdings of real estate.
- 20 5507. Dividends.
- 21 5508. Reduction and withdrawal of capital stock.
- 22 5509. Procedure when capital impaired.
- 23 5510. Resident agents for foreign or alien insurance entities.
- 24 5511. Insurability of downhill ski operators against punitive
- 25 damages.

26 § 5501. Applicability of chapter.

27 (a) General rule.--All stock casualty insurance companies
28 incorporated or formed by authority of any general or special
29 law shall be subject to the provisions of this chapter, except
30 where the provision clearly indicates otherwise.

1 (b) Specific authorizations.--Stock companies organized
2 under the act of April 28, 1903 (P.L.329, No.259), relating to
3 the incorporation and regulation of insurance corporations,
4 having a paid-up capital of not less than \$100,000, may issue
5 policies providing personal accident and sickness indemnity as
6 specified in section 3302(c)(2) (relating to authorized classes
7 of insurance) and also an indemnity for death arising from
8 natural causes for an amount not exceeding \$100,000. Stock
9 companies organized under the act of April 29, 1874 (P.L.73,
10 No.32), known as the Corporation Act of 1874, for the purpose of
11 guaranteeing the fidelity of persons in positions of trust and
12 to act as surety on official bonds, may transact business under
13 this title by filing with the Secretary of the Commonwealth and
14 with the department a resolution of the board of directors,
15 approved by the stockholders at a meeting specially called for
16 that purpose, accepting the provisions of this title and
17 agreeing to be governed thereby. This acceptance, when filed,
18 shall exempt the company from any otherwise applicable
19 provisions of the act of April 29, 1874 (P.L.73, No.32).

20 § 5502. Financial requirements of foreign or alien companies.

21 (a) Stock companies.--Foreign and alien stock casualty
22 insurance companies, organized to transact any of the classes of
23 insurance mentioned in section 3302(c) (relating to authorized
24 classes of insurance), in order to be licensed to do business in
25 this Commonwealth, shall be required to have a paid up and
26 safely invested capital, if a company of another state, or a
27 deposit in the United States, if an alien company, of at least
28 the amount required in this title for domestic companies. This
29 title does not prevent any foreign stock life insurance company
30 now engaged in the business of accident and sickness or

1 liability insurance, or both, from continuing in these
2 businesses, if the amount of its paid-up capital is at least the
3 amount required of a domestic company to transact the business
4 of life insurance and at least \$50,000 for each of the other
5 classes of insurance undertaken.

6 (b) Mutual companies.--A foreign or alien mutual casualty
7 insurance company, having by its charter the power to transact
8 the insurance business specified in section 3302(c), in order to
9 be authorized to transact the classes of business mentioned in
10 section 3302(c) shall have a surplus over all liabilities,
11 including unearned premium and loss reserves, of not less than
12 the capital required of a domestic stock company to transact the
13 same classes of insurance.

14 § 5503. Investment of capital.

15 Every domestic stock casualty insurance company shall invest
16 and keep invested all its capital in sound investments as
17 enumerated in this section, except such cash as may be required
18 in the transaction of its business. The investments shall
19 include the following:

20 (1) Such real estate as is authorized by section 5506
21 (relating to authorized holdings of real estate).

22 (2) Bonds of the United States, of any state or of any
23 province or territory of the Dominion of Canada, and bonds or
24 debentures issued by Federal land banks, Federal intermediate
25 credit banks or banks for cooperatives under the Farm Credit
26 Act of 1971 (Public Law 92-181, 12 U.S.C. § 2001 et seq.) or
27 by Federal home loan banks under the Home Loan Bank Act (47
28 Stat. 725, 12 U.S.C. § 1421 et seq.).

29 (3) The legally authorized bonds or notes of any
30 municipality, school or water district of this Commonwealth

1 or of any other state of the United States or province of the
2 Dominion of Canada.

3 (4) The bonds or notes of any solvent railroad or street
4 railway corporation upon which no default in interest has
5 been made.

6 (5) Ground rents and loans upon improved and
7 unencumbered real estate. Except for bonds secured by
8 mortgages which are insured by, or for which a commitment to
9 insure has been made by, the Federal Housing Administrator,
10 under the provisions for mutual mortgage insurance in Title
11 II of the National Housing Act (48 Stat. 1247, 12 U.S.C. §
12 1707 et seq.) for the purpose of financing the construction
13 or purchase of dwellings and similar residential property and
14 the refinancing of mortgages, no such loan shall exceed 66
15 2/3% of the fair market value of the real estate.

16 (6) Debentures issued by the Federal Housing
17 Administrators in settlement of claims for insurance under
18 Title II of the National Housing Act.

19 (7) Securities of national mortgage associations or
20 similar national mortgage credit institutions organized under
21 Title III of the National Housing Act (48 Stat. 1252, 12
22 U.S.C. § 1716 et seq.).

23 (8) Bonds, notes or obligations issued, assumed or
24 guaranteed by the International Bank for Reconstruction and
25 Development.

26 (9) If the company which has \$1,000,000 of capital and
27 \$1,000,000 of surplus, the capital of any domestic or foreign
28 stock casualty insurance company, solely to transact the same
29 class of business in countries other than the United States.

30 These investments shall be limited to 30% of the par value of

1 the capital stock of the investing company.

2 (10) The securities of a foreign government in a
3 sufficient amount from its reserves in order to enable it to
4 comply with the laws of the foreign government and transact
5 business therein, if the department permits the company to
6 make such an investment.

7 (11) Shares of state and regional business development
8 credit corporations formed under the law of this
9 Commonwealth.

10 (12) Bonds and notes of the Pennsylvania Housing Finance
11 Agency.

12 (13) Bonds, notes and obligations issued, assumed or
13 guaranteed by the Inter-American Development Bank.

14 (14) Bonds, notes and obligations issued by the
15 Pennsylvania Civil Disorder Authority.

16 (15) Bonds, notes and obligations issued, assumed or
17 guaranteed by the Asian Development Bank.

18 (16) Subject to the provisions of section 5504 (relating
19 to investments in financial institutions), the investments
20 described in section 5504(a).

21 § 5504. Investments in financial institutions.

22 (a) Applicability.--This section shall apply to:

23 (1) Any interest-bearing deposit, savings account or
24 certificate of deposit in any bank, bank and trust company,
25 savings bank or national banking association located in this
26 Commonwealth.

27 (2) A savings account or certificate of deposit of any
28 savings association incorporated under the law of this
29 Commonwealth or of any savings and loan association
30 incorporated under Federal law.

1 (b) Limitation on use.--Any investment described in
2 subsection (a) shall be an authorized investment if the
3 interest-bearing deposit, savings account or certificate of
4 deposit is not made, opened or deposited in any financial
5 institution wherever located which is directly or indirectly,
6 through a holding company or in any other manner, affiliated
7 with any insurance entity making or depositing the interest-
8 bearing deposits or certificates of deposit, in the case of
9 investments described in subsection (a)(1), or making,
10 depositing or opening the savings accounts, in the case of
11 investments described in subsection (a)(2). Funds invested in
12 certificates of deposit shall not be encumbered directly or
13 indirectly as security, collateral or as counterbalance funds
14 for any subsidiary, affiliate, associated concern or other
15 person except as specifically approved by written order of the
16 department.

17 (c) Limitation on amount.--Neither the total investments
18 described in subsection (a)(1), nor the total investments
19 described in subsection (a)(2), in any single depository or
20 branches thereof shall at any time exceed 10% of the larger of:

21 (1) the company's total admitted invested assets at the
22 time of such investment or at any subsequent annual statement
23 reporting date; or

24 (2) the maximum amount insured by Federal insurance
25 coverage on such investments.

26 Neither the investments described in subsection (a)(1), nor the
27 investments described in subsection (a)(2), considered
28 separately, made in all depositories or branches thereof shall
29 at any time exceed 25% of the company's total admitted invested
30 assets at the time of the investment or at any subsequent annual

1 statement reporting date, unless the investments made in any
2 single depository or branches thereof is not greater than the
3 Federal insurance limitations.

4 (d) Time allowed for compliance.--Whenever the investments
5 authorized by this section exceed the maximum amounts provided
6 in subsection (c), the investments shall be reduced to comply
7 therewith within 90 days of the occurrence of the excess or at
8 the earliest maturity date or the next optional renewal date,
9 exercisable by either holder or issuer, of any investment
10 mentioned in this section.

11 (e) Penalty.--Any company which fails to cure a violation of
12 subsection (c) within the time allowed under subsection (d)
13 shall pay a penalty not to exceed \$100 for each day during which
14 the failure continues. The penalty shall be imposed by the
15 department after appropriate hearing. No value as an admitted
16 asset shall be allowed the excess of the investment over the
17 maximum amounts provided in subsection (c).

18 § 5505. Investment of surplus.

19 (a) Authorized investments.--Any money over and above the
20 capital of any such stock casualty insurance company may be
21 loaned upon the security of investments authorized by section
22 5503 (relating to investment of capital) or invested in such
23 securities or invested in:

24 (1) Bonds or notes of any public instrumentality of any
25 state or of any foreign country or political subdivision
26 thereof.

27 (2) Stock or other evidence of indebtedness of any
28 solvent corporation created under Federal law or the law of
29 any jurisdiction mentioned in paragraph (1) or loaned upon
30 the pledge of the same, except its own stock.

1 (3) Stock or shares of any regulated investment company
2 formed under Federal law or the law of any state or of the
3 Dominion of Canada or any province thereof.

4 (b) Restrictions.--The total investments made by such
5 company in stocks of other insurance companies which have
6 invested in or loaned its funds on the stock of the first
7 investing company shall not exceed 5% of the gross assets of the
8 first investing company. The total investments made or held by
9 the company in the stocks or other evidence of indebtedness of
10 solvent alien corporations shall not exceed 10% of the funds of
11 the company over and above its capital and the reserves which it
12 is required to maintain under this title. The current market
13 value of those securities at the time of any loan thereon shall
14 be at least 15% more than the sum loaned. A stock casualty
15 insurance company shall not invest or hold any of its funds in
16 any unincorporated business or enterprise, or in the stock or
17 evidence of indebtedness of any corporation, if the owners or
18 holders of its securities are or may become liable on account
19 thereof to any assessment, except for taxes. Funds of a stock
20 casualty insurance company shall not be loaned on personal
21 security except for defraying the expenses of an employee
22 transferred or about to be transferred to a new place of
23 employment with the company. Not more than 20% of its capital
24 shall be invested or held in a single mortgage. The company
25 shall not enter into any agreement to withhold from sale any of
26 its property, but the disposition of its property shall be at
27 all times within the control of its board of directors or
28 trustees. If any investment or loan is made or held in a manner
29 not authorized by this section, the officers and directors
30 making or authorizing the investment or loan shall be personally

1 liable for any loss occasioned thereby, and no value as an asset
2 shall be allowed for such an investment or loan.

3 (c) Investments regarding company's building.--Any stock
4 casualty insurance company may invest in the capital stock and
5 obligations of a corporation formed for the purpose of taking
6 and holding title to real estate and erecting or maintaining
7 thereon any building to be used in whole or in part for the
8 accommodation and transaction of the business of the company
9 without being subject to the limitation prescribed in this
10 section as to investment in the stock of a solvent corporation.
11 The insurance company shall not at any time have invested more
12 than 50% of its capital and surplus in investments described in
13 this subsection without the written approval of the department.
14 § 5506. Authorized holdings of real estate.

15 A domestic stock casualty insurance company shall not
16 purchase, hold or convey real estate, except as follows:

17 (1) Real estate which is for the transaction of its
18 business including residential real estate purchased from an
19 employee transferred or about to be transferred to a new
20 place of employment with the company.

21 (2) Real estate which has been conveyed to it in
22 satisfaction of debts previously contracted in the course of
23 its dealings.

24 (3) Real estate which has been purchased at sales upon
25 judgments, decrees or mortgages, obtained or made for debts
26 due the company or for debts due other persons, if the
27 company may have liens or encumbrances on the real estate and
28 the purchase is deemed necessary to save the company from
29 loss.

30 Any real estate acquired under paragraph (2) or (3), which has

1 been held for a period of more than five years from the date of
2 its acquisition, shall be disposed of within a period of six
3 months after notice to the company from the department to do so.
4 The department may extend the time for disposition if the
5 interest of the company will suffer materially by a forced sale.
6 § 5507. Dividends.

7 A stock casualty insurance company shall not make any
8 dividend on its capital except from the profits arising from its
9 business. In estimating the profits, all of the following shall
10 first be charged as a liability:

11 (1) The capital of the company.

12 (2) All unpaid losses or other loss claims.

13 (3) All liabilities for reserve or unearned premiums on
14 undetermined risks as required by law.

15 (4) All sums due the company on bonds, book accounts and
16 judgments on which the interest has not been paid during the
17 last calendar year, or on the principal of which no payment
18 has been made during that period.

19 (5) All other debts or obligations of the company.

20 (6) All shares of stock on which no dividend has been
21 paid during the last calendar year.

22 § 5508. Reduction and withdrawal of capital stock.

23 Any existing stock casualty insurance company and any stock
24 casualty insurance company formed under this title, having a
25 paid-up capital in excess of the minimum required, may reduce
26 the excess, in whole or in part, in the manner provided in
27 section 3558 (relating to reduction of capital stock). Any such
28 company which has undertaken two or more kinds of insurance and
29 wishes to discontinue a particular kind may withdraw the entire
30 additional capital paid in on account thereof.

1 § 5509. Procedure when capital impaired.

2 Any stock casualty insurance company receiving notice from
3 the department that its capital is impaired shall immediately
4 call upon its stockholders for such amounts as will restore its
5 capital to the amount fixed by its charter. If any stockholder
6 fails to pay the amount called for, after notice personally
7 given or by advertisement at the time and in the manner the
8 department approves, the company shall require the return of the
9 original certificates of stock held by the stockholder, or issue
10 new certificates in the proportion as determined by the
11 department, that the ascertained value of the assets of the
12 company bears to the original capital, the company paying for
13 any fractional parts of shares. The directors may create new
14 stock, issue certificates therefor and dispose of this stock at
15 not less than par for an amount sufficient to make up the
16 original capital, or the department may permit the company to
17 reduce its capital and the par value of its shares in proportion
18 to the extent of the impairment, but the capital shall at no
19 time be reduced to an amount less than that required by this
20 title for the organization of the company. In fixing the reduced
21 capital, not more than 50% of the original capital shall be
22 deducted from the assets on hand to be retained as surplus funds
23 nor shall any part of the assets be distributed to stockholders.

24 § 5510. Resident agents for foreign or alien insurance

25 entities.

26 Other than companies subject to section 5901 (relating to
27 resident agents for foreign or alien insurance entities), an
28 authorized foreign or alien insurance entity shall not make,
29 write, place or cause to be made, written or placed, any policy
30 or contract of insurance in this Commonwealth except through an

1 agent. The agent shall be an individual, partnership or
2 corporation who or which is a resident of this Commonwealth or
3 maintains his or its principal place of business in this
4 Commonwealth. The agent shall receive a commission thereon when
5 the premium is paid so that the Commonwealth may receive the
6 taxes required to be paid on the premiums collected for
7 insurance written or placed in this Commonwealth. The department
8 may, under such regulations and restrictions as necessary, issue
9 licenses to nonresident agents who are licensed in the state in
10 which they reside, but these agents shall not countersign any
11 policy or contract of insurance. The policies and contracts
12 shall be signed only by resident agents, who shall receive a
13 commission thereon when the premium is paid. Countersignature
14 shall not be required in the case of policies and contracts set
15 forth in section 3302(a)(1) (relating to authorized classes of
16 insurance) issued by life insurance companies or in the case of
17 bid bonds issued in connection with public or private contracts.
18 § 5511. Insurability of downhill ski operators against punitive
19 damages.

20 (a) Legislative findings.--The General Assembly finds that
21 the sport of downhill skiing is practiced by a large number of
22 citizens of this Commonwealth and also attracts to this
23 Commonwealth large numbers of nonresidents, significantly
24 contributing to the economy of this Commonwealth. It is
25 recognized that, as in some other sports, there are inherent
26 risks in the sport of downhill skiing. Because the law of this
27 Commonwealth is unclear with regard to insurability against
28 punitive damages, the operators of downhill skiing areas face
29 uncertainty in securing insurance to indemnify against downhill
30 skiing accidents.

1 (b) Insurability.--It is not against the public policy of
2 this Commonwealth for an insurance entity authorized under
3 section 3302(a)(2) or (c) (relating to authorized classes of
4 insurance) to insure the operator of a downhill skiing area
5 against punitive damages, other than punitive damages arising
6 from an intentional tort committed by the operator.

7 (c) Applicability.--This section does not change or amend
8 the public policy of this Commonwealth with respect to
9 insurability against punitive damages in cases which do not
10 arise from downhill skiing. This section applies to all
11 contracts of insurance entered into, reissued or reaffirmed
12 after December 19, 1985.

13 SUBCHAPTER B

14 WORKMEN'S COMPENSATION INSURANCE

15 Sec.

16 5521. Policy provisions.

17 5522. Actions for premiums.

18 5523. Rating plans.

19 5524. Annual report of premiums and loss experience.

20 5525. Powers of department.

21 § 5521. Policy provisions.

22 (a) Mandatory policy provisions.--Every policy of insurance
23 against liability under the act of June 2, 1915 (P.L.736,
24 No.338), known as The Pennsylvania Workmen's Compensation Act,
25 or under the act of June 21, 1939 (P.L.566, No.284), known as
26 The Pennsylvania Occupational Disease Act, shall contain the
27 agreement of the insurer:

28 (1) that the insurer shall pay all compensation and
29 provide all medical, surgical and hospital attendance for
30 which the insured employer may become liable under those acts

1 during the term of the insurance; and

2 (2) that, as between the insurer and any claimant under
3 those statutes, notice to the employer or the employer's
4 knowledge of an accident or injury or disability caused by
5 occupational disease constituting the basis of a claim under
6 those acts shall be deemed notice to the insurer.

7 These agreements shall be deemed a direct promise to the injured
8 employee or to the dependents of a deceased employee having a
9 claim under those statutes, and shall be enforceable by action
10 brought in the name of the injured employee or in the name of
11 such dependents. The obligation under this section shall not be
12 affected by any default of the insured, after an accident or
13 after disability caused by occupational disease, in the payment
14 of premiums or in the giving of any notices required by the
15 policy or otherwise.

16 (b) Prohibited policy provisions.--The policy of insurance
17 shall not contain any limitation of the liability of the insurer
18 to an amount less than that for which the insured employer may
19 become liable under the statutes mentioned in subsection (a)
20 during the term of the insurance. A policy or contract of
21 insurance, or an agreement to deliver such insurance, shall not
22 be issued except upon a form approved by the department as
23 complying with this title. However, a policy may be issued to a
24 self-insurer, qualified under section 305 (relating to insurance
25 of payment of compensation by employer) of The Pennsylvania
26 Workmen's Compensation Act or under section 305 (relating to
27 self-insurance) of The Pennsylvania Occupational Disease Act,
28 providing for the payment of any stated loss in excess of
29 \$10,000 falling upon the self-insurer, under the terms of those
30 statutes, by reason of any single accident or by reason of any

1 single occurrence resulting in disability from occupational
2 disease. Except for nonpayment of premiums, a policy of
3 insurance issued or renewed against liability under the statutes
4 mentioned in subsection (a) or the Federal Coal Mine Health and
5 Safety Act of 1969 (Public Law 91-173, 30 U.S.C. § 801 et seq.),
6 or insuring an employer against liability of an employer to his
7 employee because of bodily injury by accident or disease,
8 including death resulting therefrom, sustained by the employee
9 arising out of and in the course of his employment, may not be
10 canceled or terminated by an insurer during the term of the
11 policy.

12 § 5522. Actions for premiums.

13 An action shall not be maintained for the collection of
14 premiums upon any policy of insurance under the act of June 2,
15 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's
16 Compensation Act, or under the act of June 21, 1939 (P.L.566,
17 No.284), known as The Pennsylvania Occupational Disease Act,
18 which violates this title. All premiums and interest charges on
19 account of policies insuring employees against liability under
20 this chapter, which are due to the State Workmen's Insurance
21 Fund, or any stock corporation or mutual association authorized
22 to transact the business of insurance in this Commonwealth, and
23 all judgments recovered by the State Workmen's Insurance Fund,
24 or any such insurance corporation or association, against any
25 employer on actions brought under any such policy, shall be
26 deemed preferred claims in all insolvency or bankruptcy
27 proceedings, trustee proceedings for administration of estates,
28 or receiverships, involving the employers liable therefor, or
29 the property of such employer, but claims for wages shall
30 receive prior preference in all such proceedings.

1 § 5523. Rating plans.

2 (a) Preparation of rating plan.--A rating plan shall be
3 proposed annually by one or more rating bureaus, which shall be
4 located in this Commonwealth, subject to supervision and
5 examination by the department and approved by it as adequately
6 equipped to compile rates on an equitable and impartial basis. A
7 schedule or merit rating plan shall be applied only by the
8 approved rating bureau. In the preparation of schedules, an
9 employer shall not be discriminated against or penalized because
10 of physical impairment of any employee or because of the number
11 of dependents of any employee.

12 (b) Approval by department.--The rating plan shall be filed
13 with and shall be subject to review by the department, which
14 shall by order modify, amend or approve it. A rating plan shall
15 not take effect without the consent of the department, and it
16 may withdraw its approval whenever the plan is inadequate or
17 discriminates unfairly between risks of essentially the same
18 hazard. Any person aggrieved by the order may obtain a review
19 thereof before the department.

20 (c) Review of assignment of risk.--The assignment by an
21 approved rating bureau of any individual risk to a particular
22 classification in accordance with a system of classification of
23 risks and underwriting rules approved by the department under
24 this section may be appealed by any person aggrieved by such
25 assignment before the rating bureau in accordance with
26 procedures of the bureau approved by the department. If still
27 aggrieved by the assignment, the person may obtain a further
28 review thereof by filing an appeal with the department within 30
29 days of the mailing date of the final decision of the bureau.
30 The department shall hold a hearing upon not less than ten days'

1 written notice to the applicant and to the rating bureau which
2 made the classification and shall issue an order modifying,
3 amending or approving the placement of the individual risk
4 within the particular classification as the result of that
5 hearing. Any order made by the department under this subsection
6 may be appealed to the Commonwealth Court in accordance with
7 Title 42 (relating to judiciary and judicial procedure).

8 (d) Mandatory use of rating plans.--Neither the State
9 Workmen's Insurance Fund, nor any insurance corporation, mutual
10 association or company, shall issue, renew or carry any policy
11 or contract of insurance against liability under the statutes
12 mentioned in subsection (g), except in accordance with the
13 rating plans proposed by a rating bureau for the risk insured
14 and as modified, amended or approved by the department for such
15 insurer.

16 (e) Special approval.--Notwithstanding any other provisions
17 of this section, upon the written consent of the insured stating
18 his reasons therefor, filed with and approved by the department,
19 a rate in excess of that determined in accordance with the other
20 provisions of this section may be used on any specific risk.

21 (f) Filing of plan.--A complete copy of every policy or a
22 true copy of the substantive provisions of any policy or
23 contract of insurance against liability under the statutes
24 mentioned in subsection (g), and a true copy of every
25 endorsement upon any such policy and of every agreement
26 pertaining thereto, shall be filed with each rating bureau whose
27 rating plan the insurer uses within a reasonable time after the
28 effective date of the policy, endorsement, contract or
29 agreement.

30 (g) Definition.--As used in this section the term "rating

1 plan" means a classification of risks, set of premium rates or
2 underwriting rules of schedule or merit rating plan for
3 insurance of employers and employees under the act of June 2,
4 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's
5 Compensation Act, or under the act of June 21, 1939 (P.L.566,
6 No.284), known as The Pennsylvania Occupational Disease Act, and
7 for insurance with respect to this Commonwealth as to liability
8 under the Longshoremen's and Harbor Workers' Compensation Act
9 (44 Stat. 1424, 33 U.S.C. § 901 et seq.), written as a part of a
10 workmen's compensation and employers' liability policy.

11 § 5524. Annual report of premiums and loss experience.

12 The State Workmen's Insurance Fund, and every insurance
13 company and every employer's mutual liability association which
14 insures employers and employees under the act of June 2, 1915
15 (P.L.736, No.338), known as The Pennsylvania Workmen's
16 Compensation Act, or under the act of June 21, 1939 (P.L.566,
17 No.284), known as The Pennsylvania Occupational Disease Act, or
18 with respect to this Commonwealth under the Longshoremen's and
19 Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. § 901
20 et seq.), when such liability is insured as a part of a
21 workmen's compensation and employers' liability policy, shall
22 annually, on or before June 30, file with the department a sworn
23 report of its premium and loss experience, in such detail and
24 form as may be prescribed by the department. Any insurance
25 carrier which neglects to timely file the required statement
26 shall pay \$100 for each day during which such neglect continues
27 and, upon notice by the department, its authority to do business
28 shall cease while the default continues.

29 § 5525. Powers of department.

30 The department may suspend or revoke the license of any

1 insurance company which violates this subchapter.

2 SUBCHAPTER C

3 EMPLOYERS' MUTUAL LIABILITY

4 INSURANCE ASSOCIATIONS

5 Sec.

6 5531. Definitions.

7 5532. Examination of premises and books.

8 5533. Rules and regulations.

9 5534. Premiums.

10 5535. Division of subscribers into groups.

11 5536. Powers of department.

12 5537. Dividends.

13 5538. Surplus.

14 5539. Contingent mutual liability of subscribers.

15 5540. Assessments.

16 5541. Withdrawal of subscribers.

17 § 5531. Definitions.

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

21 "Association." An incorporated association or company formed
22 by employers for the purpose of insuring themselves, and such
23 other employers as may become subscribers to the association,
24 against liability under Articles II and III of the act of June
25 2, 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's
26 Compensation Act.

27 "Board of directors." The board of directors of an
28 association.

29 "Subscriber." A subscriber to an association.

30 § 5532. Examination of premises and books.

1 The board of directors may inspect the premises of any
2 subscriber, and may appoint inspectors for that purpose, who
3 shall have free access to the premises during the regular
4 working hours. The board of directors may, from time to time,
5 examine, by their auditor or other agent, the books and records
6 of any subscriber for the purpose of determining the amount of
7 premium chargeable to the subscriber.

8 § 5533. Rules and regulations.

9 The board of directors shall make reasonable rules and
10 regulations for the prevention of injuries upon the premises of
11 subscribers and may refuse to insure or may terminate the
12 insurance of any subscriber who refuses to permit examination or
13 violates the rules and regulations and may order the subscriber
14 to forfeit one-half of the unearned premiums previously paid by
15 him. The termination of the insurance of any subscriber shall
16 not release him from liability for the payment of assessments
17 made by the board of directors to make up deficiencies existing
18 at the termination of his insurance.

19 § 5534. Premiums.

20 (a) Criteria for determining amount.--The board of directors
21 shall determine the amount of the premiums which the subscribers
22 shall pay for their insurance, in accordance with the nature of
23 the business in which the subscribers are engaged and the
24 probable risk of injury to their employees under existing
25 conditions. In fixing the premium payable by any subscriber, the
26 board of directors may take into account the condition of the
27 property of the subscriber, in respect to the safety of those
28 employed therein as shown by the report of any inspector
29 appointed by the board. Subject to the approval of the
30 department, they shall fix each premium at an amount sufficient

1 to enable the association to create and maintain the surplus
2 required under section 5538 (relating to surplus), to pay to its
3 subscribers all sums which may become due and payable to their
4 employees under Article III of the act of June 2, 1915 (P.L.736,
5 No.338), known as The Pennsylvania Workmen's Compensation Act,
6 and to defray the expenses of conducting the business of the
7 association.

8 (b) Change in premium.--The board of directors may change
9 the amount of premiums payable by any of the subscribers as
10 circumstances may permit or require. The board may increase the
11 premiums of any subscriber who neglects to provide safety
12 devices required by law or violates the rules or regulations
13 made by the board of directors in accordance with section 5533
14 (relating to rules and regulations).

15 (c) Effectiveness of policy.--A policy of insurance issued
16 to any subscriber shall not be effective until he has paid the
17 initial premium.

18 § 5535. Division of subscribers into groups.

19 The board of directors may divide the subscribers into
20 groups, in accordance with the nature of their business and the
21 probable risks of injury therein. The board shall fix all
22 premiums for each business in the group and for the various
23 classes of employment therein, in accordance with the probable
24 risks of injury to the employees in such business and in each
25 class of employment therein. The board shall make all
26 assessments and determine and pay all dividends by and for each
27 group in accordance with its experience. All funds of the
28 association and the contingent liability of the subscribers
29 shall be available for the payment of any claim against the
30 association, but as between the association and its subscribers

1 until the whole of the contingent liability of the members of
2 any group is exhausted, the general funds of the association and
3 the contingent liability of the members of other groups shall
4 not be available for the payment of losses and expenses incurred
5 by that group in excess of the earned premiums paid by its
6 members.

7 § 5536. Powers of department.

8 Every association shall file a statement with the department
9 of any proposed premium, assessment, dividend or distribution of
10 subscribers into groups, which shall not take effect until
11 approved by the department.

12 § 5537. Dividends.

13 The board of directors may, from time to time, fix and
14 determine the amount to be paid as dividends upon policies
15 expiring each year, after retaining the unearned premiums upon
16 undetermined risks, sufficient sums to pay all the compensation
17 then payable or which may become payable on account of injuries
18 received by employees of the subscribers and to pay the expenses
19 incurred in the operation of the business of the association,
20 and such percentage of the premiums as has been paid or is
21 payable to create and maintain the surplus provided in section
22 5538 (relating to surplus).

23 § 5538. Surplus.

24 The board of directors may set aside such part of all
25 premiums collected as it deems necessary for the creation of an
26 adequate surplus to cover catastrophic losses to the subscribers
27 to the fund and to guarantee the solvency of the fund.

28 § 5539. Contingent mutual liability of subscribers.

29 Every subscriber shall be under a contingent mutual liability
30 for the payment of losses and expenses in excess of the cash

1 funds of the association to an amount at least equal to the
2 premium paid by him during the current year.

3 § 5540. Assessments.

4 If any association does not possess cash funds over and above
5 its unearned premiums on undetermined risks, sufficient for the
6 payment of incurred losses and expenses, it shall make an
7 assessment for the amount needed to pay such losses and expenses
8 upon the subscribers liable to assessment therefor, in
9 proportion to their several liabilities.

10 § 5541. Withdrawal of subscribers.

11 Any subscriber who has complied with all of its rules and
12 regulations may withdraw therefrom by written notice to that
13 effect, sent by the subscriber by registered mail to the
14 association. The withdrawal shall become effective on the first
15 day of the month immediately following the tenth day after the
16 receipt of the notice. Such withdrawal shall not release the
17 subscriber from liability for the payment of assessments
18 thereafter made by the board of directors to make up
19 deficiencies existing at the date of his withdrawal, if the
20 assessment is made within one calendar year from the date of
21 withdrawal. The subscriber may receive his share of any dividend
22 earned at the date of his withdrawal.

23 SUBCHAPTER D

24 ARSON REPORTING IMMUNITY

25 Sec.

26 5551. Short title of subchapter.

27 5552. Definitions.

28 5553. Disclosure of information.

29 5554. Immunity.

30 5555. Evidence.

1 5556. Penalty.

2 5557. Construction of subchapter.

3 5558. Regulations.

4 § 5551. Short title of subchapter.

5 This subchapter shall be known and may be cited as the Arson
6 Reporting Immunity Act.

7 § 5552. Definitions.

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

11 "Action." Includes nonaction or the failure to take action.

12 "Authorized agencies."

13 (1) Includes:

14 (i) The Pennsylvania State Police Commissioner and
15 other police officers charged with the investigation of
16 fires at the place where the fire actually took place.

17 (ii) The fire commissioner or fire chief of all
18 cities.

19 (iii) The Attorney General.

20 (iv) The prosecuting attorney responsible for
21 prosecutions in the county where the fire occurred.

22 (v) The Federal Bureau of Investigation.

23 (vi) The Federal Bureau of Alcohol, Tobacco and
24 Firearms.

25 (vii) The United States Attorney when authorized or
26 charged with investigation or prosecution of the fire in
27 question.

28 (viii) The Bureau of Forestry of the Department of
29 Environmental Resources.

30 (2) Solely for the purposes of section 5553(b) (relating

1 to disclosure of information), an appropriate authorized
2 agency is:

3 (i) the Pennsylvania State Police Commissioner or
4 his authorized representative; or

5 (ii) the fire commissioner or fire chief of all
6 cities and the fire chief of any other municipality with
7 a paid fire department when that municipality is not
8 serviced by the Pennsylvania State Police Commissioner or
9 his authorized representative for the purpose of
10 investigating fires.

11 "Fire loss." Includes loss by explosion.

12 "Insurance company." Any insurance company authorized to
13 transact the business of insurance in this Commonwealth and
14 empowered to issue policies of insurance against loss by the
15 perils of fire or explosion, including the fair plan created
16 under Chapter 57 (relating to Pennsylvania Fair Plan).

17 "Relevant." Any information having a tendency to make the
18 existence of any fact that is of consequence to the
19 investigation or determination of the issue more or less
20 probable than it would be without the information.

21 § 5553. Disclosure of information.

22 (a) Fire loss information.--Any authorized agency may, in
23 writing, require any insurance company at interest to release to
24 the agency any or all relevant information or evidence deemed
25 important to the agency which the insurance company may have in
26 its possession relating to a fire loss under investigation by
27 the agency. Relevant information may include, but shall not be
28 limited to, any of the following:

29 (1) Pertinent policy information relevant to a fire loss
30 under investigation, including any application for such a

1 policy.

2 (2) Underwriting information or risk inspection reports.

3 (3) Policy premium payment records.

4 (4) History of previous claims made by the insured.

5 (5) Material relating to the investigation of the loss,
6 including statements of any person, and proof of loss.

7 (b) Notification for investigation.--Whenever the
8 investigation of a fire loss by an insurance company insuring
9 the loss indicates that the probable cause of the fire loss was
10 arson, the company shall notify, in writing, the appropriate
11 authorized agency. Upon the request of any authorized agency,
12 the insurance company shall provide the agency with such fire
13 loss information developed from the company's inquiry into the
14 fire loss as may be requested by the agency. The insurance
15 company may provide to any authorized agency any information it
16 has relating to a fire loss. This subsection does not abrogate
17 or impair any rights or duties created under subsection (a).

18 (c) Notification to policyholder.--When information is given
19 by any insurance company to an authorized agency under
20 subsection (a) or (b):

21 (1) The insurance company shall send written notice to
22 the policyholders about whom the information pertains, unless
23 the insurance company receives notice that the authorized
24 agency finds, based on specific facts, that there is reason
25 to believe that such information will result in any of the
26 following:

27 (i) Endangerment of the life or physical safety of
28 any person.

29 (ii) Flight from prosecution.

30 (iii) Destruction of or tampering with evidence.

1 (iv) Intimidation of any potential witness.

2 (v) Obstruction of or seriously jeopardizing an
3 investigation.

4 (2) The insurance company shall send written notice not
5 less than 45 nor more than 60 days from the time the
6 information is furnished to an authorized agency, except when
7 the agency specifies that a notice should not be sent in
8 accordance with the exceptions under paragraph (1), in which
9 event the insurance company shall send written notice to the
10 policyholder not less than 180 days nor more than 190 days
11 after the information is furnished to an authorized agency.

12 (3) Every insurance company or authorized agency and any
13 person acting on behalf of either, complying with or
14 attempting in good faith to comply with paragraphs (1) and
15 (2), shall be absolutely immune from any civil liability
16 arising out of any acts or omissions in so doing. This
17 subsection does not create any additional rights to privacy
18 or causes of action on behalf of policyholders.

19 (d) Release of information.--An authorized agency that is
20 provided with information under subsection (a) or (b) may in
21 good faith release or provide orally or in writing such
22 information as it possesses in whole or in part to any other
23 authorized agency or insurance company in furtherance of the
24 agency's own investigative purposes.

25 § 5554. Immunity.

26 Any insurance company or person designated to act in its
27 behalf, or any authorized agency or person authorized to act on
28 its behalf, who without actual malice releases oral or written
29 information under section 5553(a), (b) or (d) (relating to
30 disclosure of information) shall be immune from liability

1 arising out of a civil action and from criminal prosecution with
2 respect to the release of the information.

3 § 5555. Evidence.

4 Except as provided in section 5553(d) (relating to disclosure
5 of information), any authorized agency or insurance company who
6 receives any information furnished pursuant to this subchapter
7 shall hold the information in strict confidence until such time
8 as its release is required pursuant to a criminal or civil
9 proceeding.

10 § 5556. Penalty.

11 (a) Disclosure of information.--Any person who fails or
12 refuses to release any information required to be released under
13 this subchapter or who discloses information required to be held
14 in confidence, or who otherwise violates any provision of this
15 subchapter, except section 5553(c)(1) and (2) (relating to
16 disclosure of information), commits a misdemeanor or the third
17 degree.

18 (b) Immunity from liability.--Any person who releases or
19 discloses information required to be held in confidence pursuant
20 to section 5555 (relating to evidence), other than as provided
21 under section 5553(a), (b) or (d), shall not be afforded
22 immunity under section 5554 (relating to immunity).

23 § 5557. Construction of subchapter.

24 (a) Municipal ordinances.--This subchapter does not affect
25 or repeal any ordinances of any municipality relating to fire
26 prevention or the control of arson.

27 (b) Impairment of rights not intended.--With the exception
28 of section 5554 (relating to immunity), this subchapter does not
29 impair any existing statutory or common law rights, powers or
30 duties.

1 § 5558. Regulations.

2 The Pennsylvania State Police Commissioner may promulgate
3 such regulations concerning the implementation of section
4 5553(d) (relating to disclosure of information) as he deems
5 necessary. The department may promulgate regulations concerning
6 the implementation of this subchapter except for section
7 5553(d).

8 SUBCHAPTER E

9 ANTI-ARSON APPLICATIONS

10 Sec.

11 5561. Short title of subchapter.

12 5562. Purpose of subchapter.

13 5563. Definitions.

14 5564. Applicability of subchapter.

15 5565. Form of anti-arson applications.

16 5566. Insurability.

17 5567. Requirement and effect of anti-arson applications.

18 5568. Alternative anti-arson applications.

19 5569. Termination of insurance policies or contracts.

20 5570. Penalties.

21 5570.1. Regulations.

22 5571. Advisory board.

23 § 5561. Short title of subchapter.

24 This subchapter shall be known and may be cited as the Anti-
25 Arson Application Law.

26 § 5562. Purpose of subchapter.

27 The purpose of this subchapter is to promote the public
28 welfare by reducing the loss of life and fire damage to property
29 caused by the crime of arson by requiring insurance companies to
30 secure anti-arson applications from applicants for new policies

1 of property insurance containing information to control the
2 incidence of arson fraud.

3 § 5563. Definitions.

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

7 "Anti-arson application." Any application for insurance
8 covering the peril of fire that includes certain questions to be
9 answered by the applicant in addition to the basic information
10 normally supplied to an insurer by an applicant.

11 "Commercial monoline fire policy." An insurance policy on a
12 commercial or industrial premise in which coverage is limited to
13 the perils of:

14 (1) fire, lightning or removal as contained in the
15 standard fire policy in section 5906 (relating to provisions
16 of fire insurance policies); or

17 (2) the coverage described in paragraph (1) and extended
18 coverage, including windstorm or hail, smoke, explosion, riot
19 or civil commotion, aircraft and vehicle, vandalism or
20 malicious mischief.

21 The term does not include any package policy or multiperil
22 policy which provides coverage of other perils such as, but not
23 limited to, coverage of bodily injury or property damage
24 liability.

25 "Insurance policy" or "contract of insurance." Any written
26 evidence of new insurance providing coverage from the peril of
27 fire written or entered into on or after March 7, 1983, or any
28 assignment of an existing insurance policy or contract which
29 occurs because of the transfer of a major financial interest in
30 the insured real property. Except for those assignments, the

1 term does not include any property insurance policy in force
2 before March 7, 1983, or the renewal of a contract of insurance
3 in force before March 7, 1983.

4 "Renewal." The issuance and delivery by an insurer of a
5 policy superseding at the end of the policy period a policy
6 previously issued and delivered by the same insurer, providing
7 types and limits of coverage at least equal to those contained
8 in the policy being superseded, or the issuance and delivery of
9 a certificate or notice extending the term of a policy beyond
10 its policy period or term with types and limits of coverage at
11 least equal to those contained in the policy being extended. Any
12 policy with a policy period or term of less than 12 months or
13 any period with no fixed expiration date shall be considered as
14 if written for successive policy periods or terms of 12 months.
15 § 5564. Applicability of subchapter.

16 Anti-arson applications shall be used for commercial monoline
17 fire policies, designated occupancies and designated areas of
18 this Commonwealth, upon a finding by the department, after a
19 public hearing in a location or municipality to be included in a
20 designated area, that commercial monoline fire policies, the
21 designated occupancies and the areas of this Commonwealth have
22 an abnormally high incidence of arson. Hearings pursuant to this
23 section shall be held under the act of July 3, 1986 (P.L.388,
24 No.84), known as the Sunshine Act.

25 § 5565. Form of anti-arson applications.

26 (a) Two-tier applications.--The department, in promulgating
27 the anti-arson application form, shall consider generally
28 recognized two-tier application forms. If the initial first-tier
29 application elicits certain predesignated answers, then the
30 second-tier supplementary application shall be administered.

1 (b) Contents.--The two-tiered application shall secure the
2 disclosure of all of the following information:

3 (1) The name and address of the applicant, any
4 mortgagees and any other parties who have an ownership
5 interest in the property.

6 (2) The amount of insurance requested and the method of
7 valuation used to establish the amount of insurance.

8 (3) The dates and selling prices of the property in all
9 real estate transactions involving the property during the
10 last three years.

11 (4) The applicant's loss history over the last five
12 years with regard to any property in which he held an equity
13 interest or a mortgage and where any such loss exceeded
14 \$1,000 in damages.

15 (5) All taxes unpaid or overdue for one or more years
16 and any mortgage payments overdue by three months or more.

17 (6) All known current violations of fire, safety,
18 health, building or construction codes on the property to be
19 insured.

20 (7) The present occupancy of the structure.

21 (8) Such other information as the department deems
22 necessary.

23 (c) Form of validation.--An anti-arson application shall
24 contain the following language:

25 I (We) certify that all information contained herein is
26 true and correct to the best of my (our) knowledge and
27 belief. Signed under penalty of perjury.

28 (d) Excluded property.--If a commercial, designated
29 occupancy or designated area property subject to this subchapter
30 is insured in a contract of insurance which includes other

1 properties which are not subject to section 5564 (relating to
2 applicability of subchapter), the information required in this
3 section shall only be the information applicable to the property
4 subject to this subchapter.

5 § 5566. Insurability.

6 Designation of any area of this Commonwealth under section
7 5564 (relating to applicability of subchapter) shall not be
8 deemed a valid reason for refusal to write, termination or
9 nonrenewal of any policy or contract of insurance.

10 § 5567. Requirement and effect of anti-arson applications.

11 (a) Use of anti-arson application.--An insurer may not enter
12 into a permanent contract to insure any building, except one to
13 four family owner-occupied dwellings, against the peril of fire
14 to be issued after March 7, 1983, unless the insurer first
15 receives an anti-arson application signed and affirmed by the
16 insured, if required by the department under this subchapter.
17 This subsection does not prohibit the issuance of a binder or
18 other temporary contract of insurance for a period of 90 days or
19 less, provided that the anti-arson application is provided to
20 the insured for completion in accordance with this section.

21 (b) Effect.--Any anti-arson application required by this
22 subchapter shall be deemed a material part of the insurance
23 policy to which the application pertains. A material
24 misrepresentation shall be deemed grounds to void the insurance
25 policy.

26 (c) Notice of changes.--Policyholders shall notify their
27 insurer in writing of any change in the information contained in
28 the anti-arson application, within a period of time to be
29 specified by the department. A material failure to notify or a
30 material misrepresentation in such notification shall be deemed

1 grounds to void the insurance policy.

2 § 5568. Alternative anti-arson applications.

3 (a) Power of department.--The department may mandate
4 alternative anti-arson applications pursuant to findings, after
5 a public hearing, that:

6 (1) there exist certain types of policies, certain
7 classes of property and certain geographic areas of this
8 Commonwealth which have an abnormally high incidence of
9 arson;

10 (2) the anti-arson application was implemented as
11 respects those types of insurance policies, classes of
12 property and areas of this Commonwealth under this
13 subchapter; and

14 (3) the use of the anti-arson application under this
15 subchapter failed to substantially decrease the arson problem
16 for those types of insurance policies, classes of property
17 and geographic areas.

18 (b) Limitations.--The department shall not mandate the use
19 of any applications other than the anti-arson application.
20 Alternative anti-arson applications may only be mandated for the
21 types of insurance policies, types of occupancies and the areas
22 of this Commonwealth which would be permissible subjects for the
23 anti-arson application under this subchapter.

24 § 5569. Termination of insurance policies or contracts.

25 Notwithstanding any other provision of law which limits the
26 time for termination of insurance policies, an insurer may
27 terminate for any lawful reason any policy or contract of
28 insurance where the anti-arson application or any alternative
29 anti-arson application is required within 90 days from the
30 insurer's acceptance of the application. The notice of

1 cancellation to the insured shall contain the specific reasons
2 for the termination of the policy.

3 § 5570. Penalties.

4 (a) Civil penalty.--Any insurer willfully violating this
5 subchapter shall be subject to a civil penalty imposed by the
6 department of not more than \$10,000.

7 (b) Criminal penalty.--Any insurer violating section 5567
8 (relating to requirement and effect of anti-arson applications)
9 commits a misdemeanor of the first degree.

10 § 5570.1. Regulations.

11 The department may promulgate such regulations as are
12 necessary or desirable to implement this subchapter.

13 § 5571. Advisory board.

14 (a) Establishment.--The department may establish an advisory
15 board of public and private representatives, which shall consist
16 of the commissioner as chairman and two lay people, two members
17 of the insurance industry, two municipal officials and two
18 members of the General Assembly, one of which shall be appointed
19 by the Speaker of the House of Representatives and one of which
20 shall be appointed by the President pro tempore of the Senate,
21 to assist the department in administering this subchapter and in
22 studying and implementing any other measures to prevent arson.

23 (b) Expenses.--Each member of the advisory board shall
24 receive \$40 per diem for each day actually engaged in attendance
25 at meetings of the board. The members shall also receive the
26 amount of actual traveling, hotel and other necessary expenses
27 incurred in the performance of their duties.

28 (c) Expiration.--The advisory board established by
29 subsection (a) shall expire and its authority shall cease on
30 March 7, 1987, unless extended by statute.

1 SUBCHAPTER F

2 NOTICE OF PREMIUM INCREASES, CANCELLATIONS

3 AND NONRENEWALS

4 Sec.

5 5575.1. Notice of premium increases.

6 5575.2. Grounds for cancellation.

7 5575.3. Notice of midterm cancellations and nonrenewals.

8 5575.4. Return of unearned premium amounts.

9 5575.5. Extended reporting endorsement.

10 5575.6. Policy form filings.

11 5575.7. Applicability.

12 5575.8. Penalties.

13 5575.9. Rulemaking.

14 § 5575.1. Notice of premium increases.

15 Notwithstanding any other provision of law, a policy of
16 insurance covering commercial property or casualty risks in this
17 Commonwealth shall provide for not less than 60 days' notice of
18 intent to increase the insured's renewal premium with 30 days'
19 notice of an estimate of the renewal premium. This section does
20 not apply to policies written on a retrospective rating plan.

21 § 5575.2. Grounds for cancellation.

22 No insurer may cancel in midterm a policy of insurance
23 covering commercial property and casualty risks for any reason
24 other than the following:

25 (1) A condition, factor or loss experience material to
26 insurability has changed substantially or a substantial
27 condition, factor or loss experience material to insurability
28 has become known during the policy term.

29 (2) Loss of reinsurance or a substantial decrease in
30 reinsurance has occurred, which loss or decrease shall, at

1 the time of cancellation, be certified to the department as
2 directly affecting in-force policies.

3 (3) The insured has made a material misrepresentation
4 which affects the insurability of the risk.

5 (4) The policy was obtained through fraudulent
6 statements, omissions or concealment of fact material to the
7 acceptance of the risk or to the hazard assumed by the
8 company.

9 (5) The insured has failed to pay a premium when due,
10 whether the premium is payable directly to the company or its
11 agents or indirectly under a premium finance plan or
12 extension of credit.

13 (6) The insured has requested cancellation.

14 (7) Material failure to comply with policy terms,
15 conditions or contractual duties.

16 (8) Other reasons that the department may approve.

17 § 5575.3. Notice of midterm cancellations and nonrenewals.

18 (a) General rule.--Notices of midterm cancellation and
19 nonrenewal shall meet the following requirements:

20 (1) The midterm cancellation or nonrenewal notice shall
21 be forwarded by registered or first class mail or delivered
22 by the insurance company directly to the named insured or
23 insureds.

24 (2) Written notice of nonrenewal in the manner
25 prescribed in this section shall be forwarded directly to the
26 named insured or insureds at least 60 days in advance of the
27 effective date of termination.

28 (3) Written notice of cancellation in the manner
29 prescribed in this section shall be forwarded directly to the
30 named insured or insureds at least 60 days in advance of the

1 effective date of termination unless one or more of the
2 following circumstances exist:

3 (i) The insured has made a material
4 misrepresentation which affects the insurability of the
5 risk, in which case the prescribed written notice of
6 cancellation shall be forwarded directly to the named
7 insured at least 15 days in advance of the effective date
8 of termination.

9 (ii) The insured has failed to pay a premium when
10 due, whether the premium is payable directly to the
11 company or its agents or indirectly under a premium
12 finance plan or extension of credit, in which case the
13 prescribed written notice of cancellation shall be
14 forwarded directly to the named insured at least 15 days
15 in advance of the effective date of termination.

16 (iii) The policy was canceled by the named insured,
17 in which case written notice of cancellation shall not be
18 required and coverage shall be terminated on the date
19 requested.

20 This paragraph does not restrict the insurer's right to
21 rescind an insurance policy ab initio upon discovery that the
22 policy has been obtained through fraudulent statements,
23 omissions or concealment of fact material to the acceptance
24 of the risk or to the hazard assumed by the company.

25 (4) The notice shall be clearly labeled "notice of
26 cancellation" or "notice of nonrenewal."

27 (5) The midterm cancellation or nonrenewal notice shall
28 state the specific reasons for the cancellation or
29 nonrenewal. The reasons shall identify the condition, factor
30 or loss experience which caused the midterm cancellation or

1 nonrenewal. The notice shall provide sufficient information
2 or data for the insured to correct the deficiency.

3 (6) The midterm cancellation or nonrenewal notice shall
4 state that, at the insured's request, the insurer shall
5 provide loss information to the insured for at least three
6 years or the period of time during which the insurer has
7 provided coverage, whichever is less. Loss information on the
8 insured shall consist of the following:

9 (i) Information on closed claims, including date and
10 description of occurrence, and amount of payments, if
11 any.

12 (ii) Information on open claims, including date and
13 description of occurrence, amount of payment, if any, and
14 amount of reserves, if any.

15 (iii) Information on notices of occurrence,
16 including date and description of occurrence and amount
17 of reserves, if any.

18 (7) The insured's written request for loss information
19 shall be made within ten days of the insured's receipt of the
20 midterm cancellation or nonrenewal notice. The insurer shall
21 provide the requested information within 30 days from the
22 date of receipt of the written request.

23 (b) Effective notice.--Until an insurer issues a nonrenewal
24 or cancellation notice that complies with this subchapter,
25 insurance coverage will remain in effect. However, if the
26 insured obtains replacement coverage, the noncomplying insurer's
27 obligation to continue coverage ceases.

28 § 5575.4. Return of unearned premium amounts.

29 (a) Cancellation initiated by insurer.--Unearned premium
30 amounts must be returned to the insured not later than ten

1 business days after the effective date of termination if
2 commercial property or casualty risks are canceled in midterm by
3 the insurer.

4 (b) Cancellation initiated by insured.--Unearned premium
5 amounts must be returned to the insured not later than 30 days
6 after the effective date of termination if commercial property
7 or casualty risks are canceled in midterm by the insured.

8 (c) Estimated basis.--If the amount of premium to be
9 returned cannot be calculated precisely within the time period
10 required under subsection (a) or (b) because the policy was
11 written on the basis of an estimated premium, or was issued
12 subject to a premium audit, unearned premium amounts shall be
13 returned to the insured on an estimated basis. Upon the
14 insurer's completion of computation of the exact premium amount
15 to be returned, an additional return of premium or a charge
16 shall be made to the named insured within 15 days of the final
17 computation.

18 (d) Applicability.--This section does not apply to policies
19 written on a retrospective rating plan.

20 § 5575.5. Extended reporting endorsement.

21 Insurers shall provide a 60-day period, after cancellation or
22 nonrenewal of a claims made policy is effective, during which
23 the insured may purchase an extended reporting coverage
24 endorsement, also referred to as tail coverage. If the insured
25 purchases the extended reporting coverage endorsement at any
26 time within this 60-day period, the extended reporting coverage
27 shall become effective as of the date the claims made policy
28 terminated.

29 § 5575.6. Policy form filings.

30 Policy form filings received by the department on or after

1 July 3, 1986, shall conform to the requirements of this chapter.

2 § 5575.7. Applicability.

3 (a) General rule.--This subchapter applies to insurance
4 policies, exclusive of reinsurance policies, covering commercial
5 property and casualty risks located in this Commonwealth.

6 (b) Partial exemption.--Workmen's compensation policies, and
7 medical malpractice policies subject to Chapter 71 (relating to
8 health care services malpractice), are not subject to the
9 cancellation provisions of this subchapter.

10 (c) Short term policies.--This chapter does not apply to
11 commercial property and casualty insurance policies that are in
12 effect less than 60 days, unless they are renewals. An insurer
13 may cancel the policy provided it gives at least 30 days' notice
14 of the termination and provided it gives notice not later than
15 the 60th day unless the policy provides for a longer period of
16 notification.

17 § 5575.8. Penalties.

18 Upon satisfactory evidence of a violation of this subchapter,
19 the department may pursue one or both of the following courses
20 of action:

21 (1) Order that the insurer cease and desist from the
22 violation.

23 (2) Impose a fine of not more than \$5,000 for each
24 violation.

25 § 5575.9. Rulemaking.

26 The department shall promulgate regulations necessary for the
27 administration of this subchapter.

28 SUBCHAPTER G

29 MISCELLANEOUS PROVISIONS

30 Sec.

1 5581. Companies providing boiler insurance.

2 5582. Boiler insurance in cities of the first class.

3 5583. Insurance consultation services exemption.

4 § 5581. Companies providing boiler insurance.

5 Domestic companies or companies doing business in this
6 Commonwealth with power to insure against loss by the explosion
7 of steam boilers may insure all loss or damage which the owner
8 or owners of the boiler, or their employees or other persons,
9 may suffer or be liable for in case of an explosion of the
10 boilers mentioned in any policy of insurance issued by the
11 company for the amount specified therein.

12 § 5582. Boiler insurance in cities of the first class.

13 (a) General rule.--Any steam boiler insurance company which
14 has complied with the law of this Commonwealth relative to
15 insurance companies shall be authorized to inspect and insure
16 boilers in all cities of the first class under this section.

17 (b) Interest in manufacture of steam boilers.--Neither the
18 insurance company nor its executive officers shall, directly or
19 indirectly, be interested in the manufacture or sale of steam
20 boilers or of any of the appliances connected with steam engines
21 and boilers.

22 (c) Oath of boiler inspectors.--The insurance company shall
23 employ skillful and competent persons for the inspection of
24 steam boilers who, before entering upon their duties, shall
25 swear that they will not accept for the performance of their
26 duties any money, gift, gratuity or consideration from any
27 person or persons, other than the insurance company which
28 employs them, and that they will not, directly or indirectly, be
29 interested in the manufacture or sale of steam boilers or of any
30 of the appliances connected with steam engines and boilers.

1 (d) Requirement of inspection.--A policy of insurance
2 described in subsection (a) shall not be for a longer period
3 than three years and shall not be effected until the boiler has
4 been inspected and tested, and its inspection, test, condition,
5 attachments and indicators have been found to conform to the
6 provisions of the city ordinances regarding the inspection of
7 steam engines and boilers. The details of this inspection, test,
8 attachments and indicators shall be furnished the city inspector
9 in the required form.

10 (e) Minimum premium.--A policy of insurance described in
11 subsection (a) shall not be valid unless the premium upon the
12 policy, including a fee paid to the city inspector under this
13 section, shall be at least one and one-half times the charges
14 prescribed by the city ordinance for the inspection of steam
15 boilers. The policy shall not be canceled or modified so that
16 the premium is less than the amount provided under this
17 subsection without notifying the city inspector immediately in
18 writing with the reasons therefor.

19 (f) Issuance of certificate of inspection.--Whenever the
20 insurance company inspects a boiler and issues a policy of
21 insurance covering it, the company shall issue a certificate of
22 inspection, which shall set forth that the inspection, tests,
23 attachments and indicators have been found to be in accordance
24 with the requirements of the city ordinances. The certificate
25 shall also state the pressure, in pounds, to which each boiler
26 has been subjected in testing, together with the amount of
27 pressure the user is authorized to carry within the boiler, in
28 accordance with the city ordinances. It shall further state that
29 the boiler inspected has been insured by the company, and that
30 the holder of the certificate is required to maintain it in a

1 conspicuous place near the boiler to which it refers.

2 (g) Cancellation of modification of policy.--If the
3 insurance company cancels a policy of insurance issued in
4 accordance with this section, or modifies the policy so that the
5 premium is less than the amount provided under subsection (e),
6 the cancellation or modification shall render the certificate of
7 inspection upon each boiler affected invalid, and notice of the
8 cancellation shall be communicated to the city inspector
9 immediately.

10 (h) Form and effect of certificate.--The inspector of steam
11 engines and boilers in cities of the first class shall furnish
12 all steam boiler insurance companies or their agents with
13 printed forms for recording the details of inspection, similar
14 to those furnished to his own assistants. The inspector shall
15 also furnish the companies with a form of certificate setting
16 forth that the premium upon the policy of insurance to be issued
17 in connection with the certificate of inspection equals or
18 exceeds the amount provided under subsection (e). He shall
19 record the forms and certificates as provided for in the city
20 ordinance and shall affix his signature and official seal to the
21 certificate of inspection of the insurance companies if the
22 inspection shows that the requirements of the city ordinances
23 relative to boiler inspections have been complied with, and that
24 the company has complied with this section. The inspector of
25 steam engines and boilers in any city of the first class shall
26 receive for such approval \$1 for each boiler, which shall be
27 paid into the city treasury, but the approval shall not be
28 effective for a longer period than one year from the date
29 thereof.

30 (i) Notice of withdrawal of certificate.--When the inspector

1 withholds or withdraws a certificate of inspection, by reason of
2 the incompetence or unreliability of the engineer, under this
3 section and the city ordinance for the inspection of steam
4 boilers, or whenever he considers the boiler unsafe, he shall
5 give the user of the boiler and the insurance company issuing
6 the policy thereon written notice thereof. The notice shall
7 contain a statement of the reasons for the action. The notice
8 shall be equivalent to the removal of the certificate. The
9 withdrawal of the certificate shall render void the policy of
10 insurance upon the boilers to which the certificate had
11 reference.

12 (j) Penalty.--Any inspector of an insurance company who aids
13 in procuring insurance of any stationary steam engine or boiler
14 which does not comply with the conditions, or stand the test
15 provided for in the ordinance of a city of the first class
16 relative to boiler inspection, or which is not provided with the
17 attachments and indicators required by the ordinance, or
18 knowingly permits insurance to continue upon any stationary
19 steam engine or boiler in a city of the first class not provided
20 with such attachments and indicators, commits a misdemeanor of
21 the second degree.

22 § 5583. Insurance consultation services exemption.

23 (a) Short title.--This section shall be known and may be
24 cited as the Insurance Consultation Services Exemption Act.

25 (b) Exemption from civil liability.--The furnishing, or
26 failure to furnish, insurance consultation services shall not
27 subject the insurer, its agents, employees or service
28 contractors to liability for damages from injury, death or loss
29 occurring as a result of any act or omission by any person in
30 the course of such services.

1 (c) Applicability.--This section does not apply:

2 (1) If the injury, loss or death occurred during the
3 actual performance of consultation services and was caused by
4 the negligence of the insurer, its agent, employees or
5 service contractors which was a proximate cause of the
6 injury, death or loss.

7 (2) To any consultation services required to be
8 performed under the provisions of a written service contract
9 not incidental to a policy of insurance.

10 (3) In any action against any insurer, its agents,
11 employees or service contractors for damages caused by the
12 act or omission of such persons in which it is judicially
13 determined that the act or omission constituted a crime or
14 was accompanied by actual malice or gross negligence.

15 (4) If the insurer fails to furnish the insured with
16 written notice of the provisions of this section. The notice
17 shall be provided the insured by the insurer at the time the
18 policy is issued or written and at each renewal thereof. The
19 manner in which the notice shall be given and its specific
20 contents shall be approved by the department.

21 (5) To the immunities and protections provided by
22 section 305 (relating to insurance of payment of compensation
23 by employer) of the act of June 2, 1915 (P.L.736, No.338),
24 known as The Pennsylvania Workmen's Compensation Act.

25 (d) Definitions.--As used in this section the following
26 words and phrases shall have the meanings given to them in this
27 subsection:

28 "Insurance consultation service." Any survey, consultation,
29 inspection, advisory or related services performed by an
30 insurer, its agents, employees or service contractors incident

1 to an application for property or casualty insurance or a policy
2 of such insurance for the purpose of reducing the likelihood of
3 injury, death or loss.

4 "Insurer." Any authorized property or casualty insurance
5 company.

6 CHAPTER 57

7 PENNSYLVANIA FAIR PLAN

8 Subchapter

9 A. General Provisions

10 B. Structure of Fair Plan

11 C. Pennsylvania Civil Disorder Authority

12 D. Basic Property Insurance Assessment

13 SUBCHAPTER A

14 GENERAL PROVISIONS

15 Sec.

16 5701. Short title of chapter.

17 5702. Purposes of chapter.

18 5703. Definitions.

19 § 5701. Short title of chapter.

20 This chapter shall be known and may be cited as the
21 Pennsylvania Fair Plan Act.

22 § 5702. Purposes of chapter.

23 The purposes of this chapter are to:

24 (1) Encourage stability in the property insurance market
25 for property located in urban areas of this Commonwealth.

26 (2) Encourage maximum use in obtaining basic property
27 insurance of the normal insurance market provided by the
28 private property insurance industry.

29 (3) Encourage the improvement of the condition of
30 properties located in urban areas of this Commonwealth and to

1 further orderly community development generally.

2 (4) Provide for the formulation and administration by an
3 industry placement facility of a fair plan in order that no
4 property shall be denied basic property insurance through the
5 normal insurance market provided by the private property
6 insurance industry except after a physical inspection of the
7 property and a fair evaluation of its individual underwriting
8 characteristics.

9 (5) Publicize the purposes and procedures of the fair
10 plan so that no one may fail to seek its assistance through
11 ignorance thereof.

12 (6) Provide for the formulation and administration by
13 the industry placement facility of a reinsurance arrangement
14 whereby property insurers shall share equitably the
15 responsibility for insuring insurable property for which
16 basic property insurance cannot be obtained through the
17 normal insurance market.

18 (7) Provide a framework for participation by the
19 Commonwealth in a sharing of insured losses resulting from
20 riots and other civil disorders occurring in this
21 Commonwealth through the formation of a Pennsylvania Civil
22 Disorder Authority, in order that insurance companies doing
23 business in this Commonwealth may qualify for Federal
24 reinsurance of such losses if Federal legislation providing
25 for reinsurance is enacted.

26 § 5703. Definitions.

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

30 "Basic property insurance." Insurance against direct loss to

1 real or tangible personal property at a fixed location caused by
2 perils defined and limited in the standard fire policy
3 prescribed in section 5906 (relating to provisions of fire
4 insurance policies) and in the extended coverage endorsement
5 approved by the department under section 3515 (relating to
6 approval of contracts by department) and vandalism, malicious
7 mischief, burglary, theft or other classes of insurance as are
8 determined by the industry placement facility with the approval
9 of the department. The term does not include insurance on a
10 motor vehicle or farm or such manufacturing risks as are
11 excluded by the department.

12 "Fair plan." A plan formulated by the industry placement
13 facility under the authority of this chapter for the purposes
14 set forth in section 5711(b) (relating to industry placement
15 facility).

16 "Federal reinsurance facility." Any agency, or
17 instrumentality thereof, or any body corporate created by the
18 Federal Government for the purpose of providing reinsurance for
19 losses resulting from riots and other civil disorders.

20 "Government." The Federal Government and the government of
21 the Commonwealth, or any agency or instrumentality, corporate or
22 otherwise, of either of them.

23 "Inspection bureau." The organization or organizations
24 designated by the industry placement facility with the approval
25 of the department to inspect and to determine the condition of
26 the properties for which basic property insurance is sought.

27 "Insurer." Any insurance company or group of companies under
28 common ownership which is authorized to engage in the insurance
29 business under the law of any state, including any pool or
30 association of insurance companies formed, associated or

1 otherwise created for the purpose of sharing risks written in
2 accordance with this chapter.

3 "Premiums written." Gross direct premiums charged on all
4 policies of basic property insurance and the basic property
5 insurance components of all multiple peril policies covering
6 property in this Commonwealth, less all premiums and dividends
7 returned to policyholders and the unused or unabsorbed portions
8 of premium deposits.

9 "Urban area." Any municipal corporation having a blighted,
10 deteriorated or deteriorating area which the Secretary of the
11 Federal Department of Housing and Urban Development has approved
12 as eligible for an urban renewal project or which has been
13 designated as an urban area by the industry placement facility
14 with the approval of the department.

15 SUBCHAPTER B

16 STRUCTURE OF FAIR PLAN

17 Sec.

18 5711. Industry placement facility.

19 5712. Fair plan.

20 5713. Distribution of risks.

21 5714. Uninsurable risks.

22 5715. Regulation by department.

23 5716. Annual and other statements.

24 5717. Privileged communications.

25 5718. Review.

26 § 5711. Industry placement facility.

27 (a) Membership.--Each insurer which is authorized to write
28 and is engaged in writing in this Commonwealth, on a direct
29 basis, basic property insurance or any component thereof
30 contained in a multiple peril policy, including homeowners and

1 commercial multiple peril policies, shall participate in the
2 industry placement facility as a condition of its authority to
3 write those kinds of insurance in this Commonwealth. Other
4 insurers may become members if they are eligible surplus lines
5 insurers under section 1307 (relating to eligible surplus lines
6 insurers).

7 (b) Purposes.--The purposes of the facility shall be to:

8 (1) Formulate and administer, subject to the approval of
9 the department, a plan to be known as the fair plan assuring
10 fair access to insurance requirements in order that no
11 property in urban areas shall be denied basic property
12 insurance through the normal insurance market provided by the
13 private property insurance industry, except after a physical
14 inspection of the property and a fair evaluation of its
15 individual underwriting characteristics.

16 (2) Formulate and administer, subject to the approval of
17 the department, a reinsurance arrangement whereby the members
18 of the facility shall share equitably the responsibility for
19 insuring property in urban areas which is insurable, but for
20 which basic property insurance cannot be obtained through the
21 normal insurance market.

22 (c) Plan of operation.--The industry placement facility
23 shall operate under a plan of operation of the facility,
24 consistent with the provisions of this chapter and the purposes
25 of the facility, which shall provide for the fair plan, the
26 reinsurance arrangement and the economical and efficient
27 administration of the facility, including, but not limited to,
28 management of the facility, preliminary assessment of all
29 members for initial expenses necessary to commence operations,
30 establishment of necessary facilities in this Commonwealth,

1 assessment of members to defray losses and expenses, commission
2 arrangements, reasonable underwriting standards and limits of
3 liability, acceptance and cession of reinsurance and procedures
4 for determining amounts of insurance to be provided. The plan of
5 operation shall be the plan approved by the department under the
6 former section 201(c) (relating to industry placement facility)
7 of the act of July 31, 1968 (P.L.738, No. 233), known as the
8 Pennsylvania Fair Plan Act or under subsection (d).

9 (d) Amendment of plan of operation.--At the direction of the
10 department, the facility shall amend the plan of operation, and
11 the facility may amend the plan of operation on its own
12 initiative subject to the prior approval of the department.

13 (e) Organization of facility.--The facility shall be
14 governed by a board of seven directors elected annually by the
15 members of the facility. Each member of the facility shall be
16 allotted votes bearing the same ratio to the total number of
17 votes to be cast as its degree of participation in the facility
18 bears to the total participation. Pending the determination of
19 the degree of participation of the members in the facility, each
20 member of the facility shall be allotted votes bearing the same
21 ratio to the total number of votes to be cast as each member's
22 written premium on basic property insurance during calendar year
23 1967 bears to the statewide total written premium for basic
24 property insurance during that year. The first board shall be
25 elected at a meeting of the members or their authorized
26 representatives. Any vacancy on the board shall be filled by a
27 vote of the other directors. If at any time the members fail to
28 elect the required number of directors or a vacancy remains
29 unfilled for more than 15 days, the commissioner may appoint the
30 directors necessary to constitute a full board.

1 (f) Participation.--All members of the facility shall
2 participate in its expenses and in its profits and losses, or in
3 such categories thereof as may be separately established by the
4 facility, in the proportion that the premiums written by each
5 such member during the second preceding calendar year bear to
6 the aggregate premiums written in this Commonwealth by all
7 members of the facility. For the purposes of computing the
8 proportion of participation, the "premiums written" shall not
9 include the premiums attributable to the reinsurance arrangement
10 maintained by the facility. Participation by each member in the
11 facility shall be determined annually by the facility on the
12 basis of the premiums written during the second preceding
13 calendar year as disclosed in the annual statements and other
14 reports filed by the member with the department.

15 (g) Termination of Federal reinsurance facility.--Policies
16 issued pursuant to the direction of and other obligations
17 incurred by the industry placement facility shall not be
18 impaired by the termination of the Federal reinsurance facility,
19 and the industry placement facility shall continue for the
20 purpose of servicing these policies and performing these
21 obligations.

22 § 5712. Fair plan.

23 The fair plan shall provide as follows:

24 (1) Any person having an insurable interest in real or
25 tangible personal property at a fixed location in an urban
26 area, his representative, an insurance agent or broker or an
27 insurer may request the facility for an inspection of the
28 property by representatives of the inspection bureau, such
29 inspection to be without cost to the applicant for insurance.

30 The request for such inspection need not be made in writing.

1 The risk shall not be written at surcharged rates or be
2 denied insurance coverage for basic property insurance by an
3 insurer unless such an inspection has first been made.

4 (2) The plan of operation of the inspection bureau, the
5 manner and scope of the inspection and the form of the
6 inspection report, which shall include, but need not be
7 limited to, pertinent structural and occupancy features as
8 well as the general condition of the building and surrounding
9 structures, shall be prescribed by the industry placement
10 facility subject to the approval of the department.

11 (3) Promptly after the request for inspection is
12 received by the facility, if no policy has been issued, the
13 inspection shall be made and a written inspection report
14 prepared and filed with any insurer designated by the
15 applicant and filed with the facility. A copy of the
16 inspection report shall be made available to the applicant or
17 his representative upon request. If no insurer has been
18 designated by the applicant, the facility shall proceed as
19 provided in paragraph (9).

20 (4) After the inspection report is received by an
21 insurer, it shall promptly determine if the risk meets
22 reasonable underwriting standards at the applicable premium
23 rate, including approved surcharges for physical
24 characteristics, and shall promptly return to the industry
25 placement facility the inspection report and provide an
26 action report, both of which shall be kept on file with the
27 facility. The action report shall set forth:

- 28 (i) the amount of coverage it agrees to write and,
29 if the insurer agrees to write the coverage with an
30 approved surcharge, the improvements necessary before it

1 will provide coverage at an unsurcharged premium rate;

2 (ii) the amount of coverage it agrees to write if
3 certain improvements to the property specified in the
4 action report are made; or

5 (iii) the specific reasons for which it declines to
6 write coverage.

7 (5) If the insurer declines the risk or agrees to write
8 it on condition that the property be improved as specified,
9 the insurer shall, at the time of returning the inspection
10 and action reports to the facility, send a copy of both
11 reports to the applicant for insurance. The insurer shall
12 advise the applicant at the time of sending the reports to
13 him of his right to appeal the determination to the
14 department and shall advise the applicant of the means by
15 which to initiate an appeal.

16 (6) The inspection bureau shall submit to the department
17 periodic reports setting forth information by individual
18 insurers, including the number of risks inspected under the
19 plan, the number of risks accepted, the number of risks
20 conditionally accepted and reinspections made, the number of
21 risks declined and such other information as the department
22 may request.

23 (7) All policies written pursuant to the fair plan shall
24 be promptly written after inspection or reinspection and
25 shall be separately coded so that appropriate records may be
26 compiled for purposes of ratemaking and performing loss
27 prevention and other studies of the operation of the fair
28 plan.

29 (8) If any single insurer will underwrite only a portion
30 of the full insurable value of the property, the industry

1 placement facility shall assist the owner and his agent or
2 broker in obtaining the remaining coverage from other members
3 of the facility, except to the extent that deductibles,
4 percentage participation clauses and other accepted
5 underwriting devices are needed to meet special problems of
6 insurability.

7 (9) If no insurer to which an inspection report has been
8 forwarded pursuant to paragraph (3) agrees promptly to
9 provide basic property insurance for the property in
10 question, or if no insurer has been designated by the
11 applicant, the facility shall take appropriate action to
12 ascertain whether any member of the facility will provide
13 basic property insurance for the subject property at the
14 applicable premium rate, including approved surcharges for
15 physical characteristics.

16 (10) An insurer shall not direct any agent or broker or
17 other producer to avoid soliciting business through the fair
18 plan, and an agent, broker or other producer shall not be
19 penalized by an insurer for submitting applications for
20 insurance to it under the fair plan.

21 (11) Records of insurance procured under the fair plan
22 shall be maintained separately from other records of an
23 agent's or broker's business conducted with an insurer.

24 (12) Written notice will be given to any policyholder at
25 least 20 days prior to the cancellation or nonrenewal of any
26 risk eligible under the fair plan, except in the case of
27 nonpayment of premium or evidence of incendiarism, and the
28 insurer shall, in the notice of cancellation or nonrenewal,
29 explain to the policyholder the procedures for obtaining an
30 inspection under the plan.

1 (13) An agent or broker shall not be permitted to refuse
2 an application for basic property insurance within an urban
3 area if he is licensed to write and is actively engaged in
4 writing such insurance.

5 (14) A cooperative and continuing public education
6 program shall be undertaken by the department, the industry
7 placement facility and the members of the facility to assure
8 that the fair plan is given adequate publicity.

9 § 5713. Distribution of risks.

10 (a) Powers of facility.--The facility shall have the
11 following powers, on behalf of its members:

12 (1) To direct one or more of its members to issue
13 policies of basic property insurance to applicants.

14 (2) To assume reinsurance from its members.

15 (3) To cede reinsurance.

16 (b) Ceding of coverage.--Any member of the facility may cede
17 to the facility basic property insurance covering property in
18 urban areas to the extent and on the terms and conditions set
19 forth in the plan of operation of the facility.

20 (c) Determination by facility.--If the facility has been
21 unable to obtain basic property insurance for any property
22 through the voluntary action of its members pursuant to section
23 5712 (relating to fair plan), it shall promptly determine
24 whether the property is insurable and whether there is any
25 unpaid premium due from the applicant for prior insurance on the
26 property. Any hazardous environmental condition that might give
27 rise to loss under an insurance contract but which is beyond the
28 control of the property owners shall not be considered by the
29 facility in determining insurability. If the facility determines
30 that the property is insurable and that no unpaid premium is

1 due, it shall promptly cause one or more of its members to issue
2 a policy or policies of basic property insurance at the
3 applicable premium rate, including approved surcharges for
4 physical characteristics, in the full insurable value of the
5 property, for a term of one year, subject to total reinsurance
6 of the risk by the facility.

7 § 5714. Uninsurable risks.

8 If the facility finds that the property is not insurable, it
9 shall promptly supply to the applicant a written statement
10 setting forth the features or conditions of the property which
11 prevent it from constituting an insurable risk and the actions,
12 if any, which would make the property an insurable risk.

13 § 5715. Regulation by department.

14 The department may promulgate regulations to assure the
15 successful operation of the industry placement facility,
16 including the fair plan, and as may be necessary for the
17 administration of this chapter. The operation of the inspection
18 bureau and the facility shall at all times be subject to the
19 supervision and regulation of the department. The department, or
20 any person designated by it, shall have the power of visitation
21 of and examination into such operations at any time in the
22 discretion of the department. In connection therewith, the
23 department shall have the powers granted it by section 512
24 (relating to powers with regard to examinations) and the
25 expenses of the examination shall be borne and paid as provided
26 in section 512.

27 § 5716. Annual and other statements.

28 The inspection bureau and the industry placement facility
29 shall each file with the department annually on or before March
30 1 a statement which shall contain information with respect to

1 its transactions, condition, operations and affairs during the
2 preceding year. This statement shall contain the information
3 prescribed by the department and shall be in the form approved
4 by it. The department may at any time require the bureau or
5 facility to furnish it with additional information with respect
6 to its transactions, condition, operations and affairs or any
7 matter connected therewith which it considers to be material and
8 which will assist it in evaluating their scope, operation and
9 experience.

10 § 5717. Privileged communications.

11 There shall be no liability on the part of, and no cause of
12 action shall arise against, insurers, the inspection bureau, the
13 industry placement facility, their agents or employees, or the
14 department or its authorized representatives, for any statements
15 made in good faith by them in any reports or communications
16 concerning the property to be insured, or in the course of any
17 hearings conducted in connection therewith, or in the findings
18 required by the provisions of this subchapter. The inspection
19 reports and communications of the inspection bureau and the
20 industry placement facility shall not be considered public
21 documents.

22 § 5718. Review.

23 Any applicant for insurance and any affected insurer may
24 appeal to the department within 30 days after any ruling, action
25 or decision by or on behalf of the inspection bureau or industry
26 placement facility. After a hearing upon not less than ten days'
27 written notice to the aggrieved person and the bureau or
28 facility, the department shall issue an order approving the
29 action or decision appealed from, disapproving such action or
30 decision or directing the bureau or facility to give further

1 consideration to the matter. All hearings, orders and decisions
2 of the department pursuant to this subchapter shall be subject
3 to Title 2 (relating to administrative law and procedure).

4 SUBCHAPTER C

5 PENNSYLVANIA CIVIL DISORDER AUTHORITY

6 Sec.

7 5721. Formation of authority.

8 5722. Board of directors.

9 5723. Powers of authority.

10 5724. Civil Disorder Authority Fund.

11 5725. Reimbursement payments to Federal reinsurance facility.

12 5726. Bonds of authority.

13 5727. Remedies of bondholder.

14 § 5721. Formation of authority.

15 In order to make available to insurers which participate in
16 the industry placement facility, the reinsurance afforded by the
17 Federal reinsurance facility against losses resulting from riots
18 and civil disorders, there shall be a separate and distinct body
19 corporate and politic which shall be known as the Pennsylvania
20 Civil Disorder Authority. The authority shall be an
21 instrumentality of the Commonwealth, and the exercise by the
22 authority of the powers conferred by this subchapter shall be
23 deemed an essential governmental function of the Commonwealth.
24 Bonds issued and other obligations incurred by the Pennsylvania
25 Civil Disorder Authority shall not be impaired by the
26 termination of the Federal reinsurance facility, and the
27 authority shall continue for the purpose of servicing these
28 bonds and performing these obligations.

29 § 5722. Board of directors.

30 (a) Composition.--The powers of the authority shall be

1 exercised by a board of directors composed of the Attorney
2 General, the Secretary of Revenue, the General Counsel and the
3 commissioner, who shall select from among themselves a chairman
4 and a vice chairman. The State Treasurer shall be the treasurer
5 of the authority.

6 (b) Bonds and obligations.--The members of the board shall
7 not be liable personally on the bonds or other obligations of
8 the authority, and the rights of creditors shall be solely
9 against the authority.

10 (c) Compensation and expenses.--The members of the board
11 shall receive no compensation for their services as members but
12 shall be entitled to reimbursement for all necessary expenses
13 incurred in connection with the performance of their duties as
14 members.

15 (d) Agents and employees.--The authority may employ a
16 secretary, an executive director, its own counsel and legal
17 staff and such technical experts and other agents and employees,
18 permanent or temporary, as it may require, and may determine the
19 qualifications and fix the compensation of such persons. The
20 authority may delegate to one or more of its agents or employees
21 such of its powers as it deems necessary to carry out the
22 purposes of this chapter, subject to its supervision and
23 control.

24 § 5723. Powers of authority.

25 The authority shall exercise public powers of the
26 Commonwealth as an agency thereof, including the following
27 powers in addition to those otherwise granted in this chapter:

28 (1) To cooperate with any government or municipality.

29 (2) To act as agent of any government agency for the
30 public purposes set out in this chapter.

1 (3) To borrow funds from private lenders or from the
2 Commonwealth or the Federal Government, as may be necessary
3 for the operation and work of the authority, and to carry out
4 the purposes and provisions of this chapter.

5 (4) To invest any funds held in reserves or sinking
6 funds or any funds not required for immediate disbursement,
7 in such investments as may be lawful for executors,
8 administrators, guardians, trustees and other fiduciaries
9 under the law of this Commonwealth.

10 (5) To sue and be sued.

11 (6) To adopt a seal and to alter the same at pleasure.

12 (7) To make and execute contracts and other instruments
13 necessary or convenient to the exercise of the powers of the
14 authority. Any contract or instrument when signed by the
15 chairman or vice chairman of the authority and by the
16 secretary or assistant secretary or treasurer or assistant
17 treasurer of the authority, or by an authorized use of their
18 facsimile signatures, shall be deemed properly executed for
19 and on its behalf.

20 (8) To make, amend and repeal bylaws, rules, regulations
21 and resolutions.

22 (9) To do all acts and things necessary or convenient to
23 carry out the powers granted to it by law, except that the
24 authority shall have no power to pledge the credit or taxing
25 power of the Commonwealth, nor shall any of its obligations
26 be deemed to be obligations of the Commonwealth.

27 § 5724. Civil Disorder Authority Fund.

28 (a) Purpose of fund.--The authority shall establish a Civil
29 Disorder Authority Fund which shall be available without fiscal
30 year limitation for the following purposes:

1 (1) To make such payments as may, from time to time, be
2 required by the Federal reinsurance facility.

3 (2) To pay proper administrative expenses of the
4 authority.

5 (3) To repay the obligations of the authority, including
6 interest thereon, incurred by the authority pursuant to the
7 provisions of this subchapter.

8 (b) Sources of revenue.--The fund shall be credited with:

9 (1) Such amounts as may be advanced to the fund from
10 whatever source in order to maintain the fund in a solvent
11 condition and able to satisfy its obligations.

12 (2) Interest which may be earned on investments of the
13 fund.

14 (3) Moneys borrowed by the authority and deposited in
15 the fund.

16 (4) Receipts from any other source which may, from time
17 to time, be credited to the fund.

18 (c) Deposits.--All moneys of the fund, from whatever source
19 derived, shall be paid to the treasurer of the authority and
20 deposited by him in one or more banks or trust companies, in one
21 or more special accounts. Each of the special accounts shall be
22 continuously secured by a pledge of direct obligations of the
23 United States or of the Commonwealth, having an aggregate market
24 value, exclusive of accrued interest, at all times at least
25 equal to the balance on deposit in the account. The securities
26 shall either be deposited with the treasurer or be held by a
27 trustee or agent satisfactory to the authority. All banks and
28 trust companies are authorized to give security for these
29 deposits. The moneys in these accounts shall be paid out on the
30 warrant or other order of the treasurer of the authority or of

1 such other person or persons as it may authorize to execute such
2 warrants or orders.

3 (d) Examination of records.--The Department of Revenue and
4 the Auditor General and their legally authorized representatives
5 may from time to time examine the accounts and books of the
6 authority and any other matters relating to its finances,
7 operations and affairs.

8 § 5725. Reimbursement payments to Federal reinsurance facility.

9 (a) Authority to pay.--Payments under section 5724(a)(1)
10 (relating to Civil Disorder Authority Fund) shall be made only
11 upon direction of the State Treasurer and after receipt by him
12 of a claim from the Federal reinsurance facility. Prior to
13 making the payment, the authority shall make such investigation
14 as it deems appropriate in order to verify the correctness of
15 the claim made by the Federal reinsurance facility.

16 (b) Limitation on amount.--The total amount of any such
17 payments made during any calendar year shall not exceed 5% of
18 the aggregate property insurance premiums earned in this
19 Commonwealth during the preceding calendar year on those lines
20 of insurance reinsured by the Federal reinsurance facility in
21 this Commonwealth during the current year.

22 § 5726. Bonds of authority.

23 (a) Determination of amount.--Within 30 days following
24 receipt of a direction from the State Treasurer to make payment
25 of a claim to the Federal reinsurance facility, the authority
26 shall make an offer to sell bonds. The aggregate principal
27 amount of these bonds shall be adequate to pay the total amount
28 of the claim received from the Federal reinsurance facility,
29 subject to the limitation contained in section 5725(b) (relating
30 to reimbursement payments to Federal reinsurance facility), plus

1 the reasonable expenses of the sale, due consideration having
2 been first given to the moneys in the fund and available for
3 payment of the claim of the Federal reinsurance facility.

4 (b) Disposition of proceeds.--The proceeds of the sale of
5 such bonds shall be paid into the fund and shall be used to
6 satisfy the claim of the Federal reinsurance facility which
7 occasioned the sale of the bonds. Any amount remaining after
8 satisfaction of the claim shall be held in the fund and may be
9 used for any of the purposes set forth in section 5724 (relating
10 to Civil Disorder Authority Fund).

11 (c) Form and delivery.--The bonds of the authority shall be
12 authorized by resolution of the board or by and pursuant to an
13 indenture of trust and shall be of the series, bear the date or
14 dates, be stated to mature at the time or times, not exceeding
15 30 years from their respective dates, be issued as serial or
16 term bonds, or as part serial and part term bonds, or any
17 combination thereof, or as a single bond payable in
18 installments, bear interest payable annually, semiannually or
19 quarterly, be in the denominations, be in the form, either as
20 negotiable commercial paper, or as investment securities in
21 bearer or registered form, carry the registration,
22 exchangeability and interchangeability privileges, be payable in
23 the medium of payment and at the place or places, be subject to
24 the terms of redemption at the prices not exceeding 106% of the
25 principal amount thereof, and be entitled to the priorities in
26 the revenues or receipts of authority as the resolution or
27 indenture may provide. The bonds shall be signed manually or by
28 facsimile by such officers as the authority shall determine, and
29 coupon bonds shall have attached thereto interest coupons
30 bearing the facsimile signature of the treasurer of the

1 authority, as may be prescribed in the resolution or indenture.
2 A bond shall not be issued or delivered without at least one
3 manual signature, which may be that of an officer of the fiscal
4 agent or of the trustee under the resolution or indenture. The
5 bonds may be issued and delivered notwithstanding that one or
6 more of the officers signing the bonds, or the treasurer whose
7 facsimile signature is upon the coupons or any thereof, has
8 ceased to hold the office when the bonds are delivered.

9 (d) Additional terms.--Any resolution or indenture
10 authorizing any bonds may contain provisions which shall be part
11 of the contract with the bondholders as to:

12 (1) Pledge of the full faith and credit of the
13 authority, but not of the Commonwealth or any political
14 subdivision thereof, for the bonds or restricting the same to
15 all or any of the revenues or receipts of the authority.

16 (2) The terms of the bonds.

17 (3) The setting aside of reserves or sinking funds and
18 the regulation and disposition thereof.

19 (4) Any terms for the security of the bonds or under
20 which the bonds may be issued.

21 (5) Any other or additional agreements with the holder
22 of the bonds.

23 (e) Sale.--The bonds shall be sold to the highest
24 responsible bidders proposing the lowest net interest cost to
25 the authority, determined by computing the interest on the bonds
26 to their stated maturity dates and adding the discount or
27 subtracting the premium specified in the bid. There shall be
28 public notice of the sale by two advertisements in not less than
29 three nor more than five newspapers of large general circulation
30 in different parts of this Commonwealth, the first advertisement

1 to be published not less than 20 days and the second not less
2 than five days before the day fixed for the opening of bids. The
3 advertisement of sale shall contain a general description of the
4 bonds, the manner, place and time of the sale, or the time limit
5 for the receipt of proposals, the name of the officer to whom,
6 or to whose designee, bids or proposals shall be delivered and a
7 statement of the terms and conditions of sale. The bonds may be
8 sold to the State Employees' Retirement Board, or to any other
9 custodial board or fund, or to the State Employees' Retirement
10 Fund, or by private placement with a group of not more than 25
11 ultimate investors who purchase for investment and not with a
12 view to distribution, without advertisement or competitive
13 bidding. Bonds shall not be sold if the net interest cost,
14 computed to stated maturity dates of the bonds, of the money
15 received for any issue of the bonds exceeds 6% a year. Pending
16 the preparation of the definitive bonds, interim receipts or
17 temporary bonds may be issued to the purchasers of the bonds and
18 may contain such terms and conditions as the authority may
19 determine.

20 (f) Agreements.--The authority may enter into any indentures
21 of trust or other agreements with any bank or trust company or
22 other person in the United States having power to enter into
23 such agreements, or may designate any such person as fiscal
24 agent under a bond resolution, in order to provide for the
25 security for such bonds, and may assign and pledge all or any of
26 its revenues or receipts thereunder. The indenture, resolution
27 or other agreement may contain such provisions as may be
28 customary in such instruments or as the authority may authorize,
29 including provisions as to:

30 (1) The application of funds and the safeguarding of

1 funds on hand, invested or on deposit.

2 (2) The rights and remedies of the trustees or fiscal
3 agent and the bondholders (which may include restrictions
4 upon the individual right of action of the bondholders).

5 (3) The terms and provisions of the bonds or the
6 resolutions or indentures authorizing their issuance.

7 § 5727. Remedies of bondholder.

8 (a) Remedies cumulative.--The rights and the remedies
9 conferred by this section upon or granted to the bondholders
10 shall be in addition to and not in limitation of any rights and
11 remedies lawfully granted to the bondholders by the resolution
12 or indenture providing for the issuance of bond.

13 (b) Appointment of trustee.--If the authority:

14 (1) defaults in the payment of the interest on any of
15 the bonds after it becomes due and the default continues for
16 30 days;

17 (2) defaults in the payment of principal after it
18 becomes due whether at maturity or upon any unrevoked call
19 for redemption;

20 (3) fails or refuses to comply with the provisions of
21 this chapter; or

22 (4) defaults in any agreement made with the holders of
23 the bonds;

24 the holders of 25% in aggregate principal amount of bonds then
25 outstanding under the indenture or bond resolution involved, by
26 instrument or instruments filed in the office of the Recorder of
27 Deeds of the County of Dauphin and proved or acknowledged in the
28 same manner as a deed to be recorded may, except as this right
29 is limited under any such indenture or other agreement, appoint
30 a trustee to represent the bondholders for the purposes provided

1 in this section.

2 (c) Powers of trustee.--The trustee or any trustee under an
3 indenture or the fiscal agent under resolution or other
4 agreement may, and upon written request of the holders of 25% in
5 principal amount of the bonds outstanding under the authorizing
6 indenture or resolution, or other percentage specified in any
7 resolution, indenture or other agreement, shall, in his or its
8 own name:

9 (1) by mandamus or other action or proceeding at law or
10 in equity, enforce all rights of the bondholders, including
11 the right to require the authority to carry out any agreement
12 as to, or pledge of, the revenues or receipts of the
13 authority and to require the authority to carry out any other
14 agreements with, or for the benefit of, the bondholders, and
15 to perform its duties under this chapter;

16 (2) bring suit upon the bonds;

17 (3) by action or suit in equity, require the authority
18 to account as if it were the trustees of an express trust for
19 the bondholders; or enjoin any acts or things which may be
20 unlawful or in violation of the rights of the bondholders; or

21 (4) by notice in writing to the authority, declare all
22 bonds due and payable and, if all defaults shall be made
23 good, then with the consent of the holders of 25% of the
24 principal amount of the bonds then outstanding, or other
25 percentage specified in any indenture, resolution or other
26 agreement aforesaid, annul the declaration and its
27 consequences.

28

SUBCHAPTER D

29

BASIC PROPERTY INSURANCE ASSESSMENT

30 Sec.

1 5731. Levy and amount of assessment.

2 5732. Payments to Pennsylvania Civil Disorder Authority.

3 5733. Reports and statements.

4 5734. Duration of assessment.

5 § 5731. Levy and amount of assessment.

6 In order to provide for the payment of the principal of and
7 interest on bonds of the authority, issued pursuant to section
8 5726 (relating to bonds of authority), an assessment shall be
9 levied on each insurer which is a member of the industry
10 placement facility. The amount of the assessment shall be 2% of
11 the aggregate gross premiums received by the insurer for
12 policies of basic property insurance or any component thereof,
13 including homeowners and commercial multiple peril policies,
14 written in this Commonwealth.

15 § 5732. Payments to Pennsylvania Civil Disorder Authority.

16 Every insurer shall, on or before April 15 of each year,
17 compute and pay to the treasurer of the Pennsylvania Civil
18 Disorder Authority the aggregate assessments due upon the gross
19 premiums received by it for basic property insurance written in
20 this Commonwealth during the calendar year immediately preceding
21 the payment date. The aggregate assessments shall bear interest
22 at the rate of 6% a year from the date due and payable to the
23 authority until payment is made.

24 § 5733. Reports and statements.

25 The department may at any time require any insurer to furnish
26 it with such information as it, in its discretion, deems
27 necessary in order to determine whether or not the insurer is
28 complying with this subchapter.

29 § 5734. Duration of assessment.

30 The assessment provided for under this subchapter shall be

1 collectible on all policies of basic property insurance or any
2 component thereof, including homeowners and commercial multiple
3 peril policies, written on and after the 30th day following
4 issuance by the authority of its bonds under section 5726
5 (relating to bonds of authority). The assessment shall remain in
6 full force and effect until all bonds issued by the Pennsylvania
7 Civil Disorder Authority have been retired, and shall thereafter
8 terminate at such time and upon such terms and conditions as
9 shall be specified by the board of the authority.

10 CHAPTER 59

11 FIRE AND MARINE INSURANCE

12 Subchapter

13 A. Insurers Generally

14 B. Stock Companies

15 C. Mutual Companies

16 SUBCHAPTER A

17 INSURERS GENERALLY

18 Sec.

19 5901. Resident agents for foreign or alien insurance entities.

20 5902. Examination of foreign or alien entities by department.

21 5903. Annual returns.

22 5904. Penalties and revocation of license.

23 5905. Reports of fires to Bureau of Fire Protection.

24 5906. Provisions of fire insurance policies.

25 5907. Penalties for issuing other than standard fire policies.

26 § 5901. Resident agents for foreign or alien insurance
27 entities.

28 (a) General rule.--An authorized foreign or alien stock or
29 mutual fire insurance entity authorized to transact business in
30 this Commonwealth shall not make, write or place, or cause to be

1 made, written or placed, any policy, duplicate policy, contract
2 of insurance or general or floating policy upon property located
3 in this Commonwealth except after the risk has been approved in
4 writing by an agent, who is a resident of or whose principal
5 place of business is in this Commonwealth and who is licensed to
6 transact insurance business in this Commonwealth. The agent
7 shall countersign all policies so issued and receive the
8 commission thereon when the premium is paid, so that the
9 Commonwealth may receive the taxes required to be paid on the
10 premiums collected for insurance on all property located in this
11 Commonwealth.

12 (b) Policies written at principal office.--The entity may
13 issue policies at its principal or department offices covering
14 property in this Commonwealth, if these policies are issued upon
15 applications procured and submitted to the entity by agents who
16 are residents of this Commonwealth and licensed to transact the
17 business of insurance in this Commonwealth, and who shall
18 receive the commission thereon when paid.

19 (c) Exclusions.--This section does not apply to direct
20 insurance covering the rolling stock of railroad corporations,
21 or property in transit while in the possession and custody of
22 railroad corporations or other common carriers nor to the
23 property of such common carriers used or employed by them in
24 their business as common carriers of freight, merchandise or
25 passengers, nor in the case of bid bonds issued in connection
26 with public or private contracts. Except as to payment of taxes,
27 this section does not apply to authorized foreign or alien
28 insurance exchanges maintaining no office in this Commonwealth
29 and paying no commissions to agents or representatives in this
30 Commonwealth.

1 § 5902. Examination of foreign or alien entities by department.

2 Whenever the department has information that any foreign or
3 alien insurance entity has violated section 5901 (relating to
4 resident agents for foreign or alien insurance entities), it
5 may, at the expense of the entity, examine all books, records
6 and papers of the entity and examine the officers, managers and
7 agents of the entity under oath as to any violation. The
8 examination may take place at the principal office or offices of
9 the entity located in the United States or in any foreign
10 country and at its other offices or agencies. The refusal of any
11 entity to submit to examination shall be presumptive evidence
12 that it has violated section 5901 and shall subject it to the
13 penalties prescribed and imposed by section 5904 (relating to
14 penalties and revocation of license).

15 § 5903. Annual returns.

16 Every foreign or alien stock and mutual fire insurance entity
17 shall, annually and at such other times as the department
18 requires, make a return to the department, in such form and
19 detail as shall be prescribed by it, of all insurance,
20 reinsurance or cessions of risks or liability contracted for or
21 effected by it, whether by issue of policy, entry on bordereau,
22 general participation agreement, excess loss reinsurance or any
23 other manner upon property located in this Commonwealth, or
24 covering any risk or liability upon property so located. The
25 return shall be certified:

26 (1) if a foreign entity, by the oath of its president
27 and secretary or attorney; or

28 (2) if an alien company or association, by the oath of
29 its managers in the United States, as to the reinsurance or
30 cessions effected through its branch office in the United

1 States, and by the oath of its president and secretary or by
2 officers corresponding thereto at its home office, as to
3 reinsurance or cessions as aforesaid contracted for or
4 effected through any office in a foreign county.

5 The refusal of any such entity to make the returns required
6 under this section shall be presumptive evidence that it is
7 guilty of violating section 5901 (relating to resident agents
8 for foreign or alien insurance entities) and shall subject it to
9 the penalties under section 5904 (relating to penalties and
10 revocation of license).

11 § 5904. Penalties and revocation of license.

12 (a) Penalty.--Any foreign or alien stock or mutual fire
13 insurance entity violating section 5901 (relating to resident
14 agents for foreign or alien insurance entities), 5902 (relating
15 to examination of foreign or alien entities by department) or
16 5903 (relating to annual returns) shall be subject to a penalty
17 of \$500 for each violation. This penalty may be imposed by the
18 department upon satisfactory evidence of the violation by any
19 such entity.

20 (b) Revocation of authority.--Any foreign or alien fire
21 insurance entity which neglects or refuses to pay the penalty
22 for 30 days after the imposition thereof shall have its
23 authority to transact business in this Commonwealth revoked by
24 the department for at least one year from the date of the
25 violation. A fire insurance entity whose authority to transact
26 business in this Commonwealth has been so revoked shall not be
27 again authorized to transact business until it has paid the
28 penalty, and has filed with the department a certificate, signed
29 by its president or other chief officer, stating that the
30 provisions of this chapter are accepted by it as a part of the

1 conditions of its authority to transact business.

2 (c) Administrative procedure.--Before the department takes
3 any action under this section, it shall give written notice to
4 the person accused of violating the law, stating specifically
5 the nature of the alleged violation and fixing a time and place,
6 at least ten days thereafter, when a hearing of the matter shall
7 be held. Proceedings under this section are subject to Title 2
8 (relating to administrative law and procedure).

9 § 5905. Reports of fires to Bureau of Fire Protection.

10 Every stock or mutual fire insurance entity transacting
11 business in this Commonwealth shall file with the Bureau of Fire
12 Protection in the Pennsylvania State Police annual and monthly
13 reports in writing, containing such information as is required
14 to be reported by the entities under the act of April 27, 1927
15 (P.L.450, No.291), relating to fire and fire prevention. Any
16 entity which fails to make that report shall forfeit its
17 authority to do business in this Commonwealth.

18 § 5906. Provisions of fire insurance policies.

19 (a) Standard provisions.--Except as provided in this
20 section, an insurance entity shall not issue a policy affording
21 fire insurance on property in this Commonwealth unless the
22 policy contains the following provisions as to such insurance:

23 (1) Introductory provisions.--In Consideration of the
24 Provisions and Stipulations herein or added hereto and of
25 Dollars Premium this company, for the
26 term of from the day of 19.., at
27 noon to the day of 19.., at noon, at (location
28 of property involved) to an amount not exceeding
29 Dollars, does insure
30 and legal representatives, to the extent

1 of the actual cash value of the property at the time of loss,
2 but not exceeding the amount which it would cost to repair or
3 replace the property with material of like kind and quality
4 within a reasonable time after such loss, without allowance
5 for any increased cost of repair or reconstruction by reason
6 of any ordinance or law regulating construction or repair,
7 and without compensation for loss resulting from interruption
8 of business or manufacture, nor in any event for more than
9 the interest of the insured, against all DIRECT LOSS BY FIRE,
10 LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE
11 PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER
12 PROVIDED, to the property described hereinafter while located
13 or contained as described in this policy, or pro rata for
14 five days at each proper place to which any of the property
15 shall necessarily be removed for preservation from the perils
16 insured against in this policy, but not elsewhere.

17 Assignment of this policy shall not be valid except with
18 the written consent of this Company.

19 This policy is made and accepted subject to the foregoing
20 provisions and stipulations and those hereinafter stated,
21 which are hereby made a part of this policy, together with
22 such other provisions, stipulations and agreements as may be
23 added hereto, as provided in this policy.

24 IN WITNESS WHEREOF, this Company has executed and
25 attested these presents: but this policy shall not be valid
26 unless countersigned by the duly authorized agent of this
27 Company at Secretary. President.

28 Countersigned this day of 19 ... Agent.

29 (2) Concealment and fraud.--This entire policy shall be
30 void if, whether before or after a loss, the insured has

1 willfully concealed or misrepresented any material fact or
2 circumstance concerning this insurance or the subject
3 thereof, or the interest of the insured therein, or in case
4 of any fraud or false swearing by the insured relating
5 thereto.

6 (3) Uninsurable and excepted property.--This policy
7 shall not cover accounts, bills, currency, deeds, evidences
8 of debt, money or securities; nor, unless specifically named
9 hereon in writing, bullion or manuscripts.

10 (4) Perils not included.--This Company shall not be
11 liable for loss by fire or other perils insured against in
12 this policy caused, directly or indirectly, by:

13 (i) enemy attack by armed forces, including action
14 taken by military, naval or air forces in resisting an
15 actual or an immediately impending enemy attack;

16 (ii) invasion;

17 (iii) insurrection;

18 (iv) rebellion;

19 (v) revolution;

20 (vi) civil war;

21 (vii) usurped power;

22 (viii) order of any civil authority except acts of
23 destruction at the time of and for the purpose of
24 preventing the spread of fire, if the fire did not
25 originate from any of the perils excluded by this policy;

26 (ix) neglect of the insured to use all reasonable
27 means to save and preserve the property at and after a
28 loss, or when the property is endangered by fire in
29 neighboring premises; or

30 (x) theft.

1 (5) Other insurance.--Other insurance may be prohibited
2 or the amount of insurance may be limited by endorsement
3 attached hereto.

4 (6) Conditions suspending or restricting insurance.--
5 Unless otherwise provided in writing added hereto this
6 Company shall not be liable for loss occurring:

7 (i) While the hazard is increased by any means
8 within the control or knowledge of the insured.

9 (ii) While a described building, whether intended
10 for occupancy by owner or tenant, is vacant or unoccupied
11 beyond a period of 60 consecutive days.

12 (iii) As a result of explosion or riot, unless fire
13 ensues, and in that event for loss by fire only.

14 (7) Other perils or subjects.--Any other peril to be
15 insured against or subject of insurance to be covered in this
16 policy shall be by endorsement in writing hereon or added
17 hereto.

18 (8) Added provisions.--The extent of the application of
19 insurance under this policy and of the contribution to be
20 made by this Company in case of loss, and any other provision
21 or agreement not inconsistent with the provisions of this
22 policy, may be provided for in writing added hereto, but no
23 provision may be waived except such as by the terms of this
24 policy is subject to change.

25 (9) Waiver provisions.--No permission affecting this
26 insurance shall exist, or waiver of any provision be valid,
27 unless granted herein or expressed in writing added hereto.
28 No provision, stipulation or forfeiture shall be held to be
29 waived by any requirement or proceeding on the part of this
30 Company relating to appraisal or to any examination provided

1 for herein.

2 (10) Cancellation of policy.--This policy shall be
3 canceled at any time at the request of the insured, in which
4 case this Company shall, upon demand and surrender of this
5 policy, refund the excess of paid premium above the customary
6 short rates for the expired time. This policy may be canceled
7 at any time by this Company by giving to the insured a five
8 days' written notice of cancellation with or without tender
9 of the excess of paid premium above the pro rata premium for
10 the expired time, which excess, if not tendered, shall be
11 refunded on demand. Notice of cancellation shall state that
12 the excess premium (if not tendered) will be refunded on
13 demand.

14 (11) Mortgagee interests and obligations.--If loss
15 hereunder is made payable, in whole or in part, to a
16 designated mortgagee not named herein as the insured, such
17 interest in this policy may be canceled by giving to the
18 mortgagee a ten days' written notice of cancellation. If the
19 insured fails to render proof of loss, the mortgagee, upon
20 notice, shall render proof of loss in the form herein
21 specified within 60 days thereafter and shall be subject to
22 the provisions hereof relating to appraisal and time of
23 payment and of bringing suit. If this Company shall claim
24 that no liability existed as to the mortgagor or owner, it
25 shall, to the extent of payment of loss to the mortgagee, be
26 subrogated to all the mortgagee's rights of recovery, but
27 without impairing mortgagee's right to sue; or it may pay off
28 the mortgage debt and require an assignment thereof and of
29 the mortgage. Other provisions relating to the interests and
30 obligations of such mortgagee may be added hereto by

1 agreement in writing.

2 (12) Pro rata liability.--This Company shall not be
3 liable for a greater proportion of any loss than the amount
4 hereby insured shall bear to the whole insurance covering the
5 property against the peril involved, whether collectible or
6 not.

7 (13) Requirements in case loss occurs.--The insured
8 shall give immediate written notice to this Company of any
9 loss, protect the property from further damage, forthwith
10 separate the damaged and undamaged personal property, put it
11 in the best possible order, furnish a complete inventory of
12 the destroyed, damaged and undamaged property, showing in
13 detail quantities, costs, actual cash value and amount of
14 loss claimed; and within 60 days after the loss, unless such
15 time is extended in writing by this Company, the insured
16 shall render to this Company a proof of loss, signed and
17 sworn to by the insured, stating the knowledge and belief of
18 the insured as to the following: the time and origin of the
19 loss, the interest of the insured and of all others in the
20 property, the actual cash value of each item thereof and the
21 amount of loss thereto, all encumbrances thereon, all other
22 contracts of insurance, whether valid or not, covering any of
23 the property, any changes in the title, use, occupation,
24 location, possession or exposures of the property since the
25 issuing of this policy, by whom and for what purpose any
26 building herein described and the several parts thereof were
27 occupied at the time of loss and whether or not it then stood
28 on leased ground, and shall furnish a copy of all the
29 descriptions and schedules in all policies and, if required,
30 verified plans and specifications of any building, fixtures

1 or machinery destroyed or damaged. The insured, as often as
2 may be reasonably required, shall exhibit to any person
3 designated by this Company all that remains of any property
4 herein described, and submit to examinations under oath by
5 any person named by this Company, and subscribe the same;
6 and, as often as may be reasonably required, shall produce
7 for examination all books of account, bills, invoices and
8 other vouchers, or certified copies thereof if originals be
9 lost, at such reasonable time and place as may be designated
10 by this Company or its representative, and shall permit
11 extracts and copies thereof to be made.

12 (14) Appraisal.--In case the insured and this Company
13 shall fail to agree as to the actual cash value or the amount
14 of loss, then, on the written demand of either, each shall
15 select a competent and disinterested appraiser and notify the
16 other of the appraiser selected within 20 days of such
17 demand. The appraisers shall first select a competent and
18 disinterested umpire; and failing for 15 days to agree upon
19 such umpire, then, on request of the insured or this Company,
20 such umpire shall be selected by a judge of a court of record
21 in the state in which the property covered is located. The
22 appraisers shall then appraise the loss, stating separately
23 actual cash value and loss to each item; and, failing to
24 agree, shall submit their differences, only, to the umpire.
25 An award in writing, so itemized, of any two when filed with
26 this Company shall determine the amount of actual cash value
27 and loss. Each appraiser shall be paid by the party selecting
28 him and the expenses of appraisal and umpire shall be paid by
29 the parties equally.

30 (15) Company's options.--It shall be optional with this

1 Company to take all, or any part, of the property at the
2 agreed or appraised value, and also to repair, rebuild or
3 replace the property destroyed or damaged with other of like
4 kind and quality within a reasonable time, on giving notice
5 of its intention so to do within 30 days after the receipt of
6 the proof of loss herein required.

7 (16) Abandonment.--There can be no abandonment to this
8 Company of any property.

9 (17) When loss payable.--The amount of loss for which
10 this Company may be liable shall be payable 60 days after
11 proof of loss, as herein provided, is received by this
12 Company and ascertainment of the loss is made either by
13 agreement between the insured and this Company expressed in
14 writing or by the filing with this Company of an award as
15 herein provided.

16 (18) Suit.--No suit or action on this policy for the
17 recovery of any claim shall be sustainable in any court of
18 law or equity unless all the requirements of this policy
19 shall have been complied with, and unless commenced within
20 twelve months next after inception of the loss.

21 (19) Subrogation.--This Company may require from the
22 insured an assignment of all right of recovery against any
23 party for loss to the extent that payment therefor is made by
24 this Company.

25 (b) Designation.--There may be printed upon the face of a
26 policy which contains the provisions set forth in subsection (a)
27 the words "Standard Fire Insurance Policy of the State of
28 Pennsylvania" and including the name of any other states which
29 adopt this form of policy.

30 (c) Applicability.--Subsections (a) and (b) do not apply to

1 policies of perpetual insurance, policies of reinsurance,
2 policies of an all-risk type, policies insuring aircraft,
3 automobile or other motor vehicles against loss by fire, or
4 policies insuring against loss by fire resulting directly or
5 indirectly from bombardment, invasion, insurrection, riot, civil
6 war, commotion or military or usurped power or by order of civil
7 authority.

8 (d) Approved modifications.--A policy affording fire
9 insurance may, subject to the approval of the department as
10 provided in section 3515 (relating to approval of contracts by
11 department), include any other insurances which the insurer is
12 authorized to make, and the wording set out in subsection (a)
13 may be modified in conformity with the provisions thereof or to
14 accommodate additional property coverages and perils.

15 (e) Exceptions.--Notwithstanding any other provisions of
16 this section:

17 (1) An insurer may print on its policy its name, such
18 device or devices as the insurer issuing the policy may
19 desire, the location of its principal office, the date of its
20 formation, plan of operation, the amount of its paid-up
21 capital, if any, the name of its officers and agents, the
22 number and date of the policy, and, if it is issued through
23 an agent, the words: "This policy shall not be valid unless
24 countersigned by the duly authorized agent of the company at
25"

26 (2) An insurer may print in its policies any provisions
27 which it is authorized or required by law to insert therein,
28 and a foreign or alien insurer may, with the approval of the
29 department, so print any provisions required by its charter
30 or deed of settlement or by the laws of its own State or

1 country not contrary to the law of this Commonwealth.

2 (3) An insurer may add, either upon the face of the
3 policy or on the riders or endorsements to be attached
4 thereto, printed or written forms of description and
5 specification or schedules of the property covered by any
6 particular policy and any other matter necessary to express
7 clearly all the facts and conditions of insurance on any
8 particular risk. Insurers issuing the standard policy defined
9 in subsection (a) may affix thereto or include therein a
10 written statement that the policy does not cover loss or
11 damage caused by nuclear reaction or nuclear radiation or
12 radioactive contamination, whether directly or indirectly
13 resulting from an insured peril under the policy. This
14 subsection does not prohibit the attachment to any such
15 policy of an endorsement or endorsements specifically
16 assuming coverage for such loss or damage. Any endorsements
17 or riders so attached must be signed by officers or agents of
18 the company so issuing them.

19 (4) Binders or other contracts for temporary insurance
20 including fire insurance may be made orally or in writing,
21 for a period which shall not exceed 30 days, and shall be
22 deemed to include all the provisions of subsection (a) and
23 all applicable endorsements approved by the department as may
24 be designated in the contract of temporary insurance, except
25 that the cancellation clause and the clause specifying the
26 hour of the day at which the insurance shall commence may be
27 provided by the express terms of the contract of temporary
28 insurance.

29 (5) Appropriate forms of supplemental contracts or
30 extended coverage endorsements whereby the interest in the

1 property described in a policy affording fire insurance shall
2 be insured against one or more of the other perils which the
3 insurer is empowered to assume may be approved by the
4 department, and their use in connection with the fire
5 insurance policy may be authorized by it. A form of policy
6 affording fire insurance may be arranged to provide space for
7 the listing of amounts of insurance, with insurance rates and
8 premiums for the basic coverage insured thereunder, and for
9 additional coverages or perils insured under endorsements
10 attached, and such other data as may be conveniently included
11 for duplication on daily reports for office records.

12 (f) Printing on form.--The form of policy, including fire
13 insurance, upon property in this Commonwealth shall be plainly
14 printed, and no portion thereof shall be in type smaller than
15 seven point.

16 (g) Statement of location.--A foreign fire insurance company
17 shall not issue a policy affording fire insurance on property in
18 this Commonwealth unless the policy contains the exact name of
19 the municipal corporation in which the insured property is
20 located and the mailing address for each insured property.

21 (h) Definition.--As used in this section the term "fire
22 insurance" means insurance against loss by fire, lightning or
23 removal, as specified in section 3302(b)(1) (relating to
24 authorized classes of insurance) and does not include insurance
25 of the kind specified in any other portion of section 3302
26 whether or not the risks of fire, lightning or removal are
27 included.

28 § 5907. Penalties for issuing other than standard fire
29 policies.

30 (a) Civil penalties.--Upon satisfactory evidence that any

1 person, corporation or insurance entity has issued, or caused to
2 be issued, any policy or contract of fire insurance on property
3 situated in this Commonwealth contrary to the provisions of
4 section 5906 (relating to provisions of fire insurance
5 policies), the department may take against the offending party
6 any one or more of the following courses of actions:

7 (1) Suspend or revoke his or its license.

8 (2) Refuse, for a period not exceeding one year
9 thereafter, to issue him or it a new license.

10 (3) Impose a penalty of not more than \$1,000 for each
11 violation.

12 (b) Criminal penalties.--Any person, corporation or
13 insurance entity that, either as principal or agent, willfully
14 issues, or causes to be issued, any policy or contract of fire
15 insurance on property in this Commonwealth in violation of
16 section 5906 commits a summary offense.

17 (c) Construction of contract.--Any policy issued in
18 violation of section 5906 shall nevertheless be construed in
19 accordance with its provisions.

20 SUBCHAPTER B

21 STOCK COMPANIES

22 Sec.

23 5921. Capital of foreign or alien companies.

24 5922. Authorized investment of capital.

25 5923. Investment of surplus.

26 5924. Treasury stock.

27 5925. Estimation of surplus for dividends.

28 5926. Authorized holdings of real estate.

29 5927. Procedure when capital impaired.

30 § 5921. Capital of foreign or alien companies.

1 A foreign or alien stock fire, stock marine and stock fire
2 and marine insurance company shall not be authorized in this
3 Commonwealth to transact any of the classes of business referred
4 to in section 3302(b) (relating to authorized classes of
5 insurance) unless it has a paid-up and safely invested capital,
6 if a foreign company, or a deposit in the United States, if an
7 alien company, of not less than \$200,000. The company shall not
8 be authorized to do all of the classes of business referred to
9 in section 3302(b) unless it has a paid-up capital or deposit of
10 not less than \$400,000.

11 § 5922. Authorized investment of capital.

12 Every domestic stock fire, stock marine or stock fire and
13 marine insurance company shall invest and keep invested all its
14 capital in sound investments within the classes described in
15 section 5503 (relating to investment of capital), except such
16 cash as is required in the transaction of its business.

17 § 5923. Investment of surplus.

18 Any money over and above the capital of any stock fire, stock
19 marine and stock fire and marine insurance company, may be
20 invested in:

21 (1) The securities authorized for investment of capital.

22 (2) Any investment described in section 5505(a)(1) or

23 (3) (relating to investment of surplus).

24 (3) The stock or other evidence of indebtedness of any
25 solvent corporation created under the law of the United
26 States or any state, foreign country or political subdivision
27 thereof, or loaned upon the pledge of such a corporation.

28 The total investments made by such company in stocks of other
29 insurance companies which have invested in or loaned its funds
30 on the stock of the first investing company shall not exceed 5%

1 of the gross assets of the first investing company. The total
2 investments hereafter made by such company in the stocks or
3 other evidence of indebtedness of solvent alien corporations
4 shall not exceed 10% of the moneys of such company over and
5 above its capital and the reserves which it is required to
6 maintain under the law of this Commonwealth. The current market
7 value of securities shall at the time of any loan thereon be at
8 least 20% more than the sum loaned. The insurance company shall
9 not invest any of its funds in any unincorporated business or
10 enterprise or the stocks or evidence of indebtedness of any
11 corporation, if the owners or holders of its securities are or
12 may become liable on account thereof to any assessment, except
13 for taxes. The funds of such a company shall not be loaned on
14 personal security except for defraying the expenses of an
15 employee transferred or about to be transferred to a new place
16 of employment with the company. Not more than 20% of its capital
17 shall be invested in a single mortgage. If any investment or
18 loan is made or held which is not authorized by this section,
19 the officers and directors making or authorizing the investment
20 or loan shall be personally liable for any loss occasioned
21 thereby, and no value as an asset shall be allowed for the
22 investment or loan.

23 § 5924. Treasury stock.

24 Any stock fire, stock marine or stock fire and marine
25 insurance company may, with the approval of its board of
26 directors, acquire, retain, cancel or dispose of shares of its
27 own capital stock, but no such company shall acquire such stock
28 without the prior approval of the department, reduce its capital
29 stock without complying with law or directly or indirectly vote
30 shares of its own stock held by it.

1 § 5925. Estimation of surplus for dividends.

2 (a) General rule.--In estimating the surplus of a stock
3 fire, stock marine and stock fire and marine insurance company,
4 for the purpose of making any dividend upon its capital stock,
5 there shall be reserved from its admitted assets a sum equal to
6 the unearned premiums on unexpired risks and policies and all
7 outstanding liabilities. A company may not declare dividends to
8 the stockholders exceeding 10% on its capital stock in any one
9 year unless, in addition to the amount of its capital stock, the
10 dividend, all outstanding liabilities and the amount of all
11 unearned premiums on unexpired risks and policies, it has a
12 surplus to an amount equalling 30% of its unearned premiums or
13 50% of its capital stock, whichever is greater.

14 (b) Penalties.--Any dividend declared and paid contrary to
15 this section shall make the directors of the company voting in
16 favor of the dividend jointly and severally liable to the
17 creditors of the company to the extent of the dividend. Each
18 stockholder receiving the dividend shall be liable to the
19 creditors of the company to the extent of the dividend received,
20 in addition to any other penalties prescribed by law.

21 § 5926. Authorized holdings of real estate.

22 A domestic stock fire, stock marine or stock fire and marine
23 insurance company shall not purchase, hold or convey real
24 estate, except as authorized for domestic stock casualty
25 insurance companies under section 5506 (relating to authorized
26 holdings of real estate).

27 § 5927. Procedure when capital impaired.

28 Any stock fire, stock marine and stock fire and marine
29 insurance company, receiving notice from the department that its
30 capital is impaired, shall proceed as prescribed for stock

1 casualty insurance companies by section 5509 (relating to
2 procedure when capital impaired).

3 SUBCHAPTER C

4 MUTUAL COMPANIES

5 Sec.

6 5931. Licensing of foreign mutual companies.

7 5932. Rechartering of companies.

8 5933. Cash premium policies.

9 5934. Cash premiums.

10 5935. Surplus.

11 § 5931. Licensing of foreign mutual companies.

12 (a) Old companies.--A foreign mutual fire, mutual marine or
13 mutual fire and marine insurance company which was originally
14 licensed to transact business in this Commonwealth prior to and
15 was transacting business in this Commonwealth on June 23, 1931,
16 may be relicensed to transact the class of business referred to
17 in section 3302(b)(1) (relating to authorized classes of
18 insurance) if it has a surplus over all liabilities, including
19 unearned premiums, computed in accordance with the law of this
20 Commonwealth of not less than \$100,000, or has continuously
21 transacted business for not less than five years and has such a
22 surplus not less than \$50,000. To be relicensed to transact the
23 classes of business referred to in section 3302(b)(2) and (3),
24 the surplus shall be not less than \$250,000.

25 (b) More recent companies.--Any other foreign mutual fire,
26 mutual marine or mutual fire and marine insurance company may be
27 licensed and relicensed to transact the class of business
28 referred to in section 3302(b)(1) if it has a surplus over all
29 liabilities, including unearned premiums, computed in accordance
30 with the law of this Commonwealth of not less than \$150,000. To

1 be licensed or relicensed to transact the classes of business
2 referred to:

3 (1) in either section 3302(b)(2) or (3), the surplus
4 shall be of not less than \$200,000;

5 (2) in section 3302(b)(1) and in either section
6 3302(b)(2) or (3), the surplus shall be not less than
7 \$350,000;

8 (3) in both section 3302(b)(2) and (3), the surplus
9 shall be not less than \$400,000; or

10 (4) in section 3302(b)(1), (2) and (3), the surplus
11 shall be not less than \$550,000.

12 § 5932. Rechartering of companies.

13 Any domestic mutual fire or mutual fire and marine insurance
14 company, whose charter is about to expire, may call a special
15 meeting of the members. Notice of the object of this meeting
16 shall be given by advertisement for four weeks preceding, in at
17 least two daily or weekly newspapers published in the city or
18 county where the principal office of the company is located, or
19 by circular mailed to the address of each member. If at the
20 meeting two-thirds of the votes cast in person or by proxy favor
21 a resolution agreeing that the corporation shall hold its
22 charter subject to the provisions of the Constitution of
23 Pennsylvania, setting forth at length the sections of its
24 existing charter which it desires to retain and agreeing to be
25 subject to the provisions of this title so far as not
26 inconsistent with the charter, the resolution and the number of
27 votes cast for and against it at the special meeting shall be
28 stated in the records of the company. A certified copy of the
29 record shall be forwarded to the department, which shall submit
30 the same to the Attorney General. If the Attorney General

1 approves the resolution, he shall certify his approval to the
2 Governor, who shall cause letters patent to issue certifying the
3 company as a corporation under this title.

4 § 5933. Cash premium policies.

5 Any domestic mutual fire insurance company organized prior to
6 May 1, 1876, having a surplus not less than the minimum capital
7 required for the organization of a domestic stock fire insurance
8 company and an unearned premium reserve computed upon the same
9 basis as that required of domestic stock fire insurance
10 companies, may issue policies for a cash premium without any
11 contingent liability for assessment.

12 § 5934. Cash premiums.

13 Any domestic mutual fire insurance company, incorporated by a
14 special act of the General Assembly prior to May 1, 1876, and
15 having a surplus and unearned premium reserve as required in
16 section 5933 (relating to cash premium policies) may, instead of
17 collecting the deposit money as provided under its charter,
18 charge a cash premium in advance, on which no dividend or return
19 shall be due or accrue, other than return premiums on canceled
20 policies, if its charter provides:

21 (1) for a premium deposit, which shall remain as a
22 pledge for the performance of the depositor's covenants,
23 which deposit, under the provision of the charter, shall be
24 returned to the depositor at the expiration of the policy,
25 together with a proportional dividend of the profits after
26 deducting losses and incidental charges; and

27 (2) that the net profit, arising by interest or
28 otherwise, shall be ascertained yearly to every member in
29 proportion to his deposit for which the member shall have
30 credit on the company's books, payable at the cancellation of

1 the policy.

2 § 5935. Surplus.

3 The surplus of any domestic mutual fire insurance companies
4 issuing policies in accordance with section 5933 (relating to
5 cash premium policies) or 5934 (relating to cash premiums) shall
6 be held as a reserve for the payment of losses and expenses. In
7 the event of dissolution of the company, this surplus shall be
8 divided pro rata among the policyholders whose policies are in
9 force at the time of dissolution, but no policyholder, other
10 than a loss claimant, shall receive more than the amount of the
11 unearned cash premium last paid to the company for the current
12 term of such policy. Any balance remaining shall escheat to the
13 Commonwealth.

14 CHAPTER 61

15 ELIGIBILITY FOR MOTOR VEHICLE INSURANCE

16 Sec.

17 6101. Definitions.

18 6102. General provisions.

19 6103. Insufficient grounds for failure to insure.

20 6104. Grounds for cancellation.

21 6105. Premium increase or surcharge.

22 6106. Notice of refusal.

23 6107. Exclusions.

24 6108. Information regarding refusal to insure.

25 6109. Request for review.

26 6110. Review procedure.

27 6111. Powers of department.

28 6112. Penalty.

29 § 6101. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Insurer." Any insurance entity authorized to transact the
4 business of automobile insurance in this Commonwealth.

5 "Nonpayment of premium." Failure of the named insured to
6 discharge when due any of his obligations in connection with the
7 payment of premiums on a policy, or any installment of the
8 premium, whether the premium is payable directly to the insurer
9 or its agent or indirectly under any premium finance plan or
10 extension of credit.

11 "Policy." A policy of motor vehicle insurance delivered or
12 issued for delivery in this Commonwealth insuring a natural
13 person as named insured or one or more related individuals
14 resident of the same household, and under which the insured
15 vehicles therein designated are of the following types only:

16 (1) A motor vehicle of the private passenger or station
17 wagon type that is not used as a public or livery conveyance
18 for passengers and is not rented to others.

19 (2) Any other four-wheel motor vehicle with a gross
20 weight not exceeding 9,000 pounds which is not principally
21 used in the occupation, profession or business of the insured
22 other than farming.

23 "Renewal" or "to renew." The issuance and delivery by an
24 insurer of a policy superseding at the end of the policy period
25 a policy previously issued and delivered by the same insurer, if
26 the renewal policy provides types and limits of coverage at
27 least equal to those contained in the policy being superseded,
28 or the issuance and delivery of a certificate or notice
29 extending the term of a policy beyond its policy period or term
30 with types and limits of coverage at least equal to those

1 contained in the policy being extended.

2 § 6102. General provisions.

3 (a) Term of certain policies.--Any policy with a policy
4 period or term of less than 12 months or any period with no
5 fixed expiration date shall for purposes of this chapter be
6 considered as if written for successive policy periods or terms
7 of 12 months.

8 (b) Applicability to policies.--This chapter applies only to
9 that portion of a policy providing bodily injury and property
10 damage liability, comprehensive and collision coverages and to
11 the provisions in the policy relating to medical payments and
12 uninsured motorists coverage.

13 § 6103. Insufficient grounds for failure to insure.

14 (a) Prohibited grounds.--An insurer shall not cancel or
15 refuse to write or renew a policy for one or more of the
16 following reasons:

17 (1) Age.

18 (2) Residence or operation of a motor vehicle in a
19 specific geographic area.

20 (3) Race.

21 (4) Color.

22 (5) Creed.

23 (6) National origin.

24 (7) Ancestry.

25 (8) Marital status.

26 (9) Sex.

27 (10) Lawful occupation (including military service).

28 (11) The refusal of another insurer to write a policy,
29 or the cancellation or refusal to renew an existing policy by
30 another insurer.

1 (12) Illness or permanent or temporary disability, where
2 the insured can medically document that the illness or
3 disability will not impair his ability to operate a motor
4 vehicle. Failure to provide this documentation shall be
5 proper reason for the insurer to amend the policy of the
6 named insured to exclude the disabled insured from coverage
7 under the policy while operating a motor vehicle after the
8 effective date of the policy amendment, but shall not be
9 proper reason to cancel or refuse to write or renew the
10 policy. This paragraph does not affect the excluded
11 individual's eligibility for coverage under the named
12 insured's policy for any injury sustained while not operating
13 a motor vehicle. Illness or permanent or temporary disability
14 on the part of any insured shall not be proper reason for
15 canceling the policy of the named insured.

16 (13) Any accident which occurred under any of the
17 following circumstances:

18 (i) The motor vehicle was lawfully parked, except
19 that if the vehicle rolled from the parked position, any
20 accident shall be charged to the person who parked the
21 auto.

22 (ii) The applicant, owner or other resident operator
23 was reimbursed by, or on behalf of, a person who was
24 responsible for the accident or had a judgment against
25 such a person.

26 (iii) The vehicle was struck in the rear by another
27 vehicle and the applicant or other resident operator was
28 not convicted of a moving traffic violation in connection
29 with the accident.

30 (iv) The operator of the other vehicle involved in

1 the accident was convicted of a moving traffic violation,
2 and the applicant or resident operator was not convicted
3 of a moving traffic violation in connection with the
4 accident.

5 (v) The vehicle operated by the applicant or any
6 resident operator was struck by a "hit-and-run" vehicle,
7 if the accident was reported to the proper authority
8 within 24 hours by the applicant or resident operator.

9 (vi) The accident involved damage by contact with
10 animals or fowl.

11 (vii) The accident involved physical damage caused
12 by flying gravel, missiles or falling objects.

13 (viii) The accident occurred when using the vehicle
14 in response to any emergency if the operator of the
15 vehicle at the time of the accident was a paid or
16 volunteer member of any police or fire department, first
17 aid squad or any law enforcement agency, but not after
18 the auto ceased to be used in response to the emergency.

19 (ix) The accident occurred more than 36 months prior
20 to the later of the inception of the insurance policy or
21 the upcoming anniversary date of the policy.

22 (14) Any claim under the comprehensive portion of the
23 policy unless the loss was intentionally caused by the
24 insured.

25 (a.1) Single recent accident.--An insurer shall not cancel
26 or refuse to renew a policy on the basis of any one accident
27 occurring within the 36-month period prior to the upcoming
28 anniversary date of the policy.

29 (b) Terminated agent within one year.--For a period 12
30 months after notice of termination given to an agent, an insurer

1 shall not cancel or refuse to renew existing policies written
2 through the terminated agent because of the termination, unless
3 the action could have been taken had the agency relationship
4 continued. An insurer shall pay commissions for the policies
5 that are continued or renewed through the terminated agent,
6 except where:

7 (1) the insurer retained ownership of the expirations of
8 such policies; or

9 (2) the agent has misappropriated funds or property of
10 the insurer, has failed to remit to the insurer funds due it
11 promptly upon demand, has been terminated for insolvency,
12 abandonment or gross and willful misconduct or has had his
13 license suspended or revoked.

14 (c) Terminated agent after one year.--Subsequent to the 12-
15 month period after notice of termination given to an agent, an
16 insurer shall not cancel or refuse to renew existing policies
17 written through the terminated agent without offering to cover
18 the insured on a direct basis or refer the insured to one or
19 more new agents if the terminated agent could not find a
20 suitable insurer acceptable to the policyholder. The offer need
21 not be made if the insurer could have canceled or failed to
22 renew the policy had the agency relationship continued. If the
23 insurer retains ownership of the expirations of the policies,
24 the insurer is not required to offer a new agent.

25 (d) Accumulation of points.--An insurer shall not cancel or
26 refuse to renew a policy for two or fewer moving violations in
27 any jurisdiction or jurisdictions during a 24-month period when
28 the operator's record indicates that the named insured presently
29 bears five points or fewer under Title 75 (relating to
30 vehicles). However, this subsection does not apply under the

1 following conditions:

2 (1) All five points are incurred from one violation.

3 (2) The driver's license or motor vehicle registration
4 of the named insured has been suspended or revoked at any
5 time during the 24-month period. However, if the driver's
6 license has been suspended under 75 Pa.C.S. § 1533 (relating
7 to suspension of operating privilege for failure to respond
8 to citation), the insurer shall not cancel or refuse to renew
9 the policy on the basis of that suspension if the insured is
10 able to produce proof that he has responded to all citations
11 for which his operating privilege has been suspended and has
12 paid the fines and penalties imposed as a result of all such
13 citations and that he has done so on or before the
14 termination date of the policy.

15 (e) Other insureds.--The applicability of subsection (d) to
16 an individual, other than the named insured, who either is a
17 resident in the same household or who customarily operates a
18 vehicle insured under the policy shall be proper reason for the
19 insurer excluding the individual from coverage under the policy,
20 but not for canceling the policy.

21 (f) Regulations.--The department shall adopt appropriate
22 regulations to implement and enforce this section.

23 § 6104. Grounds for cancellation.

24 An insurer shall not cancel a policy except for one or more
25 of the following reasons:

26 (1) Nonpayment of premium.

27 (2) The driver's license or motor vehicle registration
28 of the named insured has been under suspension or revocation
29 at any time during the policy period. The applicability of
30 this reason to one who either is a resident in the same

1 household or who customarily operates a vehicle insured under
2 the policy shall be proper reason for the insurer excluding
3 the individual from coverage under the policy, but not for
4 canceling the policy.

5 (3) A determination that the insured has concealed a
6 fact, has made an allegation contrary to fact or has made a
7 misrepresentation of a fact if the fact concealed, alleged or
8 misrepresented was material to the acceptance of the risk by
9 the insurer.

10 § 6105. Premium increase or surcharge.

11 (a) General rule.--An insurer shall not increase an
12 individual insured's premium or assess a premium surcharge on
13 the basis of any moving traffic violation records, or any
14 revocation or suspension records, or any accident records, if
15 any of the following occurs:

16 (1) The insured establishes that the records are
17 erroneous or inaccurate.

18 (2) The suspension is issued under 75 Pa.C.S. § 1533
19 (relating to suspension of operating privilege for failure to
20 respond to citation) and the insured provides proof that he
21 has responded to all citations for which his operating
22 privilege has been suspended and has paid the fines and
23 penalties imposed as a result of all such citations. An
24 increase or surcharge imposed prior to the date when an
25 insured provides this proof shall terminate as of the date
26 the insured has responded to the citation which is the
27 subject of the increase or surcharge.

28 (b) Notification.--At the time an increase or surcharge is
29 applied, the insurer shall notify the insured that the increase
30 or surcharge will be terminated if the insured provides the

1 insurer with proof that the insured has responded to all
2 citations for which his operating privilege has been suspended
3 under 75 Pa.C.S. § 1533 and has paid the fines and penalties
4 imposed as a result of all such citations.

5 (c) Components of premium.--All insurers shall provide to
6 insureds a detailed statement of the components of a premium and
7 shall specifically show the amount of a surcharge or other
8 additional amount that is charged as a result of a claim having
9 been made under a policy of insurance or as a result of any
10 other factors.

11 § 6106. Notice of refusal.

12 A cancellation or refusal to renew by an insurer of a policy
13 shall not be effective unless the insurer delivers or mails to
14 the named insured at the address shown in the policy a written
15 notice of the cancellation or refusal to renew. The notice
16 shall:

17 (1) Be approved as to form by the department prior to
18 use.

19 (2) State the date, not less than 60 days after the date
20 of such mailing or delivering, on which the cancellation or
21 refusal to renew shall become effective, except that the
22 effective date may be 15 days from the date of mailing or
23 delivery when it is being canceled or not renewed for the
24 reasons set forth in section 6104(1) or (2) (relating to
25 grounds for cancellation).

26 (3) State the specific reasons of the insurer for
27 cancellation or refusal to renew.

28 (4) Advise the insured of his right to request in
29 writing, within 30 days of the receipt of the notice of
30 cancellation or intention not to renew, that the department

1 review the action of the insurer.

2 (5) Either in the notice or in an accompanying
3 statement, advise the insured of his possible eligibility for
4 insurance through the automobile assigned risk plan.

5 (6) Advise the insured that he must obtain compulsory
6 automobile insurance coverage if he operates or registers a
7 motor vehicle in this Commonwealth, that the insurer is
8 notifying the Department of Transportation that the insurance
9 is being canceled or not renewed, and that the insured shall
10 notify the Department of Transportation that he has replaced
11 such coverage.

12 (7) Clearly state that, when coverage is to be
13 terminated due to a suspension issued under 75 Pa.C.S. § 1533
14 (relating to suspension of operating privilege for failure to
15 respond to citation), coverage shall not terminate if the
16 insured provides the insurer with proof that the insured has
17 responded to all citations for which his operating privilege
18 has been suspended and has paid the fines and penalties
19 imposed as a result of all such citations and that he has
20 done so on or before the termination date of the policy.

21 § 6107. Exclusions.

22 This chapter does not apply:

23 (1) If the insurer has manifested its willingness to
24 renew by issuing or offering to issue a renewal policy,
25 certificate or other evidence of renewal, or has manifested
26 such intention by any other means.

27 (2) If the named insured has demonstrated by some overt
28 action to the insurer or its agent that he wishes the policy
29 to be canceled or that he does not wish the policy to be
30 renewed.

1 (3) To any policy which has been in effect less than 60
2 days, unless it is a renewal policy, except that no insurer
3 shall decline to continue in force such a policy on the basis
4 of the grounds set forth in section 6103(a) (relating to
5 insufficient grounds for failure to insure) and except that,
6 if an insurer cancels a policy in the first 60 days, the
7 insurer shall supply the insured with a written statement of
8 the reason for cancellation.

9 (4) To any policy issued under an automobile assigned
10 risk plan.

11 (5) To any policy insuring more than four automobiles.

12 (6) To any policy covering the hazards of operation of a
13 garage, automobile sales agency repair shop, service station
14 or public parking place.

15 § 6108. Information regarding refusal to insure.

16 (a) Immunity.--A cause of action shall not arise against the
17 department, any insurer, the authorized representatives, agents
18 and employees of either or any firm, person or corporation
19 furnishing to the insurer information as to reasons for
20 cancellation or refusal to write or renew for making any
21 statement in complying with this chapter or for providing
22 information pertaining thereto.

23 (b) Notification to insured.--The insurer shall furnish the
24 insured the notification required by the Fair Credit Reporting
25 Act (Public Law 91-508, 15 U.S.C. § 1681 et seq.) at the time of
26 the cancellation or refusal to write or renew.

27 (c) Records of insurer.--Each insurer shall maintain records
28 of the numbers of cancellations and refusals to write or renew
29 policies and the reasons therefor and shall supply to the
30 department such information therefrom as it may request.

1 § 6109. Request for review.

2 (a) Cancellation or failure to renew.--Any insured may
3 within 20 days of the receipt by the insured of notice of
4 cancellation or notice of intention not to renew request the
5 department in writing to review the action of the insurer.

6 (b) Refusal to write policy.--Any applicant for a policy who
7 is refused the policy by an insurer shall be given a written
8 notice of refusal to write by the insurer, which shall state the
9 specific reasons for the refusal. Within 20 days of the receipt
10 of the notice, the applicant may request the department in
11 writing to review the action of the insurer.

12 § 6110. Review procedure.

13 (a) Notice of hearing.--If, upon receipt of a request for
14 review or if as a result of investigation, the department has
15 good cause to believe that an insurer is violating this chapter,
16 the department shall notify the insurer thereof and shall review
17 the matter to determine whether the cancellation or refusal to
18 renew or to write was in violation of this chapter. The
19 department shall within 40 days of the receipt of the request
20 either order the policy written or reinstated or uphold the
21 cancellation or refusal to renew. If either of the parties
22 disputes the department's findings, the party shall have the
23 right to a hearing. If a hearing is requested, the department
24 shall immediately issue notice of the hearing, stating the time
25 and place, which shall not be less than 30 days from the date of
26 the notice.

27 (b) Hearing procedure.--The hearing shall be held at the
28 time and place fixed for the hearing in the notice. The insurer
29 may show cause why an order should not be made by the department
30 to cease and desist from acts constituting a violation of this

1 chapter. Upon good cause shown, the department shall permit any
2 person to intervene, appear and be heard at the hearing, in
3 person or by counsel. The department may administer oaths,
4 examine and cross-examine witnesses, receive oral and
5 documentary evidence and subpoena witnesses, compel their
6 attendance and require the production of books, papers, records
7 or other documents which it deems relevant to the hearing. The
8 department shall cause a record to be kept of all evidence and
9 all proceedings at the hearing.

10 (c) Order.--Following the hearing, the department shall
11 issue a written order resolving the factual issues presented at
12 the hearing and stating what remedial action, if any, is
13 required. The department shall send a copy of the order to the
14 persons participating in the hearing. In the case of a
15 cancellation of or refusal to renew a policy, the policy shall
16 remain in effect until the conclusion of the review or the date
17 referred to in section 6106(2) (relating to notice of refusal),
18 whichever is later, except for review of cancellations by reason
19 of nonpayment of premium, in which case the policy shall
20 terminate as of the date provided in the notice under of section
21 6106(2), unless the cancellation or refusal to renew is upheld
22 or the policy reinstated.

23 (d) Applicability of Title 2.--The review by the department
24 under this chapter shall not be subject to 2 Pa.C.S. Ch. 5
25 Subch. A (relating to practice and procedure of Commonwealth
26 agencies). The decision of the department shall be subject to
27 appeal in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to
28 judicial review of Commonwealth agency action).

29 § 6111. Powers of department.

30 (a) Regulations.--The department shall promulgate

1 regulations necessary for the administration of this chapter.

2 (b) Filing fee.--The department may provide in these
3 regulations for the establishment of a filing fee not exceeding
4 \$15, to accompany the request for review. If the department
5 decides the appeal in favor of the insured, the filing fee shall
6 be returned immediately and the fee shall be paid by the
7 insurer.

8 (c) Cease and desist order.--Upon a determination that this
9 chapter has been violated, the department may issue an order
10 requiring the insurer to cease and desist from engaging in the
11 violation, and may enforce the order by an action for
12 injunction, regardless of whether the insurer is licensed by the
13 department.

14 § 6112. Penalty.

15 Any individual or insurer who violates this chapter is
16 subject to a penalty, which shall not exceed \$5,000.

17 CHAPTER 63

18 MOTOR VEHICLE FINANCIAL RESPONSIBILITY

19 Subchapter

- 20 A. General Provisions
- 21 B. Motor Vehicle Liability Insurance First Party Benefits
- 22 C. Uninsured and Underinsured Motorist Coverage
- 23 D. Assigned Risk Plan
- 24 E. Assigned Claims Plan
- 25 F. (Reserved)
- 26 G. Nonpayment of Judgments
- 27 H. Proof of Financial Responsibility
- 28 I. Miscellaneous Provisions

29 SUBCHAPTER A

30 GENERAL PROVISIONS

1 Sec.

2 6301. Short title of chapter.

3 6302. Definitions.

4 6303. Applicability of chapter.

5 6304. Administration of chapter.

6 § 6301. Short title of chapter.

7 This chapter shall be known and may be cited as the Motor
8 Vehicle Financial Responsibility Law.

9 § 6302. Definitions.

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

13 "Benefits" or "first party benefits." Medical benefits,
14 income loss benefits, accidental death benefits and funeral
15 benefits.

16 "Financial responsibility." The ability to respond in
17 damages for liability on account of accidents arising out of the
18 maintenance or use of a motor vehicle in the amount of \$15,000
19 because of injury to one person in any one accident, in the
20 amount of \$30,000 because of injury to two or more persons in
21 any one accident and in the amount of \$5,000 because of damage
22 to property of others in any one accident. The financial
23 responsibility shall be in a form acceptable to the Department
24 of Transportation.

25 "Injury." Accidentally sustained bodily harm to an
26 individual and that individual's illness, disease or death
27 resulting therefrom.

28 "Insured." Any of the following:

29 (1) An individual identified by name as an insured in a
30 policy of motor vehicle liability insurance.

- 1 (2) If residing in the household of the named insured:
2 (i) a spouse or other relative of the named insured;
3 or
4 (ii) a minor in the custody of either the named
5 insured or relative of the named insured.

6 "Insurer" or "insurance company." A motor vehicle liability
7 insurer subject to the requirements of this chapter.

8 "Self-insurer." An entity providing benefits and qualified
9 in the manner set forth in section 6387 (relating to self-
10 insurance).

11 "Underinsured motor vehicle." A motor vehicle for which the
12 limits of available liability insurance and self-insurance are
13 insufficient to pay losses and damages.

14 "Uninsured motor vehicle." Any of the following:

15 (1) A motor vehicle for which there is no liability
16 insurance or self-insurance applicable at the time of the
17 accident.

18 (2) A motor vehicle for which the insurance company
19 denies coverage or the insurance company is or becomes
20 involved in insolvency proceedings in any jurisdiction.

21 (3) An unidentified motor vehicle that causes an
22 accident resulting in injury provided the accident is
23 reported to the police or proper governmental authority and
24 claimant notifies his insurer within 30 days, or as soon as
25 practicable thereafter, that the claimant or his legal
26 representative has a legal action arising out of the
27 accident.

28 § 6303. Applicability of chapter.

29 This chapter does not apply with respect to any motor vehicle
30 owned by the Federal Government.

1 § 6304. Administration of chapter.

2 (a) General rule.--Except as provided in subsection (b), the
3 Department of Transportation shall administer and enforce this
4 chapter and may make rules and regulations necessary for that
5 purpose.

6 (b) Insurance matters.--The department shall administer and
7 enforce those provisions of this chapter as to matters under its
8 jurisdiction as determined by this chapter or other statute and
9 may make rules and regulations necessary for that purpose.

10 SUBCHAPTER B

11 MOTOR VEHICLE LIABILITY INSURANCE

12 FIRST PARTY BENEFITS

13 Sec.

14 6311. Required benefits.

15 6312. Availability of benefits.

16 6312.1. Limitation on exclusion of benefits.

17 6313. Source of benefits.

18 6314. Ineligible claimants.

19 6315. Availability of adequate limits.

20 6316. Payment of benefits.

21 6317. Stacking of benefits.

22 6318. Exclusion from benefits.

23 6318.1. Certain nonexcludable conditions.

24 6319. Coordination of benefits.

25 6320. Subrogation.

26 6321. Statute of limitations.

27 6322. Preclusion of recovering required benefits.

28 6323. Reporting requirements.

29 § 6311. Required benefits.

30 An insurer issuing or delivering liability insurance policies

1 covering any motor vehicle of the type required to be registered
2 under Title 75 (relating to vehicles), except recreational
3 vehicles not intended for highway use, motorcycles, motor-driven
4 cycles or motorized pedalcycles or like type vehicles,
5 registered and operated in this Commonwealth, shall include
6 coverage providing a medical benefit in the amount of \$10,000,
7 an income loss benefit up to a monthly maximum of \$1,000 up to a
8 maximum benefit of \$5,000 and a funeral benefit in the amount of
9 \$1,500, as defined in section 6312 (relating to availability of
10 benefits), with respect to injury arising out of the maintenance
11 or use of a motor vehicle. The income loss benefit provided
12 under this section may be expressly waived by the named insured
13 provided the named insured has no expectation of actual income
14 loss due to age, disability or lack of employment history.

15 § 6312. Availability of benefits.

16 An insurer issuing or delivering liability insurance policies
17 covering any motor vehicle required to be covered under section
18 6311 (relating to required benefits) shall make available for
19 purchase first party benefits with respect to injury arising out
20 of the maintenance or use of a motor vehicle as follows:

21 (1) Medical benefit.--Coverage to provide for reasonable
22 and necessary medical treatment and rehabilitative services,
23 including, but not limited to, hospital, dental, surgical,
24 psychiatric, psychological, osteopathic, ambulance,
25 chiropractic, licensed physical therapy, nursing services,
26 vocational rehabilitation and occupational therapy, speech
27 pathology and audiology, optometric services, medications,
28 medical supplies and prosthetic devices, all without
29 limitation as to time in cases where within 18 months from
30 the date of the accident causing injury, it is ascertainable

1 with reasonable medical probability that further expenses may
2 be incurred as a result of the injury. Benefits under this
3 paragraph may include any nonmedical remedial care and
4 treatment rendered in accordance with a recognized religious
5 method of healing.

6 (2) Income loss benefit.--Includes the following:

7 (i) Eighty percent of actual loss of gross income.

8 (ii) Reasonable expenses actually incurred for
9 hiring a substitute to perform self-employment services
10 thereby mitigating loss of gross income or for hiring
11 special help thereby enabling a person to work and
12 mitigate loss of gross income.

13 Income loss does not include loss of expected income for any
14 period following the death of an individual or expenses
15 incurred for services performed following the death of an
16 individual. Income loss shall not commence until five working
17 days have been lost after the date of the accident.

18 (3) Accidental death benefit.--A death benefit paid to
19 the personal representative of the insured, if injury
20 resulting from a motor vehicle accident causes death within
21 24 months from the date of the accident.

22 (4) Funeral benefit.--Expenses directly related to the
23 funeral, burial, cremation or other form of disposition of
24 the remains of a deceased individual, incurred as a result of
25 the death of the individual as a result of the accident and
26 within 24 months from the date of the accident.

27 (5) Combination benefit.--A combination of benefits
28 described in paragraphs (1) through (4) as an alternative to
29 the separate purchase of those benefits.

30 § 6312.1. Limitation on exclusion of benefits.

1 (a) General rule.--A motor vehicle rented from any location
2 in this Commonwealth may not be covered by an insurance policy
3 or self-insurance arrangement which would exclude benefits if
4 the lessee or any other authorized driver were involved in a
5 vehicular accident while under the influence of drugs or
6 intoxicating beverages at the time of the accident.

7 (b) Duty of motor vehicle lessor.--The lessor of a motor
8 vehicle shall ensure that, if the rented motor vehicle is not
9 returned during the contracted rental period, all liability or
10 first party coverage continues until the motor vehicle is
11 reported to the police as stolen.

12 (c) Liability of motor vehicle lessor.--Failure of a person
13 engaged in the rental of motor vehicles to comply with
14 subsections (a) and (b) shall, as a matter of law, render the
15 person responsible for the mandated minimum limits of financial
16 responsibility as set forth in this chapter with respect to any
17 liability arising out of the use of the motor vehicle for which
18 the lessee would otherwise be responsible.

19 (d) Effect of violation.--A violation of this section
20 constitutes a violation of the act of December 17, 1968
21 (P.L.1224, No.387), known as the Unfair Trade Practices and
22 Consumer Protection Law.

23 § 6313. Source of benefits.

24 (a) General rule.--Except as provided in section 6314
25 (relating to ineligible claimants), a person who suffers injury
26 arising out of the maintenance or use of a motor vehicle shall
27 recover first party benefits against applicable insurance
28 coverage in the following order of priority:

29 (1) For a named insured, the policy on which he is the
30 named insured.

1 (2) For an insured, the policy covering the insured.

2 (3) For the occupants of an insured motor vehicle, the
3 policy on that motor vehicle.

4 (4) For a person who is not the occupant of a motor
5 vehicle, the policy on any motor vehicle involved in the
6 accident. For the purpose of this paragraph, a parked and
7 unoccupied motor vehicle is not deemed to be involved in an
8 accident unless it was parked so as to cause unreasonable
9 risk of injury.

10 (b) Multiple sources of equal priority.--The insurer against
11 whom a claim is asserted first under the priorities set forth in
12 subsection (a) shall process and pay the claim as if wholly
13 responsible. The insurer may thereafter recover contribution pro
14 rata from any other insurer for the benefits paid and the costs
15 of processing the claim. If contribution is sought among
16 insurers responsible under subsection (a)(4), proration shall be
17 based on the number of involved motor vehicles.

18 § 6314. Ineligible claimants.

19 An owner of a currently registered motor vehicle who does not
20 have financial responsibility or an operator or occupant of a
21 recreational vehicle not intended for highway use, motorcycle,
22 motor-driven cycle, motorized pedalcycle or like type vehicle
23 required to be registered under Title 75 (relating to vehicles)
24 cannot recover first party benefits.

25 § 6315. Availability of adequate limits.

26 (a) General rule.--An insurer shall make available for
27 purchase first party benefits as follows:

28 (1) For medical benefits, up to at least \$100,000.

29 (2) For income loss benefits, up to at least \$2,500 per
30 month up to a maximum benefit of at least \$50,000.

1 (3) For accidental death benefits, up to at least
2 \$25,000.

3 (4) For funeral benefits, \$2,500.

4 (5) For combination of benefits enumerated in paragraphs
5 (1) through (4) and subject to a limit on the accidental
6 death benefit of up to \$25,000 and a limit on the funeral
7 benefit of \$2,500, up to at least \$277,500 of benefits in the
8 aggregate or benefits payable up to three years from the date
9 of the accident, whichever occurs first.

10 (b) Higher or lower limits and additional benefits.--
11 Insurers may make available higher or lower limits or benefits
12 in addition to those enumerated in subsection (a).

13 (c) Restriction on providing first party benefits.--An
14 insurer shall not issue or deliver a policy providing first
15 party benefits in accordance with this subchapter unless the
16 policy also contains coverage for liability in amounts at least
17 equal to the limits required for financial responsibility.

18 § 6316. Payment of benefits.

19 Benefits are overdue if not paid within 30 days after the
20 insurer receives reasonable proof of the amount of the benefits.
21 If reasonable proof is not supplied as to all benefits, the
22 portion supported by reasonable proof is overdue if not paid
23 within 30 days after the proof is received by the insurer.
24 Overdue benefits shall bear interest at the rate of 12% a year
25 from the date the benefits become due. If the insurer is found
26 to have acted in an unreasonable manner in refusing to pay the
27 benefits when due, the insurer shall pay, in addition to the
28 benefits owed and the interest thereon, a reasonable attorney
29 fee based upon actual time expended.

30 § 6317. Stacking of benefits.

1 First party benefits shall not be increased by stacking the
2 limits of coverage of:

3 (1) multiple motor vehicles covered under the same
4 policy of insurance; or

5 (2) multiple motor vehicle policies covering the
6 individual for the same loss.

7 § 6318. Exclusion from benefits.

8 (a) General rule.--An insurer shall exclude from benefits
9 any insured, or his personal representative, under a policy
10 described in section 6311 (relating to required benefits) or
11 6312 (relating to availability of benefits), when the conduct of
12 the insured contributed to the injury sustained by the insured
13 in any of the following ways:

14 (1) While intentionally injuring himself or another or
15 attempting to intentionally injure himself or another.

16 (2) While committing a felony.

17 (3) While seeking to elude lawful apprehension or arrest
18 by a law enforcement official.

19 (b) Conversion of vehicle.--A person who knowingly converts
20 a motor vehicle is ineligible to receive first party benefits
21 from any source other than a policy of insurance under which he
22 is an insured for any injury arising out of the maintenance or
23 use of the converted vehicle.

24 (c) Named driver exclusion.--An insurer may exclude any
25 insured or his personal representative from benefits under a
26 policy described in section 6311 or 6312 when the insured is
27 excluded from coverage while operating a motor vehicle in
28 accordance with Chapter 61 (relating to eligibility for motor
29 vehicle insurance).

30 § 6318.1. Certain nonexcludable conditions.

1 (a) General rule.--Insurance benefits may not be denied
2 solely because the driver of the insured motor vehicle is
3 determined to be under the influence of drugs or intoxicating
4 beverages at the time of the accident for which benefits are
5 sought.

6 (b) Contract exclusions.--Provisions of an insurance policy
7 which exclude insurance benefits if the insured causes a
8 vehicular accident while under the influence of drugs or
9 intoxicating beverages at the time of the accident are void.

10 § 6319. Coordination of benefits.

11 (a) General rule.--Except for workmen's compensation, a
12 policy of insurance issued or delivered pursuant to this
13 subchapter shall be primary. Any program, group contract or
14 other arrangement for payment of benefits such as described in
15 section 6311 (relating to required benefits), 6312(1) and (2)
16 (relating to availability of benefits) or 6315 (relating to
17 availability of adequate limits) shall be construed to contain a
18 provision that all benefits provided therein shall be in excess
19 of and not in duplication of any valid and collectible first
20 party benefits provided under section 6311, 6312 or 6315 or
21 workmen's compensation.

22 (b) Definition.--As used in this section the term "program,
23 group contract or other arrangement" includes, but is not
24 limited to, benefits payable by a hospital plan corporation or a
25 professional health service corporation subject to Chapter 75
26 (relating to hospital plan corporations) or 77 (relating to
27 professional health services plan corporations).

28 § 6320. Subrogation.

29 In actions arising out of the maintenance or use of a motor
30 vehicle, there shall be no right of subrogation or reimbursement

1 from a claimant's tort recovery with respect to workmen's
2 compensation benefits, benefits available under section 6311
3 (relating to required benefits), 6312 (relating to availability
4 of benefits) or 6315 (relating to availability of adequate
5 limits) or benefits in lieu thereof paid or payable under
6 section 6319 (relating to coordination of benefits).

7 § 6321. Statute of limitations.

8 (a) General rule.--If benefits have not been paid, an action
9 for first party benefits shall be commenced within four years
10 from the date of the accident giving rise to the claim. If first
11 party benefits have been paid, an action for further benefits
12 shall be commenced within four years from the date of the last
13 payment. The benefits claimed in the action may not include
14 expenses incurred more than four years before the date the
15 action is commenced.

16 (b) Minors.--For minors entitled to benefits described in
17 section 6311 (relating to required benefits) or 6312 (relating
18 to availability of benefits), an action for benefits shall be
19 commenced within four years from the date on which the injured
20 minor attains 18 years of age.

21 § 6322. Preclusion of recovering required benefits.

22 In any action for damages against a tortfeasor arising out of
23 the maintenance or use of a motor vehicle, a person who is
24 eligible to receive benefits under the coverages set forth in
25 section 6311 (relating to required benefits) may not plead,
26 introduce into evidence or recover the amount of benefits paid
27 or payable under section 6311.

28 § 6323. Reporting requirements.

29 Beginning December 31, 1986, and each year thereafter, each
30 insurance company writing automobile insurance in this

1 Commonwealth shall file with the department the number of its
2 insureds, the number of its insureds who have purchased first
3 party medical benefits in excess of the minimum required by
4 section 6311 (relating to required benefits) and the number of
5 insureds who have purchased first party medical benefits in the
6 amount of \$100,000. The department shall furnish this
7 information to the General Assembly annually.

8 SUBCHAPTER C

9 UNINSURED AND UNDERINSURED MOTORIST COVERAGE

10 Sec.

11 6331. Scope and amount of coverage.

12 6332. Limits of coverage.

13 6333. Priority of recovery.

14 6334. Request for lower or higher limits of coverage.

15 6335. Workmen's compensation benefits.

16 6336. Coverage in excess of required amounts.

17 § 6331. Scope and amount of coverage.

18 (a) General rule.--A motor vehicle liability insurance
19 policy shall not be delivered or issued for delivery in this
20 Commonwealth, with respect to any motor vehicle registered or
21 principally garaged in this Commonwealth, unless uninsured
22 motorist and underinsured motorist coverages are provided
23 therein or supplemental thereto in amounts equal to the bodily
24 injury liability coverage except as provided in section 6334
25 (relating to request for lower or higher limits of coverage).

26 (b) Uninsured motorist coverage.--Uninsured motorist
27 coverage shall provide protection for persons who suffer injury
28 arising out of the maintenance or use of a motor vehicle and are
29 legally entitled to recover damages therefor from owners or
30 operators of uninsured motor vehicles.

1 (c) Underinsured motorist coverage.--Underinsured motorist
2 coverage shall provide protection for persons who suffer injury
3 arising out of the maintenance or use of a motor vehicle and are
4 legally entitled to recover damages therefor from owners or
5 operators of underinsured motor vehicles.

6 (d) Limitation on recovery.--A person who recovers damages
7 under uninsured motorist coverage or coverages cannot recover
8 damages under underinsured motorist coverage or coverages for
9 the same accident.

10 § 6332. Limits of coverage.

11 Coverages offered under section 6331 (relating to scope and
12 amount of coverage) shall be written for the same limits. A
13 change shall not be made in the limits of one of these coverages
14 without an equal change in the limits of the other coverage.

15 § 6333. Priority of recovery.

16 Where multiple policies apply, payment shall be made in the
17 following order of priority:

18 (1) A policy covering a motor vehicle occupied by the
19 injured person at the time of the accident.

20 (2) A policy covering a motor vehicle not involved in
21 the accident with respect to which the injured person is an
22 insured.

23 § 6334. Request for lower or higher limits of coverage.

24 A named insured may request in writing the issuance of
25 coverages under section 6331 (relating to scope and amount of
26 coverage) in amounts less than the limits of liability for
27 bodily injury, but not less than the amounts required by this
28 chapter for bodily injury. If the named insured has selected
29 uninsured and underinsured motorist coverage in connection with
30 a policy previously issued to him by the same insurer under

1 section 6331, the coverages offered need not be provided in
2 excess of the limits of liability previously issued for
3 uninsured and underinsured motorist coverage unless the named
4 insured requests in writing higher limits of liability for those
5 coverages.

6 § 6335. Workmen's compensation benefits.

7 The coverages required by this subchapter shall not be made
8 subject to an exclusion or reduction in amount because of any
9 workmen's compensation benefits payable as a result of the same
10 injury.

11 § 6336. Coverage in excess of required amounts.

12 The coverages provided under this subchapter may be offered
13 by insurers in amounts higher than those required by this
14 chapter but may not be greater than the limits of liability
15 specified in the bodily injury liability provisions of the
16 insured's policy.

17 SUBCHAPTER D

18 ASSIGNED RISK PLAN

19 Sec.

20 6341. Establishment of assigned risk plan.

21 6342. Scope of assigned risk plan.

22 6343. Rates.

23 6344. Termination of policies.

24 § 6341. Establishment of assigned risk plan.

25 The department shall, after consultation with the insurers
26 licensed to write motor vehicle liability insurance in this
27 Commonwealth, adopt a reasonable assigned risk plan for the
28 equitable apportionment among those insurers of applicants for
29 motor vehicle liability insurance who are entitled to procure
30 insurance through ordinary methods, but are unable to do so.

1 When the plan has been adopted, all motor vehicle liability
2 insurers shall subscribe thereto and shall participate in the
3 plan. The plan may provide reasonable means for the transfer of
4 individuals insured thereunder into the ordinary market, at the
5 same or lower rates, pursuant to regulations established by the
6 department.

7 § 6342. Scope of assigned risk plan.

8 The assigned risk plan shall include rules for the
9 classification of risks and rates therefor and shall provide for
10 the installment payment of premiums subject to customary terms
11 and conditions.

12 § 6343. Rates.

13 All rates for the assigned risk plan shall be subject to the
14 provisions of Chapter 19 (relating to insurance rates) which are
15 applicable to the classes of insurance described in section
16 1902(a) (relating to scope of chapter) and shall not be
17 inadequate, excessive or unfairly discriminatory.

18 § 6344. Termination of policies.

19 Cancellation, refusal to renew and other termination of
20 policies issued under the assigned risk plan shall be in
21 accordance with the rules of the plan.

22 SUBCHAPTER E

23 ASSIGNED CLAIMS PLAN

24 Sec.

25 6351. Organization of assigned claims plan.

26 6352. Eligible claimants.

27 6353. Benefits available.

28 6354. Additional coverage.

29 6355. Coordination of benefits.

30 6356. Subrogation.

1 6357. Statute of limitations.

2 § 6351. Organization of assigned claims plan.

3 Insurers providing financial responsibility as required by
4 law shall organize and maintain an assigned claims plan, subject
5 to approval and regulation by the department, and adopt rules
6 for the operation and for the assessment of costs on a fair and
7 equitable basis.

8 § 6352. Eligible claimants.

9 (a) General rule.--A person may recover benefits from the
10 assigned claims plan if the person:

11 (1) is a resident of this Commonwealth;

12 (2) is injured as the result of a motor vehicle accident
13 occurring in this Commonwealth;

14 (3) is not an owner of a motor vehicle required to be
15 registered under 75 Pa.C.S. Ch. 13 (relating to registration
16 of vehicles);

17 (4) is not the operator or occupant of a motor vehicle
18 owned by the Federal Government;

19 (5) is not the operator or occupant of a motor vehicle
20 owned by a self-insurer or by an individual or entity who or
21 which is immune from liability or is not required to provide
22 benefits or uninsured and underinsured motorist coverage;

23 (6) is otherwise not entitled to receive any first party
24 benefits under section 6311 (relating to required benefits)
25 or 6312 (relating to availability of benefits) applicable to
26 the injury arising from the accident; and

27 (7) is not the operator or occupant of a recreational
28 vehicle not intended for highway use, motorcycle, motor-
29 driven cycle or motorized pedalcycle or other like type
30 vehicle required to be registered under Title 75 (relating to

1 vehicles) and involved in the accident.

2 (b) Grounds for ineligibility.--A person otherwise
3 qualifying as an eligible claimant under subsection (a) shall
4 nevertheless be ineligible to recover benefits from the assigned
5 claims plan if that person contributed to his own injury in any
6 of the following ways:

7 (1) While intentionally injuring himself or another or
8 attempting to intentionally injure himself or another.

9 (2) While committing a felony.

10 (3) While seeking to elude lawful apprehension or arrest
11 by a law enforcement official.

12 (4) While knowingly converting a motor vehicle.

13 § 6353. Benefits available.

14 An eligible claimant may recover medical benefits, as
15 described in section 6312(1) (relating to availability of
16 benefits), up to a maximum of \$5,000. An income loss benefit or
17 accidental death benefit shall not be payable under this
18 subchapter. Funeral expenses, as described in section 6312(4),
19 in the amount of \$1,500 shall be recoverable as an offset to the
20 maximum amount of medical benefits available under this section.

21 § 6354. Additional coverage.

22 An eligible claimant who has no other source of applicable
23 uninsured motorist coverage and is otherwise entitled to recover
24 in an action in tort against a party who has failed to comply
25 with this chapter may recover for losses or damages suffered as
26 a result of the injury up to \$15,000 subject to an aggregate
27 limit for all claims arising out of any one motor vehicle
28 accident of \$30,000. If a claimant recovers medical benefits
29 under section 6353 (relating to benefits available), the amount
30 of medical benefits recovered or recoverable up to \$5,000 shall

1 be set off against any amount recoverable under this section.

2 § 6355. Coordination of benefits.

3 (a) Workmen's compensation.--All benefits, less reasonably
4 incurred collection costs, that an eligible claimant receives or
5 is entitled to receive from workmen's compensation and from any
6 other like source under local, state or Federal law shall be
7 subtracted from any benefits available in section 6353 (relating
8 to benefits available) unless the law authorizing or providing
9 for those benefits makes them excess or secondary to the
10 benefits payable under this subchapter.

11 (b) Accident and health benefits.--All benefits an eligible
12 claimant receives or is entitled to receive as a result of
13 injury from any available source of accident and health benefits
14 shall be subtracted from those benefits available in section
15 6353.

16 § 6356. Subrogation.

17 The assigned claims plan or its assignee may, in accordance
18 with the tort liability law of this Commonwealth, recover
19 reimbursement for benefits or coverages paid, loss adjustment
20 costs and any other sums paid to an eligible claimant under this
21 subchapter.

22 § 6357. Statute of limitations.

23 (a) General rule.--An action by an eligible claimant to
24 recover benefits or coverages from the assigned claims plan
25 shall be commenced within four years from the date of the
26 accident.

27 (b) Minors.--For minors entitled to benefits under section
28 6353 (relating to benefits available) or 6354 (relating to
29 additional coverage), an action to recover these benefits or
30 coverages shall be commenced within four years from the date on

1 which the injured minor attains 18 years of age.

2 SUBCHAPTER F

3 (RESERVED)

4 SUBCHAPTER G

5 NONPAYMENT OF JUDGMENTS

6 Sec.

7 6371. Court reports on nonpayment of judgments.

8 6372. Suspension for nonpayment of judgments.

9 6373. Duration of suspension.

10 6374. Satisfaction of judgments.

11 6375. Installment payment of judgments.

12 § 6371. Court reports on nonpayment of judgments.

13 (a) General rule.--Whenever any person fails within 60 days
14 to satisfy any judgment arising from a motor vehicle accident,
15 the judgment creditor may forward to the Department of
16 Transportation a certified copy of the judgment.

17 (b) Notice to state of nonresident defendant.--If the
18 defendant named in any certified copy of a judgment reported to
19 the Department of Transportation is a nonresident, the
20 Department of Transportation shall transmit a certified copy of
21 the judgment to the official in charge of the issuance of
22 licenses and registration certificates of the state of which the
23 defendant is a resident.

24 § 6372. Suspension for nonpayment of judgments.

25 (a) General rule.--The Department of Transportation, upon
26 receipt of a certified copy of a judgment, shall suspend the
27 operating privilege of each person against whom the judgment was
28 rendered except as otherwise provided in this section and in
29 section 6375 (relating to installment payment of judgments).

30 (b) Nonsuspension with consent of judgment creditor.--If the

1 judgment creditor consents in writing, in such form as the
2 Department of Transportation may prescribe, that the judgment
3 debtor's operating privilege be retained or restored, the
4 Department of Transportation shall not suspend or shall restore
5 the operating privilege until the consent is revoked in writing,
6 notwithstanding default in the payment of the judgment or of any
7 installment thereof prescribed in section 6375, provided the
8 judgment debtor furnishes proof of financial responsibility.

9 (c) Financial responsibility in effect at time of
10 accident.--Any person whose operating privilege has been
11 suspended, or is about to be suspended or become subject to
12 suspension, under this chapter shall be relieved from the effect
13 of the judgment as prescribed in this chapter if the person
14 files evidence satisfactory to the Department of Transportation
15 that financial responsibility was in force at the time of the
16 accident resulting in the judgment and is or should be available
17 for the satisfaction of the judgment. If insurance already
18 obtained is not available because the insurance company has gone
19 into receivership or bankruptcy, the person shall only be
20 required to present to or file with the Department of
21 Transportation proper evidence that an insurance policy was in
22 force at the time of the accident.

23 § 6373. Duration of suspension.

24 A person's operating privilege shall remain suspended and
25 shall not be renewed in the name of that person until every
26 judgment is stayed or satisfied in full or to the extent
27 provided in this subchapter, and until the person furnishes
28 proof of financial responsibility as required.

29 § 6374. Satisfaction of judgments.

30 (a) General rule.--For the purpose of this chapter only,

1 judgments shall be deemed satisfied upon the occurrence of one
2 of the following:

3 (1) When \$15,000 has been credited upon any judgment or
4 judgments rendered in excess of that amount because of injury
5 to one person as the result of any one accident.

6 (2) When \$30,000 has been credited upon any judgment or
7 judgments rendered in excess of that amount because of injury
8 to two or more persons as the result of any one accident.

9 (3) When \$5,000 has been credited upon any judgment or
10 judgments rendered in excess of that amount because of damage
11 to property of others as the result of any one accident.

12 (b) Credit for payment under settlement.--Payments made in
13 settlement of any claims because of bodily injury or property
14 damage arising from a motor vehicle accident shall be credited
15 in reduction of the amounts provided for in this section.

16 (c) Escrow deposit by judgment debtor.--When the judgment
17 creditor cannot be found, the judgment debtor may deposit in
18 escrow with the prothonotary of the court where the judgment was
19 entered an amount equal to the amount of the judgment, subject
20 to the limits set forth in subsection (a), interest to date and
21 record costs, whereupon the prothonotary shall notify the
22 Department of Transportation and the judgment shall be deemed
23 satisfied. The amount deposited shall be retained by the
24 prothonotary for a period of five years from the date of the
25 deposit, after which, if it has not been claimed by the judgment
26 creditor, it shall be returned to the judgment debtor. When the
27 deposit is made, the prothonotary shall notify the judgment
28 creditor and his counsel, if any, by certified or registered
29 mail at his last known address. Interest shall not run on any
30 judgment with respect to the amount deposited with the

1 prothonotary under this subsection.

2 § 6375. Installment payment of judgments.

3 (a) Order authorizing installment payment.--A judgment
4 debtor, upon notice to the judgment creditor, may apply to the
5 court in which the judgment was rendered for the privilege of
6 paying the judgment in installments and the court, in its
7 discretion and without prejudice to any other remedies which the
8 judgment creditor may have, may so order and fix the amounts and
9 times of payment of the installments.

10 (b) Suspension prohibited during compliance with order.--The
11 Department of Transportation shall not suspend a driver's
12 operating privilege and shall restore any operating privilege
13 suspended following nonpayment of a judgment when the judgment
14 debtor obtains an order permitting payment of the judgment in
15 installments and while the payment of any installment is not in
16 default, if the judgment debtor furnishes proof of financial
17 responsibility.

18 (c) Suspension for default in payment.--If the judgment
19 debtor fails to pay any installment as specified by the order,
20 then, upon notice of the default, the Department of
21 Transportation shall suspend the operating privilege of the
22 judgment debtor until the judgment is satisfied as provided in
23 this chapter.

24 SUBCHAPTER H

25 PROOF OF FINANCIAL RESPONSIBILITY

26 Sec.

27 6381. Notice of sanction for not evidencing financial
28 responsibility.

29 6382. Manner of providing proof of financial responsibility.

30 6383. Proof of financial responsibility before restoring

1 operating privilege or registration.
2 6384. Proof of financial responsibility following violation.
3 6385. Proof of financial responsibility following accident.
4 6386. Self-certification of financial responsibility.
5 6387. Self-insurance.
6 § 6381. Notice of sanction for not evidencing financial
7 responsibility.

8 An applicant for registration of a vehicle shall acknowledge
9 on a form developed by the Department of Transportation that the
10 applicant knows he may lose his operating privilege or vehicle
11 registrations if he fails to evidence financial responsibility
12 for the purposes described in section 6372 (relating to
13 suspension for nonpayment of judgments), 6383 (relating to proof
14 of financial responsibility before restoring operating privilege
15 or registration), 6384 (relating to proof of financial
16 responsibility following violation) or 6385 (relating to proof
17 of financial responsibility following accident).

18 § 6382. Manner of providing proof of financial responsibility.

19 (a) General rule.--Proof of financial responsibility may be
20 furnished by filing evidence satisfactory to the Department of
21 Transportation that all motor vehicles registered in the
22 person's name are covered by motor vehicle liability insurance
23 or by a program of self-insurance as provided by section 6387
24 (relating to self-insurance) or other reliable financial
25 arrangements, deposits, resources or commitments acceptable to
26 the Department of Transportation.

27 (b) Nonresident.--The nonresident owner of a motor vehicle
28 not registered in this Commonwealth may give proof of financial
29 responsibility by filing with the Department of Transportation a
30 written certificate or certificates of an insurance company

1 authorized to transact business in the state in which the motor
2 vehicle or motor vehicles described in the certificate are
3 registered or, if the nonresident does not own a motor vehicle,
4 then evidence satisfactory to the Department of Transportation
5 that the person does not own a motor vehicle. The Department of
6 Transportation shall accept the certificate if the insurance
7 company complies with the following provisions with respect to
8 the policies so certified:

9 (1) The insurance company executes a power of attorney
10 authorizing the Department of Transportation to accept
11 service on its behalf or process in any action arising out of
12 a motor vehicle accident in this Commonwealth.

13 (2) The insurance company agrees in writing that the
14 policies shall be deemed to conform with the law of this
15 Commonwealth relating to the terms of motor vehicle liability
16 policies issued in this Commonwealth.

17 (c) Default by foreign insurance company.--If any insurance
18 company not authorized to transact business in this
19 Commonwealth, which has qualified to furnish proof of financial
20 responsibility, defaults in any undertakings or agreements, the
21 Department of Transportation shall not thereafter accept as
22 proof any certificate of the company whether theretofore filed
23 or thereafter tendered as proof as long as the default
24 continues.

25 § 6383. Proof of financial responsibility before restoring
26 operating privilege or registration.

27 Whenever the Department of Transportation suspends or revokes
28 the operating privilege of any person or the registration of any
29 vehicle under section 6372 (relating to suspension for
30 nonpayment of judgments), 6384 (relating to proof of financial

1 responsibility following violation) or 6385 (relating to proof
2 of financial responsibility following accident) or 75 Pa.C.S. §
3 1532 (relating to revocation or suspension of operating
4 privilege) or 1542 (relating to revocation of habitual
5 offender's license) or upon receiving the record of a conviction
6 or forfeiture of bail, the Department of Transportation shall
7 not restore the operating privilege or the applicable
8 registration until the person furnishes proof of financial
9 responsibility.

10 § 6384. Proof of financial responsibility following violation.

11 A defendant who is convicted of a traffic offense that
12 requires a court appearance, other than a parking offense, shall
13 be required to show proof of financial responsibility covering
14 the operation of the vehicle at the time of the offense. If the
15 defendant fails to show proof of financial responsibility, the
16 court shall notify the Department of Transportation of that
17 fact. Upon receipt of the notice, the Department of
18 Transportation shall revoke the registration of the vehicle. If
19 the defendant is the owner of the vehicle, the Department of
20 Transportation shall also suspend the operating privilege of the
21 defendant.

22 § 6385. Proof of financial responsibility following accident.

23 If the Department of Transportation determines that the owner
24 of a motor vehicle involved in an accident requiring notice to a
25 police department under 75 Pa.C.S. § 3746 (relating to immediate
26 notice of accident to police department) did not maintain
27 financial responsibility on the motor vehicle at the time of the
28 accident, the Department of Transportation shall suspend the
29 operating privilege of the owner, where applicable, and shall
30 revoke the registration of the vehicle.

1 § 6386. Self-certification of financial responsibility.

2 The Department of Transportation shall require that each
3 motor vehicle registrant certify that the registrant is
4 financially responsible at the time of registration or renewal
5 thereof. The Department of Transportation shall refuse to
6 register or renew the registration of a vehicle for failure to
7 comply with this requirement or falsification of self-
8 certification.

9 § 6387. Self-insurance.

10 (a) General rule.--Self-insurance is effected by filing with
11 the Department of Transportation, in satisfactory form, evidence
12 that reliable financial arrangements, deposits, resources or
13 commitments exist such as will satisfy the Department of
14 Transportation that the self-insurer will:

15 (1) Provide the benefits required by section 6311
16 (relating to required benefits), subject to Subchapter B
17 (relating to motor vehicle liability insurance first party
18 benefits), except the additional benefits and limits provided
19 in sections 6312 (relating to availability of benefits) and
20 6315 (relating to availability of adequate limits).

21 (2) Make payments sufficient to satisfy judgments as
22 required by section 6374 (relating to satisfaction of
23 judgments).

24 (3) Provide uninsured motorist coverage up to the limits
25 set forth in section 6374.

26 (b) Stacking limits prohibited.--Any recovery of uninsured
27 motorist benefits under this section only shall not be increased
28 by stacking the limits provided in section 6374, in
29 consideration of the ownership or operation of multiple vehicles
30 or otherwise.

1 (c) Assigned Risk and Assigned Claims Plans.--Self-insurers
2 shall not be required to accept assigned risks under Subchapter
3 D (relating to Assigned Risk Plan) or contribute to the Assigned
4 Claims Plan under Subchapter E (relating to Assigned Claims
5 Plan).

6 (d) (Reserved).

7 (e) Promulgation of regulations.--The Department of
8 Transportation may, jointly with the department, promulgate
9 regulations for reviewing and establishing the financial
10 eligibility of self-insurers.

11 SUBCHAPTER I

12 MISCELLANEOUS PROVISIONS

13 Sec.

14 6391. Notice of available benefits and limits.

15 6392. Availability of certain coverage.

16 6393. Premiums.

17 6394. Jurisdictional limit on judicial arbitration.

18 6395. Insurance fraud reporting immunity.

19 6396. Mental or physical examinations.

20 6397. Customary charges for treatment.

21 6398. Attorney fees and costs.

22 § 6391. Notice of available benefits and limits.

23 It shall be presumed that the insured has been advised of the
24 benefits and limits available under this chapter if the
25 following notice in bold print of at least ten-point type is
26 given to the applicant at the time of application for original
27 coverage or at the time of the first renewal after October 1,
28 1984:

29 IMPORTANT NOTICE

30 Insurance companies operating in the Commonwealth of

1 Pennsylvania are required by law to make available for
2 purchase the following benefits for you, your spouse or
3 other relatives or minors in your custody or in the
4 custody of your relatives, residing in your household,
5 occupants of your motor vehicle or persons struck by your
6 motor vehicle:

7 (1) Medical benefits, up to at least \$100,000.

8 (2) Income loss benefits, up to at least \$2,500 a
9 month up to a maximum benefit of at least \$50,000.

10 (3) Accidental death benefits, up to at least
11 \$25,000.

12 (4) Funeral benefits, \$2,500.

13 (5) As an alternative to paragraphs (1) through (4),
14 a combination benefit, up to at least \$277,500 of
15 benefits in the aggregate or benefits payable up to three
16 years from the date of the accident, whichever occurs
17 first, subject to a limit on accidental death benefit of
18 up to \$25,000 and a limit on funeral benefit of \$2,500.

19 (6) Uninsured, underinsured and bodily injury
20 liability coverage up to at least \$100,000 because of
21 injury to one person in any one accident and up to at
22 least \$300,000 because of injury to two or more persons
23 in any one accident or, at the option of the insurer, up
24 to at least \$300,000 in a single limit for these
25 coverages, except for policies issued under the Assigned
26 Risk Plan. Also, at least \$5,000 for damage to property
27 of others in any one accident.

28 Additionally, insurers may offer higher benefit levels
29 than those enumerated above as well as additional
30 benefits. However, an insured may elect to purchase lower

1 benefit levels than those enumerated above. Your
2 signature on this notice or your payment of any renewal
3 premium evidences your actual knowledge and understanding
4 of the availability of these benefits and limits as well
5 as the benefits and limits you have selected.

6 § 6392. Availability of certain coverage.

7 Except for policies issued under Subchapter D (relating to
8 Assigned Risk Plan), an insurer issuing a policy of bodily
9 injury liability coverage pursuant to this chapter shall make
10 available for purchase higher limits of uninsured, underinsured
11 and bodily injury liability coverages up to at least \$100,000
12 because of injury to one person in any one accident and up to at
13 least \$300,000 because of injury to two or more persons in any
14 one accident or, at the option of the insurer, up to at least
15 \$300,000 in a single limit for these coverages. Additionally, an
16 insurer shall make available for purchase at least \$5,000
17 because of damage to property of others in any one accident.
18 However, the exclusion of availability relating to the Assigned
19 Risk Plan shall not apply to damage to property of others in any
20 one accident.

21 § 6393. Premiums.

22 (a) Limitation on premium increases.--

23 (1) An insurer shall not increase the premium rate of an
24 owner of a policy of insurance subject to this chapter solely
25 because one or more of the insureds under the policy made a
26 claim under the policy and was paid thereon unless it is
27 determined that the insured was at fault in contributing to
28 the accident giving rise to the claim.

29 (2) An insurer shall not charge an insured who has been
30 convicted of a violation of an offense enumerated in 75

1 Pa.C.S. § 1535 (relating to schedule of convictions and
2 points) a higher rate for a policy of insurance solely on
3 account of the conviction. An insurer may charge an insured a
4 higher rate for a policy of insurance if a claim is made
5 under paragraph (1).

6 (b) Surcharge disclosure plan.--All insurers shall provide
7 to the insured a surcharge disclosure plan. The insurer
8 providing the surcharge disclosure plan shall detail the
9 provisions of the plan, including, but not limited to:

10 (1) A description of conditions that would assess a
11 premium surcharge to an insured along with the estimated
12 increase of the surcharge per policy period per policyholder.

13 (2) The number of years any surcharge will be in effect.
14 The surcharge disclosure plan shall be delivered to each insured
15 by the insurer at least once annually. Additionally, the
16 surcharge information plan shall be given to each prospective
17 insured at the time application is made for motor vehicle
18 insurance coverage.

19 (c) Return of premiums of canceled policies.--When an
20 insurer cancels a motor vehicle insurance policy which is
21 subject to section 6107(3) (relating to exclusions), the insurer
22 shall within 30 days of canceling the policy return to the
23 insured all premiums paid under the policy less any proration
24 for the period the policy was in effect. Premiums are overdue if
25 not paid to the insured within 30 days after canceling the
26 policy. Overdue return premiums shall bear interest at the rate
27 of 12% a year from the date the return premium became due.

28 (d) Rules and regulations.--The department shall promulgate
29 rules and regulations establishing guidelines and procedures for
30 determining fault of an insured for the purpose of subsection

1 (a) and guidelines for the content and format of the surcharge
2 disclosure plan.

3 § 6394. Jurisdictional limit on judicial arbitration.

4 Beginning January 1, 1987, the monetary limit under 42
5 Pa.C.S. § 7361(b)(2)(i) (relating to compulsory arbitration) for
6 the submission of matters to judicial arbitration in judicial
7 districts embracing first and second class counties shall be
8 \$25,000 for actions arising from the maintenance or use of a
9 motor vehicle.

10 § 6395. Insurance fraud reporting immunity.

11 (a) General rule.--An insurance company, and any agent,
12 servant or employee acting in the course and scope of his
13 employment, shall be immune from civil or criminal liability
14 arising from the supply or release of written or oral
15 information to any duly authorized Federal or state law
16 enforcement agency, including the department, if the following
17 conditions exist:

18 (1) The information is supplied to the agency in
19 connection with an allegation of fraudulent conduct on the
20 part of any person relating to the filing or maintenance of a
21 motor vehicle insurance claim for bodily injury or property
22 damage.

23 (2) The insurance company, agent, servant or employee
24 has probable cause to believe that the information supplied
25 is reasonably related to the allegation of fraud.

26 (b) Notice to policyholder.--The insurance company shall
27 send written notice to the policyholder or policyholders about
28 whom the information pertains unless the insurance company
29 receives notice that the authorized agency finds, based on
30 specific facts, that there is reason to believe that the

1 information will result in any of the following:

2 (1) Endangerment to the life or physical safety of any
3 person.

4 (2) Flight from prosecution.

5 (3) Destruction of or tampering with evidence.

6 (4) Intimidation of any potential witness or witnesses.

7 (5) Obstruction of or serious jeopardy to an
8 investigation.

9 The insurance company shall send written notice not sooner than
10 45 days nor more than 60 days from the time the information is
11 furnished to an authorized agency, except when the agency
12 specifies that a notice should not be sent in accordance with
13 the exceptions enumerated in this subsection, in which event the
14 insurance company shall send written notice to the policyholder
15 not sooner than 180 days nor more than 190 days following the
16 date the information is furnished.

17 (c) Immunity for sending notice.--An insurance company or
18 authorized agency and any person acting on behalf of an
19 insurance company or authorized agency complying with or
20 attempting in good faith to comply with subsection (b) shall be
21 immune from civil liability arising out of any acts or omissions
22 in so doing.

23 (d) Effect.--This section does not create any rights to
24 privacy or causes of action on behalf of policyholders that were
25 not in existence as of October 1, 1984.

26 § 6396. Mental or physical examinations.

27 (a) General rule.--Whenever the mental or physical condition
28 of a person is material to any claim for medical, income loss or
29 catastrophic loss benefits, a court of competent jurisdiction
30 may order the person to submit to a mental or physical

1 examination by a physician. The order may only be made upon
2 motion for good cause shown. The order shall give the person to
3 be examined adequate notice of the time and date of the
4 examination and shall state the manner, conditions and scope of
5 the examination and the physician by whom it is to be performed.
6 If a person fails to comply with an order to be examined, the
7 court or the administrator may order that the person be denied
8 benefits until compliance.

9 (b) Report of examination.--If requested by the person
10 examined, a party causing an examination to be made shall
11 promptly deliver to the person examined a copy of every written
12 report concerning the examination at least one of which shall
13 set forth the physician's findings and conclusions in detail.
14 Upon failure to promptly provide copies of these reports, the
15 court or the administrator shall prohibit the testimony of the
16 examining physician in any proceeding to recover benefits.

17 § 6397. Customary charges for treatment.

18 A person or institution providing treatment, accommodations,
19 products or services to an injured person for an injury covered
20 by medical or catastrophic loss benefits shall not make a charge
21 for the treatment, accommodations, products or services in
22 excess of the amount the person or institution customarily
23 charges for like treatment, accommodations, products and
24 services in cases involving no insurance.

25 § 6398. Attorney fees and costs.

26 (a) Basis for reasonable fee.--No attorney fee for
27 representing a claimant in connection with a claim for first
28 party benefits provided under Subchapter B (relating to motor
29 vehicle liability insurance first party benefits) shall be
30 calculated, determined or paid on a contingent fee basis, nor

1 shall any attorney fees be deducted from the benefits enumerated
2 in this subsection which are otherwise due such claimant. An
3 attorney may charge a claimant a reasonable fee based upon
4 actual time expended.

5 (b) Unreasonable refusal to pay benefits.--If an insurer is
6 found to have acted unreasonably in refusing to pay the benefits
7 enumerated in subsection (a) when due, the insurer shall pay, in
8 addition to the benefits owed and the interest thereon, a
9 reasonable attorney fee based upon actual time expended.

10 (c) (Reserved).

11 (d) Fraudulent or excessive claims.--If, in any action by a
12 claimant to recover benefits under this chapter, the court
13 determines that the claim, or a significant part thereof, is
14 fraudulent or unreasonably excessive, the court may award the
15 insurer's attorney a reasonable fee based upon actual time
16 expended. The court may direct that the fee shall be paid by the
17 claimant or that the fee may be treated in whole or in part as
18 an offset against any benefits due or to become due the
19 claimant.

20 CHAPTER 65

21 CREDIT INSURANCE

22 Sec.

23 6501. General provisions.

24 6502. Definitions.

25 6503. Forms.

26 6504. Amount of insurance.

27 6505. Term of insurance.

28 6506. Disclosure to debtors.

29 6507. Review of forms and premium rates.

30 6508. Premiums and refunds.

1 6509. Issuance of policies.

2 6510. Claims.

3 6511. Choice of insurer.

4 6512. Regulations and enforcement.

5 6513. Judicial review.

6 6514. Penalties.

7 § 6501. General provisions.

8 (a) Short title of chapter.--This chapter shall be known and
9 may be cited as the Model Act for the Regulation of Credit Life
10 Insurance and Credit Accident and Health Insurance.

11 (b) Purpose.--The purpose of this chapter is to promote the
12 public welfare by regulating credit life insurance and credit
13 accident and health insurance. This chapter is not intended to
14 prohibit or discourage reasonable competition.

15 (c) Construction.--The provisions of this chapter shall be
16 liberally construed.

17 (d) Scope of chapter.--All life insurance and all accident
18 and health insurance in connection with loans or other credit
19 transactions shall be subject to this chapter, except the
20 following types of health and accident insurance:

21 (1) Insurance in connection with a loan or other credit
22 transaction or more than 20 years' duration.

23 (2) Insurance in connection with a first real estate
24 mortgage, but if the mortgage is secured by a new or used
25 mobile home or dwelling trailer the insurance shall be
26 subject to the provisions of this chapter, regardless of the
27 duration of the underlying loan or other credit transaction.

28 (3) Insurance issued as an isolated transaction on the
29 part of the insurer not related to an agreement or a plan for
30 insuring debtors of the creditor.

1 § 6502. Definitions.

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

5 "Credit accident and health insurance." Insurance on a
6 debtor to provide indemnity for payments becoming due on a
7 specific loan or other credit transaction while the debtor is
8 disabled as defined in the policy.

9 "Credit insurance." Credit life insurance and credit
10 accident and health insurance.

11 "Credit life insurance." Insurance on the life of a debtor
12 pursuant to or in connection with a specific loan or other
13 credit transaction.

14 "Creditor." The lender of money or vendor or lessor of
15 goods, services, property rights or privileges for which payment
16 is arranged through a credit transaction or any successor to the
17 right, title or interest of any such lender, vendor or lessor
18 and an affiliate, associate or subsidiary of any of them.

19 "Debtor." A borrower of money or a purchaser or lessee of
20 goods, services, property rights or privileges for which payment
21 is arranged through a credit transaction.

22 "Dwelling trailer." Any portable dwelling structure or
23 movable dwelling unit designed, constructed and equipped for
24 human use with a chassis or undercarriage as an integral part
25 thereof, with or without independent motive power, capable of
26 being drawn or driven upon highways.

27 "Indebtedness." The total amount payable by a debtor to a
28 creditor in connection with a loan or other credit transaction.

29 "Mobile home." Any portable structure or movable unit
30 equipped to be drawn or travel on the highways that is used

1 either temporarily or permanently as a residence home, dwelling
2 unit, apartment or other housing accommodation or as an office.
3 § 6503. Forms.

4 Credit insurance shall be issued only in the following forms:

5 (1) Individual policies of life insurance to insure the
6 lives of debtors on the term plan.

7 (2) Individual policies of accident and health insurance
8 to insure debtors on a term plan or disability benefit
9 provisions in individual policies of credit life insurance.

10 (3) Group policies of life insurance issued for delivery
11 to creditors providing insurance upon the lives of debtors on
12 the term plan.

13 (4) Group policies of accident and health insurance
14 issued for delivery to creditors on a term plan insuring
15 debtors or disability benefit provisions in group credit life
16 insurance policies to provide such coverage.

17 § 6504. Amount of insurance.

18 (a) General rule.--The initial amount of credit life
19 insurance shall not exceed the total amount repayable under the
20 contract of indebtedness. Where an indebtedness repayable in
21 substantially equal installments is secured by an individual
22 policy of credit life insurance, the amount of insurance shall
23 not exceed the scheduled amount of indebtedness or the amount of
24 unpaid indebtedness, whichever is the greater, and where secured
25 by a group policy of credit life insurance shall not exceed the
26 amount of unpaid indebtedness.

27 (b) Exceptions.--Notwithstanding any other provisions of
28 this chapter, insurance on agricultural credit transaction
29 commitments not exceeding one year in duration may be written up
30 to the amount of the loan commitment on a nondecreasing or level

1 term plan. Notwithstanding any other provisions of this title,
2 insurance on educational credit transaction commitments may be
3 written for the amount of the portion of the commitment that has
4 not been advanced by the creditor.

5 (c) Periodic indemnity.--The total amount of periodic
6 indemnity payable by credit accident and health insurance in the
7 event of disability as defined in the policy shall not exceed
8 the aggregate of the periodic scheduled unpaid installments of
9 the indebtedness, and the amount of each periodic indemnity
10 payment shall not exceed the original indebtedness divided by
11 the number of periodic installments.

12 § 6505. Term of insurance.

13 The term of any credit insurance shall, subject to acceptance
14 by the insurer, commence on the date when the debtor becomes
15 obligated to the creditor or the date from which interest or
16 finance charges accrue if later, except that when a group policy
17 provides coverage with respect to existing obligations, the
18 insurance on a debtor with respect to the indebtedness shall
19 commence on the effective date of the policy. When evidence of
20 insurability is required and is furnished more than 30 days
21 after the date when the debtor becomes obligated to the
22 creditor, the term of the insurance may commence on the date on
23 which the insurance company determines the evidence to be
24 satisfactory and shall make an appropriate refund or adjustment
25 of any charge to the debtor for insurance. The term of credit
26 insurance shall not extend more than 15 days beyond the
27 scheduled maturity date of the indebtedness, except when
28 extended without additional cost to the debtor. If the
29 indebtedness is discharged due to renewal or refinancing prior
30 to the scheduled maturity date, the insurance in force shall be

1 terminated before any new insurance may be issued in connection
2 with the renewed or refinanced indebtedness. In all cases of
3 termination prior to scheduled maturity, a refund shall be paid
4 or credited as provided in section 6508 (relating to premiums
5 and refunds).

6 § 6506. Disclosure to debtors.

7 (a) Policies and certificates.--All credit insurance shall
8 be evidenced by an individual policy or in the case of group
9 insurance by a certificate of insurance, which policy or
10 certificate shall be delivered to the debtor within 30 days
11 after the date the indebtedness is incurred. Each individual
12 policy or group certificate of credit insurance shall, in
13 addition to other requirements of law, include:

14 (1) The name and home office address of the insurer.

15 (2) The name or names of the debtor or in the case of a
16 certificate under a group policy the identity by name or
17 otherwise of the debtor.

18 (3) The rate or amount of payment, if any, by the debtor
19 separately for credit life insurance and credit accident and
20 health insurance.

21 (4) A description of the amount, term and coverage,
22 including any exceptions, limitations or restrictions.

23 (5) A statement that the benefits shall be paid to the
24 creditor to reduce or extinguish the unpaid indebtedness and
25 that, if the amount of insurance exceeds the unpaid
26 indebtedness, the excess shall be payable to a beneficiary
27 other than the creditor named by the debtor or to his estate.

28 (b) Preliminary disclosures.--If a separate identifiable
29 charge is made to the debtor for the insurance and an individual
30 policy or group certificate of insurance is not delivered to the

1 debtor at the time the indebtedness is incurred, a copy of the
2 application for the policy or a notice of proposed insurance
3 shall be delivered to the debtor at that time, which shall
4 include the following:

5 (1) The identity by name or otherwise of the person or
6 persons insured.

7 (2) The rate or amount of payment by the debtor
8 separately for credit life insurance and credit accident and
9 health insurance.

10 (3) A statement that, subject to acceptance by the
11 insurer and within 30 days, there will be delivered to the
12 debtor a policy or certificate of insurance naming the
13 insurer and fully describing the insurance.

14 The copy of the application for or notice of proposed insurance
15 shall also refer exclusively to insurance coverage and shall be
16 separate and apart from the loan, sale or other credit statement
17 of account, instrument or agreement, unless the information
18 required by this subsection is prominently set forth therein.

19 The application or notice of proposed insurance shall state
20 that, upon acceptance by the insurer, the insurance shall become
21 effective as provided in section 6505 (relating to term of
22 insurance). Upon acceptance of the insurance by the insurer and
23 within 30 days of the date upon which the indebtedness is
24 incurred, the insurer shall deliver an individual policy or
25 group certificate of insurance under subsection (a).

26 (c) Refusal of risk.--If the named insurer does not accept
27 the risk, the debtor shall promptly receive a policy or
28 certificate of insurance setting forth the name and home office
29 address of the substituted insurer and the amount of the premium
30 to be charged and, if the amount of premium is less than that

1 set forth in the notice of proposed insurance, an appropriate
2 refund shall be made.

3 § 6507. Review of forms and premium rates.

4 (a) Review by department.--All policies, certificates of
5 insurance, notices of proposed insurance, applications for
6 insurance, endorsements and riders delivered or issued for
7 delivery in this Commonwealth, together with the premium rates
8 therefor, shall be filed with the department for approval. Forms
9 and rates so filed shall be deemed approved at the expiration of
10 30 days after filing unless earlier approved or disapproved by
11 the department. The department by written notice to the insurer
12 may, with the 30-day period, extend the period for approval or
13 disapproval for an additional 30 days. A form subject to this
14 section or premium rate shall not be issued or used until the
15 expiration of the time for the consideration by the department,
16 unless the department has given its written approval thereto.

17 (b) Disapproval.--The department shall disapprove any form
18 or premium rate if the table of premium rates appears by
19 reasonable assumptions to be excessive in relation to benefits,
20 or if the form contains provisions which are unfair, unjust,
21 misleading, deceptive or are contrary to law. In determining
22 whether to disapprove any such form or premium rates, the
23 department shall give due consideration to past and prospective
24 loss experience in and outside this Commonwealth, to
25 underwriting practice and judgment, to a reasonable margin for
26 underwriting profit and contingencies, to past and prospective
27 expenses in and outside this Commonwealth and to all other
28 relevant factors. If the form or premium rate is disapproved,
29 the insurer shall not issue or use the form or rates.

30 (c) Notice of disapproval.--The department shall promptly

1 give notice to the insurer of its disapproval of a form or
2 premium rate under subsection (b). In the notice, the department
3 shall specify the reason for its disapproval and state that a
4 hearing will be granted within 20 days after request in writing
5 by the insurer.

6 (d) Withdrawal of approval.--The department may, at any time
7 after a hearing held not less than 20 days after written notice
8 to the insurer, withdraw its approval of any such form or
9 premium rate on any ground set forth in subsection (b). The
10 written notice of the hearing shall state the reason for the
11 proposed withdrawal. The insurer shall not issue or use such
12 forms or rates after the effective date of the withdrawal.

13 (e) Judicial review.--Any order or final determination of
14 the department after a hearing under this section shall be
15 subject to judicial review.

16 (f) Group policies.--With regard to group policies of credit
17 insurance delivered in this Commonwealth before November 1,
18 1961, or delivered in another state at any time, the insurer
19 shall be required to file only the group certificate and notice
20 of proposed insurance, delivered or issued for delivery in this
21 Commonwealth as specified in section 6506 (relating to
22 disclosure to debtors). These forms shall be approved by the
23 department if they contain the information specified therein and
24 if the schedules of premium rates applicable to the insurance
25 evidenced by the certificate or notice are not in excess of the
26 insurer's schedules of premium rates on file with the
27 department.

28 § 6508. Premiums and refunds.

29 (a) Revision of rates.--Any insurer may revise its schedules
30 of premium rates from time to time and shall file such revised

1 schedules with the department. An insurer shall not issue any
2 credit insurance policy for which the premium rate exceeds that
3 determined by the schedules of the insurer as then on file with
4 the department.

5 (b) Refunds.--Each individual policy or group certificate
6 shall provide that, in the event of termination of the insurance
7 prior to the scheduled maturity date of the indebtedness, any
8 refund of an amount paid by the debtor for insurance shall be
9 paid or credited promptly to the person entitled thereto, except
10 that the department shall prescribe a minimum refund, and no
11 refund which would be less than such minimum need be made. The
12 formula to be used in computing the refund shall be filed with
13 and approved by the department.

14 (c) Payments required by creditor.--If a creditor requires a
15 debtor to make any payment for credit insurance and an
16 individual policy or group certificate of insurance is not
17 issued, the creditor shall immediately give written notice to
18 the debtor and shall promptly make an appropriate credit to the
19 account.

20 (d) Limitation on charges.--The amount charged to a debtor
21 for any credit insurance shall not exceed the aggregate of the
22 premiums to be charged by the insurer as computed at the time
23 the charge to the debtor is determined.

24 (e) Payments under other law.--This chapter does not
25 authorize any payments for credit insurance now prohibited under
26 any statute or regulation thereunder governing credit
27 transactions, except that when payment for credit insurance is
28 not prohibited under any statute or rule thereunder governing
29 credit transactions, the commissions, dividends or other returns
30 to the creditor therefrom shall not be deemed a violation of

1 law.

2 § 6509. Issuance of policies.

3 All policies of credit life insurance and credit accident and
4 health insurance shall be delivered or issued for delivery in
5 this Commonwealth only by an insurer authorized to do an
6 insurance business in this Commonwealth and shall be issued only
7 through holders of licenses or authorizations issued by the
8 department.

9 § 6510. Claims.

10 (a) Method of payment.--All claims shall be paid either by
11 draft drawn upon the insurer or by check of the insurer to the
12 order of the claimant to whom payment of the claim is due
13 pursuant to the policy provisions or upon direction of the
14 claimant to one specified.

15 (b) Authority to settle claims.--A plan or arrangement shall
16 not be used whereby any person, firm or corporation other than
17 the insurer or its designated claim representative are
18 authorized to settle or adjust claims. The creditor shall not be
19 designated as claim representative for the insurer in adjusting
20 claims, except that a group policyholder may, by arrangement
21 with the group insurer, draw drafts or checks in payment of
22 claims due to the group policyholder subject to audit and review
23 by the insurer.

24 § 6511. Choice of insurer.

25 When credit insurance is required as additional security for
26 any indebtedness, the debtor may, upon request to the creditor,
27 furnish the required amount of insurance through existing
28 policies of insurance owned or controlled by him or of procuring
29 and furnishing the required coverage through any insurer
30 authorized to transact an insurance business in this

1 Commonwealth.

2 § 6512. Regulations and enforcement.

3 The department may, after a public hearing, promulgate such
4 regulations as it finds to be appropriate and necessary for the
5 supervision of this chapter. Whenever the department finds that
6 there has been a violation of this chapter or any regulations
7 promulgated thereunder, after written notice thereof and hearing
8 given to the insurer or other person authorized or licensed by
9 the department, it shall set forth the details of its findings,
10 together with an order for compliance by a specified date. The
11 order shall be binding on the person so ordered on the date
12 specified unless the order is withdrawn by the department or a
13 stay is ordered by a court.

14 § 6513. Judicial review.

15 Any party to a proceeding affected by an order of the
16 department shall be entitled to judicial review.

17 § 6514. Penalties.

18 (a) Monetary penalties.--Any insurer or any person who
19 violates an order of the department after it has become final
20 and while the order is in effect shall, upon proof thereof to
21 the satisfaction of the court, pay to the Commonwealth a sum not
22 to exceed \$250 which may be recovered in a civil action. If the
23 violation is found to be willful, the penalty shall be a sum not
24 to exceed \$1,000.

25 (b) Licensure penalties.--The department may revoke or
26 suspend the license or certificate of authority of the insurer
27 or the person guilty of such a violation.

28

CHAPTER 67

29

TITLE INSURANCE

30 Subchapter

- 1 A. General Provisions
- 2 B. Business Operations
- 3 C. Investment and Reserves
- 4 D. Rate Regulation
- 5 E. Penalties and Procedures

6 SUBCHAPTER A

7 GENERAL PROVISIONS

8 Sec.

9 6701. Definitions.

10 6702. Applicability of chapter.

11 6703. Applicability of other provisions of title.

12 6704. Regulations.

13 § 6701. Definitions.

14 The following words and phrases when used in this chapter
15 shall the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Applicant for insurance." Includes approved attorneys, real
18 estate brokers, real estate salesmen, attorneys at law and all
19 others who from time to time apply to a title insurance company
20 or to an agent of a title insurance company, for title
21 insurance, and who at the time of the application are not agents
22 for a title insurance company.

23 "Approved attorney." An attorney at law in good standing
24 upon whose examination of title and report of title thereon a
25 title insurance company may issue a policy of title insurance.

26 "Business of title insurance."

27 (1) The making as insurer, guarantor or surety, or
28 proposing to make as insurer, guarantor or surety, of any
29 contract or policy of title insurance.

30 (2) The transacting, or proposing to transact, any phase

1 of title insurance, including solicitation, negotiation
2 preliminary to execution, execution of a contract of title
3 insurance, insuring and transacting matters subsequent to the
4 execution of the contract and arising out of it, including
5 reinsurance.

6 (3) The doing, or proposing to do, any business in
7 substance equivalent to any of the foregoing in a manner
8 designed to evade the provisions of this chapter.

9 "Fee." The premium, the examination and settlement or
10 closing fees, and every other charge, whether denominated
11 premium or otherwise, made by a title insurance company, agent
12 of a title insurance company or an approved attorney of a title
13 insurance company to an insured or to an applicant for
14 insurance, for any policy or contract for the issuance of, or an
15 application for title insurance. The term does not include any
16 charges paid by an insured or by an applicant for insurance for
17 any policy or contract, to an attorney at law acting as an
18 independent contractor and retained by such attorney at law,
19 whether or not he is acting as an agent of or an approved
20 attorney of a title insurance company, or any charges made for
21 special services not constituting title insurance, even though
22 performed in connection with a title insurance policy or
23 contract.

24 "Title insurance."

25 (1) Insuring, guaranteeing or indemnifying against loss
26 or damage suffered by owners of real property or by
27 mortgagees or others interested therein by reason of liens,
28 encumbrances upon, defects in or the unmarketability of the
29 title to the real property.

30 (2) Guaranteeing, warranting or otherwise insuring the

1 correctness of searches relating to the title to real
2 property, and doing any business in substance equivalent to
3 any of the foregoing in a manner designed to evade this
4 chapter.

5 "Title insurance company."

6 (1) A domestic company organized under the provisions of
7 this chapter for the purpose of insuring titles to real
8 estate.

9 (2) A title insurance company organized under the laws
10 of another state or a foreign government and licensed to
11 insure titles to real estate in this Commonwealth pursuant to
12 section 6719 (relating to licensure of foreign insurers).

13 (3) A domestic or foreign company, including any
14 domestic bank or trust company, which has the power and is
15 authorized to insure titles to real estate in this
16 Commonwealth as of September 1, 1963, and which is not
17 disqualified under section 6715 (relating to loss of power to
18 transact title insurance).

19 § 6702. Applicability of chapter.

20 This chapter applies to all title insurance companies, title
21 rating organizations, title insurance agents, applicants for
22 title insurance and policyholders and to all persons and
23 business entities engaged in the business of title insurance.

24 § 6703. Applicability of other provisions of title.

25 In addition to the provisions of this chapter, only the
26 following provisions of this title, except as they are
27 inconsistent with this chapter, shall apply to the business of
28 title insurance and to title insurance companies, which shall be
29 considered as within the class of insurance companies regulated
30 by those provisions solely for the purpose of being subject to

1 such provisions:

2 Chapter 1 (relating to general provisions).

3 Chapter 3 (relating to general provisions).

4 Chapter 5 (relating to Insurance Department).

5 Subchapter E of Chapter 7 (relating to title insurance).

6 Section 901 (relating to deposit of securities with
7 department).

8 Section 904 (relating to actions in equity regarding
9 deposits).

10 Sections 1102 (relating to certification of agents)
11 through 1107 (relating to penalty for soliciting for
12 nonexistent company).

13 Section 1142 (relating to theft offense).

14 Sections 1145 (relating to offering rebates and
15 inducements) through 1149 (relating to penalties imposed by
16 department).

17 Subchapter E of Chapter 11 (relating to managers and
18 exclusive general agents).

19 Chapter 15 (relating to unfair insurance practices).

20 Sections 1705 (relating to reports of financial
21 condition) and 1706 (relating to additional reports from
22 foreign or alien entities).

23 Sections 3101 (relating to scope of part) through 3104
24 (relating to power of General Assembly regarding charters).

25 Section 3106 (relating to judicial proceedings).

26 Sections 3303 (relating to articles of agreement) through
27 3305 (relating to capital stock).

28 Sections 3307 (relating to officers and directors) and
29 3308 (relating to subscriptions).

30 Subchapter C of Chapter 33 (relating to authorization).

1 Section 3351 (relating to valuation of securities).

2 Sections 3501 (relating to use of company name) through
3 3508 (relating to execution of insurance policies).

4 Sections 3510 (relating to incorporation of documents in
5 policy) through 3516 (relating to mortgage insurance).

6 Sections 3531 (relating to annual meetings) through 3533
7 (relating to election of directors and trustees).

8 Sections 3535 (relating to voting by stockholders and
9 members) through 3539 (relating to directors and trustees).

10 Subchapter C of Chapter 35 (relating to fundamental
11 changes).

12 Sections 3565 (relating to protection of competition)
13 through 3571 (relating to dissolution for failure to do
14 business).

15 Subchapter E of Chapter 35 (relating to foreign or alien
16 companies).

17 Section 3581 (relating to embezzlement by officers or
18 agents) through 3587 (relating to buying proxies).

19 Section 3589 (relating to fraud in obtaining licenses or
20 certificates).

21 Chapter 39 (relating to suspension of business and
22 dissolution).

23 Sections 5507 (relating to dividends), 5508 (relating to
24 reduction and withdrawal of capital stock) and 5510 (relating
25 to resident agents for foreign or alien insurance entities).

26 § 6704. Regulations.

27 The department shall enforce and carry out, by regulations,
28 orders or otherwise, this chapter. The department may make such
29 reasonable regulations, not inconsistent with this chapter, as
30 may be necessary or proper in the exercise of its powers or for

1 the performance of its duties under this chapter.

2

SUBCHAPTER B

3

BUSINESS OPERATIONS

4 Sec.

5 6711. Powers of title insurance companies.

6 6712. Corporate form.

7 6713. Title examination and records.

8 6714. Prohibition of guaranteeing mortgages.

9 6715. Loss of power to transact title insurance.

10 6716. Primary retained liability.

11 6717. Power to reinsure.

12 6718. Special reinsurance.

13 6719. Licensure of foreign or alien insurers.

14 6720. Resident agents for foreign or alien insurers.

15 6721. Regulation of agents.

16 6722. Commissions.

17 6723. Mergers and consolidations.

18 6724. Other corporate acquisitions.

19 6725. Change in corporate control.

20 § 6711. Powers of title insurance companies.

21 Only a title insurance company as defined in section 6701
22 (relating to definitions) may underwrite or issue a policy of
23 title insurance. A person shall not engage in the business of
24 title insurance in this Commonwealth unless authorized to
25 transact such a business by this chapter. A title insurance
26 company shall not transact, underwrite or issue any kind of
27 insurance other than title insurance.

28 § 6712. Corporate form.

29 A title insurance company shall be organized as a stock
30 corporation as provided in sections 3303 (relating to articles

1 of agreement), 3304 (relating to name of company), 3305
2 (relating to capital stock), 3307 (relating to officers and
3 directors) and 3308 (relating to subscriptions) and authorized
4 under Subchapter C of Chapter 33 (relating to authorization),
5 except as prescribed in this chapter, to do the kind of
6 insurance business, with incidental powers, specified in this
7 chapter.

8 § 6713. Title examination and records.

9 A policy of title insurance, excluding reinsurance, shall not
10 be written unless the title insurance company, through its own
11 employees, agents or approved attorneys, has conducted a
12 reasonable examination of the record title or has caused such an
13 examination to be conducted. The abstract of title or the report
14 of the examination thereof shall be in writing and shall be kept
15 on file by the title insurance company, its agent or an approved
16 attorney for a period of not less than 20 years after the policy
17 of title insurance has been issued. In lieu of retaining the
18 original copy, the title insurance company, its agent or the
19 approved attorney may record, copy or reproduce all or some of
20 these documents.

21 § 6714. Prohibition of guaranteeing mortgages.

22 A title insurance company shall not guarantee the payment of
23 the principal or the interest of bonds or other obligations
24 secured by mortgages upon real property.

25 § 6715. Loss of power to transact title insurance.

26 (a) Break in use of power.--Every title insurance company
27 which does not exercise for any period of 12 months the power to
28 insure owners of real property, mortgagees and others interested
29 in real property from loss by reason of defective titles, liens
30 and encumbrances, shall be forever barred from the exercise of

1 such power.

2 (b) Banking powers.--Any title insurance company which
3 possesses the further powers to receive deposits or otherwise to
4 engage in a banking business, and which does not exercise any of
5 these powers for any consecutive period of one year, upon
6 exercising either of these powers again, shall make no further
7 contracts or policies of title insurance.

8 (c) Fiduciary powers.--Any title insurance company which
9 possesses the further powers to act as trustee, guardian,
10 executor or administrator or in any similar fiduciary capacity,
11 and which does not exercise these powers for any consecutive
12 period of one year, upon exercising again any of such further
13 powers shall make no further contracts or policies of title
14 insurance.

15 § 6716. Primary retained liability.

16 (a) Limit of net primary retention.--A title insurance
17 company shall not issue a policy of title insurance for a single
18 transaction, the net primary retained liability under which
19 shall exceed an amount which is equal to its assets, not
20 including agency and escrow funds, less an amount equal to the
21 sum of the minimum capital required by this chapter for a title
22 insurance company, unearned premium reserve and the value of
23 title plant. One or more title insurance companies may assume
24 the liability on a single policy jointly with another title
25 insurance company or companies in excess of this amount if the
26 total amount of insurance does not exceed the aggregate maximum
27 net primary retentions of all companies liable under the
28 insurance, and if none of the companies exceeds the limit of its
29 net primary retention for a single transaction.

30 (b) Primary liability.--A title insurance company shall not

1 issue a policy of title insurance for a single transaction under
2 which its primary liability as coinsurer exceeds the limit of
3 net primary retention prescribed in subsection (a).

4 (c) Secondary liability.--A title insurance company shall
5 not issue a policy of title insurance for a single transaction
6 under which its secondary liability as reinsurer exceeds the
7 limit of net primary retention prescribed in subsection (a),
8 except that if the ceding company or companies retain primary
9 liability at least equal to 10% of the total amount at risk, a
10 title insurance company may issue a policy of reinsurance for a
11 single transaction under which its secondary liability exceeds
12 the limit of net primary retention prescribed in subsection (a).
13 The total amount of its secondary liability for a single
14 transaction shall not exceed an amount which is equal to its
15 assets, not including agency or escrow funds, less an amount
16 equal to the sum of the unearned premium reserve and the value
17 of title plant. One or more title insurance companies may assume
18 the liability on a single policy jointly with another title
19 insurance company or companies in excess of this amount, if the
20 total amount of insurance does not exceed the aggregate maximum
21 net retentions of all companies liable under the insurance and
22 if none of the companies exceeds the limit of its net retention
23 for a single transaction.

24 § 6717. Power to reinsure.

25 Any authorized title insurance company may reinsure all or
26 any part of its liability under one or more of its policy
27 contracts with any authorized title insurance company or
28 companies authorized to insure titles to real estate in any
29 state, if the reinsuring company at all times remains of the
30 same standard of solvency and complies with all other

1 requirements fixed by the law of this Commonwealth for
2 authorized title insurance companies. Any authorized title
3 insurance company shall pay to this Commonwealth taxes required
4 on all business taxable in this Commonwealth and reinsured under
5 this section with any foreign company not authorized to do
6 business in this Commonwealth.

7 § 6718. Special reinsurance.

8 If the risk of a single transaction involving a parcel of
9 real estate situated in this Commonwealth exceeds the total net
10 retention, both primary and secondary, permitted by this chapter
11 for all authorized title insurance companies, and the total
12 reinsurance available from companies authorized to reinsure
13 risks by section 6717 (relating to power to reinsure),
14 reinsurance may be obtained from companies not authorized to
15 reinsure risks in this Commonwealth with the prior approval in
16 writing of the department.

17 § 6719. Licensure of foreign or alien insurers.

18 Any foreign or alien insurance company shall be licensed to
19 transact the business of title insurance in this Commonwealth
20 only if the company is and remains of the same standard of
21 solvency and complies with other requirements under this title
22 for title insurance companies organized and authorized to
23 transact the business of title insurance pursuant to the laws of
24 this Commonwealth. The company shall not be licensed to transact
25 any business in this Commonwealth until it complies with the
26 requisites for doing business under section 3577 (relating to
27 conditions for authorization of foreign or alien companies).

28 § 6720. Resident agents for foreign or alien insurers.

29 A foreign or alien company licensed to do a title insurance
30 business in this Commonwealth shall transact such business only

1 through resident agents in the manner prescribed in section 5510
2 (relating to resident agents for foreign or alien insurance
3 entities).

4 § 6721. Regulation of agents.

5 (a) Disqualifications.--A mortgage service, mortgage
6 brokerage or mortgage guaranty company or any officer or
7 employee of any of the foregoing, may not act as an agent of a
8 title insurance company; nor shall any appointed attorney or
9 officer or salaried employee of any title insurance company act
10 as such an agent.

11 (b) Certification.--Every title insurance company shall
12 certify to the department as it shall direct the names of all
13 agents appointed by the company in this Commonwealth.

14 (c) Licensure.--Agents of a title insurance company shall be
15 licensed in the manner provided for agents of insurance
16 companies in section 1103 (relating to licenses of agents). If
17 an applicant for an agent's license is an agent of a title
18 insurer or a licensed insurance broker or an attorney at law,
19 the applicant shall not be required to take an examination to
20 qualify for such license. Licenses of title insurance agents
21 shall expire annually at midnight of June 30, unless sooner
22 terminated as the result of severance of business relations
23 between the company and the agent, or unless revoked by the
24 department for cause.

25 (d) Records.--Every agent of a title insurance company shall
26 keep his books, records, accounts and vouchers pertaining to the
27 business of title insurance in such manner that the department
28 may readily ascertain, from time to time, whether or not the
29 agent has complied with this title. Failure to comply with this
30 section shall be a ground for revocation of the agent's license.

1 (e) Replies to inquiries by department.--Every agent of a
2 title insurance company shall promptly reply in writing to any
3 inquiry of the department relative to the agent's conduct of the
4 business of title insurance, and failure to reply shall be a
5 ground for revocation of the agent's license.

6 (f) Prohibited names.--An agent of a title insurance company
7 shall not adopt a firm name containing the words "title," "title
8 company," "title insurance company," "guaranty," "guarantee,"
9 "guaranty company," "guarantee company" or similar combination
10 thereof.

11 (g) Definition.--As used in this section the term "agent"
12 means a person authorized in writing by a title insurance
13 company directly or indirectly:

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

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

17 § 6722. Commissions.

18 (a) Attorneys and brokers.--To the extent not in violation
19 of Federal law, a title insurance company or an agent of a title
20 insurance company may pay a cash commission to an attorney at
21 law in good standing, or a real estate broker licensed in this
22 Commonwealth, for procuring a title insurance for a client in a
23 real estate transaction. A commission may not be paid to an
24 attorney at law in any transaction in which he acts as an
25 approved attorney. An attorney at law or a licensed real estate
26 broker may credit his commission to the account of the client
27 for whom the policy of title insurance was obtained without
28 violating the rebate provisions of this chapter. The cash
29 commission paid by a title insurance company or an agent of a
30 title insurance company shall not exceed the amount set forth in

1 the schedule of commissions filed with the department by the
2 title insurance company.

3 (b) Applicants for title insurance.--A title insurance
4 company or agent or approved attorney of a title insurance
5 company shall not pay, give or award to an applicant for title
6 insurance any other compensation, consideration, benefit or
7 remuneration, directly or indirectly.

8 § 6723. Mergers and consolidations.

9 (a) General rule.--Subject to the provisions of this
10 section, a domestic title insurance company may merge or
11 consolidate with one or more domestic or foreign title insurance
12 companies authorized to transact title insurance in this
13 Commonwealth, by complying with 15 Pa.C.S. Ch. 19 Subchs. A
14 (relating to preliminary provisions) and C (relating to merger,
15 consolidation, share exchange and sale of assets). The
16 provisions of 15 Pa.C.S. Ch. 25 Subchs. A (relating to
17 preliminary provisions), E (relating to control transactions)
18 and F (relating to business combinations) apply to domestic
19 title insurance companies.

20 (b) Approval by department.--A merger or consolidation shall
21 not be effected unless in advance thereof the plan and agreement
22 therefor have been filed with the department. The department
23 shall examine the terms and conditions of the merger or
24 consolidation, and of any exchange of shares or securities
25 pursuant thereto, after holding a hearing at which all persons
26 to whom it is proposed to issue shares or securities in the
27 exchange may appear. After the hearing, the department shall
28 either approve or disapprove the terms and conditions of
29 exchange. The department shall approve within a reasonable time
30 after the filing unless it finds that the plan or agreement:

1 (1) is contrary to law;

2 (2) is inequitable to the stockholders of any title
3 insurance company; or

4 (3) would substantially reduce the security of and
5 services to be rendered to policyholders of the domestic
6 title insurance company in this Commonwealth or elsewhere.

7 (c) Disclosure of consideration.--A director, officer, agent
8 or employee of a title insurance company party to a merger or
9 consolidation shall not receive any fee, commission or other
10 valuable consideration for aiding, promoting or assisting
11 therein except as set forth in the plan or agreement.

12 (d) Notice of disapproval.--If the department does not
13 approve a plan or agreement, it shall notify the title insurance
14 company in writing, specifying its objections in detail.

15 § 6724. Other corporate acquisitions.

16 (a) General rule.--A domestic title insurance company may
17 issue stock in exchange for all or substantially all the assets
18 or stock of a domestic or foreign title insurance or abstract
19 company if a plan or agreement of acquisition has been filed
20 with the department.

21 (b) Approval by department.--The department shall examine
22 the terms and conditions of the plan or agreement and of any
23 exchange of shares or securities pursuant thereto, after holding
24 a hearing at which all persons to whom it is proposed to issue
25 shares or securities in the exchange may appear. After the
26 hearing, the department shall either approve or disapprove the
27 terms and conditions of exchange. The department shall approve
28 within a reasonable time after the filing unless it finds that
29 the plan or agreement:

30 (1) is contrary to law;

1 (2) is inequitable to the stockholders of any title
2 insurance or abstract company involved; or

3 (3) would substantially reduce the security of and
4 service to be rendered to policyholders of the domestic title
5 insurance company in this Commonwealth or elsewhere.

6 (c) Disclosure of consideration.--A director, officer, agent
7 or employee of a title insurance company or abstract company
8 party to an acquisition shall not receive any fee, commission or
9 other valuable consideration for aiding, promoting or assisting
10 therein except as set forth in the plan or agreement.

11 (d) Notice of disapproval.--If the department does not
12 approve a plan or agreement, it shall notify the title insurance
13 company in writing specifying its objections in detail.

14 § 6725. Change in corporate control.

15 (a) Approval by department.--If any person proposes to
16 acquire the controlling capital stock of any domestic title
17 insurance company and thereby change the control of the company,
18 he shall first apply to the department for approval of the
19 change of control. The change in control shall not be effective
20 unless so approved. The application shall contain the name and
21 address of the proposed new owners of the controlling stock.

22 (b) Criteria for approval.--The department shall approve the
23 proposed change of control only after it determines that the
24 proposed new owners of the controlling stock are qualified by
25 character, experience and financial responsibility to control
26 and operate the company in a lawful and proper manner and that
27 the interest of the company stockholders and policyholders and
28 the interest of the public generally will not be jeopardized by
29 the proposed change in ownership and management.

30 (c) Procedure.--If the department does not approve or

1 disapprove the proposed change within 30 days after the date the
2 application was filed with it, the proposed change shall be
3 deemed to be approved as of the expiration of the 30-day period.
4 If the department disapproves the proposed change in control, it
5 shall give written notice thereof to the persons so applying for
6 approval, setting forth its objections.

7 SUBCHAPTER C

8 INVESTMENT AND RESERVES

9 Sec.

10 6731. Financial requirements.

11 6732. Procedure when capital impaired.

12 6733. Unearned premium reserve.

13 6734. Amount of unearned premium reserve.

14 6735. Maintenance of unearned premium reserve.

15 6736. Use of unearned premium reserve.

16 6737. Reserves for unpaid losses and loss expenses.

17 6738. Investment of capital.

18 6739. Investment of surplus.

19 6740. Investment of unearned premium reserve.

20 6741. Other reserves.

21 § 6731. Financial requirements.

22 Every title insurance company shall have a minimum capital,
23 which shall be paid in and maintained, of not less than \$250,000
24 and, in addition, paid-in initial surplus at least equal to 50%
25 of its capital.

26 § 6732. Procedure when capital impaired.

27 If the capital of a title insurance company becomes impaired,
28 the title insurance company shall immediately give written
29 notice thereof to the department and shall make no further
30 policies or contracts or reinsurance agreements of title

1 insurance while the impairment exists. The title insurance
2 company shall immediately call upon its stockholders for such
3 amounts as will restore its capital to an amount prescribed by
4 the department. If any stockholder fails to pay the amount
5 called for, after notice personally given or by advertisement,
6 at the time and in the manner the department approves, the title
7 insurance company shall require the return of the original
8 certificates of stock held by the stockholder or issue new
9 certificates in the proportion, as determined by the department,
10 that the ascertained value of the assets bears to the capital
11 existing immediately prior to the impairment, the title
12 insurance company paying for any fractional parts of shares. The
13 directors of the title insurance company, with the prior consent
14 and approval of the department, may create new stock and issue
15 certificates therefor, and dispose of this stock at not less
16 than par for an amount sufficient to make up the original
17 capital, or the department may permit the company to reduce its
18 capital and the par value of its shares in proportion to the
19 extent of the impairment, but the capital shall at no time be
20 reduced to an amount less than that required by law for the
21 organization of the company. In fixing the reduced capital, not
22 more than 50% of the original capital shall be deducted from the
23 assets on hand to be retained as surplus funds, nor shall any
24 part of assets be distributed to stockholders. When the amount
25 of capital prescribed by the department has been restored, the
26 title insurance company shall notify the department which, upon
27 being satisfied that the impairment no longer exists and is not
28 likely to recur, shall authorize the title insurance company in
29 writing to again issue policies or contracts or reinsurance
30 agreements of title insurance.

1 § 6733. Unearned premium reserve.

2 (a) Establishment of reserve.--Every title insurance company
3 shall, in addition to other reserves, establish and maintain a
4 reserve to be known as the "unearned premium reserve" for title
5 insurance, which shall constitute the unearned portions of
6 premiums due or received and shall be charged as a reserve
7 liability of the title insurance company in determining its
8 financial condition.

9 (b) Purpose.--The unearned premium reserve shall be retained
10 by the title insurance company for the protection of the
11 policyholders' interest in policies which have not expired.

12 (c) Distribution.--Except as provided in section 6736
13 (relating to use of unearned premium reserve), assets equal to
14 the amount of the reserve shall not be subject to distribution
15 among depositors or other creditors or stockholders of the title
16 insurance company until all claims of its policyholders or
17 holders of its other title insurance contracts or agreements
18 have been paid in full and all liability on the policies or
19 other title insurance contracts or agreements, whether
20 contingent or actual, has been discharged or lawfully reinsured.
21 Income from the investment of the reserve shall be the
22 unrestricted property of the title insurance company.

23 § 6734. Amount of unearned premium reserve.

24 (a) General rule.--The unearned premium reserve of every
25 title insurance company shall consist of the amount of the
26 unearned premium reserve held as of September 1, 1963, plus all
27 additions required to be made to the reserve by this section,
28 less the withdrawals therefrom as permitted by this section.

29 (b) Additions.--Except as otherwise provided in this
30 subsection, a title insurance company shall add to its unearned

1 premium reserve, in respect to each policy or contract or
2 reinsurance agreement issued by it, a sum of money out of the
3 fees due or received for the title insurance made by it, equal
4 to \$1 for each policy or contract or agreement, plus 10¢ for
5 each \$1,000 face amount of net retained liability. The company
6 shall each year separately report the amounts so set aside in
7 respect to policies, contracts or agreements written in that
8 year. If substantially the entire outstanding liability of the
9 company is reinsured, the unearned premium reserve of the
10 reinsurer shall be equal in amount to the reserve of the ceding
11 title insurance company in respect to the outstanding liability
12 so reinsured.

13 (c) Relation to net profit.--The amounts set aside as
14 additions to the unearned premium reserve shall be deducted in
15 determining the net profit of any title insurance company.

16 (d) Date assumed.--For the purposes of determining the
17 amounts of the unearned premium reserve that may be withdrawn
18 and the interest of the policyholders therein under section 6736
19 (relating to use of unearned premium reserve), all policies,
20 contracts or reinsurance agreements of title insurance shall be
21 deemed as dated on July 1 in the year of issue.

22 (e) Withdrawals from reserve.--Additions to the unearned
23 premium reserve which have been held for a period of 20 years
24 shall be withdrawn from the unearned premium reserve and shall
25 constitute a part of net profit for the year in which the
26 withdrawal is made.

27 § 6735. Maintenance of unearned premium reserve.

28 If by reason of depreciation in the market value of
29 investments or other cause, the amount of the assets eligible
30 for investment of the unearned premium reserve is on any date

1 less than the amount required to be maintained by law in the
2 reserve, and the deficiency is not promptly cured, the title
3 insurance company shall immediately give written notice thereof
4 to the department. The company shall make no further policies,
5 contracts or reinsurance agreements of title insurance until the
6 amounts of the eligible investments have been restored and until
7 it has received written approval from the department authorizing
8 it to again issue such policies, contracts or agreements.

9 § 6736. Use of unearned premium reserve.

10 (a) General rule.--If a title insurance company becomes
11 insolvent, or is in the process of liquidation or dissolution,
12 or in the possession of the department, such amount of the
13 assets of the title insurance company, equal to the unearned
14 premium reserve as is necessary, shall be used with the written
15 approval of the department to pay for reinsurance of the
16 outstanding liability of the title insurance company upon all
17 policies, contracts or reinsurance agreements of title insurance
18 in force as to which claims for losses by the holders are not
19 then pending. The balance of the unearned premium reserve fund
20 shall be transferred to the general assets of the title
21 insurance company. The assets other than the unearned premium
22 reserve shall be available to pay claims for losses sustained by
23 holders of policies then pending or arising up to the time
24 reinsurance is affected. If claims for losses are in excess of
25 these assets, claims shall be paid out of the assets
26 attributable to the unearned premium reserve.

27 (b) Reinsurance.--The department may enter into a contract
28 with one or more title insurance companies to reinsure all the
29 obligations under outstanding policies of the title insurance
30 company subject to this section in accordance with their terms,

1 covenants and conditions, the cost of the reinsurance to be paid
2 out of the assets of that company.

3 (c) Reinsurance unavailable.--If reinsurance is unavailable,
4 the unearned premium reserve and assets constituting minimum
5 capital remaining after outstanding claims have been paid shall
6 constitute a trust fund, which shall be held by the department
7 for 20 years, out of which claims of policyholders shall be paid
8 as they arise. The balance of this fund shall, at the expiration
9 of 20 years, revert to the general assets of the title insurance
10 company, after reasonable charges for administration of the fund
11 have been charged against the balance by the department.

12 § 6737. Reserves for unpaid losses and loss expenses.

13 Each title insurance company shall establish and maintain, in
14 addition to other reserves, reserves against unpaid losses and
15 against loss expense. The company shall calculate these reserves
16 by making a careful estimate in each case of the loss and loss
17 expense likely to be incurred, by reason of every claim
18 presented or that may be presented, pursuant to notice from or
19 on behalf of the insured, of a title defect in or lien or
20 adverse claim against the title insured, that may result in a
21 loss or cause expense to be incurred for the proper disposition
22 of the claim. The amounts so estimated shall be revised as
23 circumstances warrant. The amounts set aside in these reserves
24 in any year shall be deducted in determining the net profit for
25 such year of the company.

26 § 6738. Investment of capital.

27 (a) General rule.--The capital of a title insurance company
28 shall be invested in the following classes of investment:

29 (1) Government obligations.--Bonds, notes or obligations
30 issued, assumed or guaranteed by the United States or the

1 Dominion of Canada or by any state.

2 (2) Governmental subdivision or public instrumentality
3 obligations.--Valid and legally authorized bonds, notes or
4 obligations issued, assumed or guaranteed by:

5 (i) Any municipality, school district, poor district
6 or water, sewer, drainage, road or other governmental
7 district or division located in the United States or any
8 state.

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

20 (iii) Any municipal authority created pursuant to
21 the laws of this Commonwealth if the obligations are not
22 in default as to principal or interest and if:

23 (A) the project for which the obligations were
24 issued is under lease to a school district or school
25 districts;

26 (B) the project for which the obligations were
27 issued is under lease to a municipality or
28 municipalities or subject to a service contract with
29 a municipality or municipalities, pursuant to which
30 the municipal authority will receive lease rentals or

1 service charges available for fixed charges on the
2 obligations, which will average not less than one and
3 one-fifth times the average annual fixed charges of
4 the obligations over the life thereof; or

5 (C) for the period of five fiscal years next
6 preceding the date of acquisition, the income of the
7 authority available for fixed charges has averaged
8 not less than one and one-fifth times the average
9 annual fixed charges of obligations over the life
10 thereof.

11 As used in this subparagraph the term "income available
12 for fixed charges" means income after deducting operating
13 and maintenance expenses, and, unless the obligations are
14 payable in serial, annual maturities, or are supported by
15 annual sinking fund payments, depreciation, but excluding
16 extraordinary nonrecurring items of income or expenses.

17 The term "fixed charges" includes principal, both
18 maturity and sinking fund, and interest on bonded debt.

19 In computing the income available for fixed charges for
20 the purpose of this subparagraph, the income so available
21 of any corporation acquired by any municipal authority
22 may be included, such income to be calculated as though
23 the corporation had been operated by a municipal
24 authority and an equivalent amount of bonded debt were
25 outstanding. The eligibility for investment purposes of
26 obligations of each project of a municipal authority
27 shall be separately considered.

28 (3) Public utility obligations.--Bonds, notes or
29 obligations issued, assumed or guaranteed by any solvent
30 public utility corporation or public utility business trust,

1 incorporated or existing under the laws of the United States
2 or of any state.

3 (4) Other corporate obligations.--Bonds, notes or
4 obligations issued, assumed or guaranteed by any other
5 corporation, including railroads, or business trust,
6 incorporated or existing under the Federal law or the law of
7 any state, whose income available for fixed charges for the
8 period of five fiscal years next preceding the date of
9 investment has averaged not less than one and one-half times
10 its average annual fixed charges applicable to that period.
11 As used in this paragraph the term "income available for
12 fixed charges" means income, after deducting operating and
13 maintenance expenses, depreciation and depletion, and taxes
14 other than Federal or state income taxes, excluding
15 extraordinary nonrecurring items of income or expense
16 appearing in the regular financial statements of the
17 corporation or business trust. The term "fixed charges"
18 includes interest on funded and unfunded debt and
19 amortization of debt discount and expense. If income is
20 determined in reliance upon consolidated income statements of
21 parent and subsidiary corporations or business trusts, the
22 income shall be determined after provision for Federal and
23 state income taxes of subsidiaries, and after proper
24 allowance for minority stock interest. The required coverage
25 of fixed charges shall be computed on a basis including fixed
26 charges and preferred dividends of subsidiaries, other than
27 those payable by subsidiaries to the parent corporation or
28 business trust, or to other subsidiaries. In applying an
29 income test to any issuing, assuming or guaranteeing
30 corporation or business trust, whether or not in legal

1 existence during the whole of the five-year period next
2 preceding the date of investment, which has at any time after
3 the beginning of the period acquired the assets or the
4 outstanding shares of capital stock of any other corporation
5 or business trust by purchase, merger, consolidation or
6 otherwise, substantially as an entirety, or has been
7 reorganized pursuant to the bankruptcy law, the income of the
8 other predecessor or constituent corporation or business
9 trust or of the corporation or business trust so reorganized,
10 available for interest and dividends for such portion of the
11 period as shall have preceded acquisition or reorganization,
12 may be included in the income of the issuing, assuming or
13 guaranteeing corporation or business trust for such portion
14 of the period as may be determined in accordance with
15 adjusted or pro forma consolidated income statements covering
16 that portion of the period, and giving effect to all stock or
17 shares outstanding and all fixed charges existing immediately
18 after acquisition or reorganization.

19 (5) Trustee, receiver or equipment trust obligations.--

20 (i) Certificates, notes or obligations issued by
21 trustees or receivers of any corporation or business
22 trust created or existing under Federal law or the law of
23 any state, if the corporation or trust, or its assets,
24 are being administered under the direction of any court,
25 and the obligation is adequately secured as to principal
26 and interest.

27 (ii) Equipment trust obligations or certificates,
28 which are adequately secured, or other adequately secured
29 instruments, evidencing an interest in transportation
30 equipment, located wholly or in part within the United

1 States, and a right to receive determined portions of
2 rental, purchase or other fixed obligatory payments for
3 the use or purchase of such transportation equipment.

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

8 (7) Real estate loans.--Ground rents and bonds, notes or
9 other evidences of indebtedness, secured by mortgages or
10 trust deeds upon unencumbered real property located in any
11 state, and in investments in the equity of the seller under
12 contracts for deeds covering the entire balance due on bona
13 fide sales of such real property. A loan guaranteed or
14 insured in full by the Administrator of Veterans' Affairs
15 under the Servicemen's Readjustment Act (Public Law 85-857,
16 38 U.S.C. § 1801 et seq.) may be subject to a prior
17 encumbrance.

18 (i) Real property shall not be considered to be
19 encumbered within the meaning of this paragraph by reason
20 of the existence of:

21 (A) instruments reserving mineral, oil, water or
22 timber rights, rights-of-way, sewer rights, rights in
23 walls or driveways;

24 (B) liens inferior to the lien securing the loan
25 of the title insurance company or liens for taxes or
26 assessments not yet delinquent;

27 (C) building restrictions or other restrictive
28 covenants; or

29 (D) leases under which rents or profits are
30 reserved to the owner;

1 if the security for the loan is a first lien upon the
2 real property, and if there is no condition or right of
3 reentry or forfeiture under which the lien can be cut
4 off, subordinated or otherwise disturbed.

5 (ii) A mortgage or trust deed, loan or investment in
6 a seller's equity under a contract for deed made or
7 acquired by the title insurance company on any one
8 property shall not at the date of investment exceed two-
9 thirds of the value of the real property securing the
10 loan, or subject to the contract, but this limitation
11 does not apply to a loan which is:

12 (A) Insured by, or for which a commitment to
13 insure has been made by, the Federal Housing
14 Administrator or Commissioner, pursuant to the
15 provisions of the National Housing Act (48 Stat.
16 1247, 12 U.S.C. § 1707 et seq.).

17 (B) Guaranteed by the Administrator of Veterans'
18 Affairs under the Servicemen's Readjustment Act of
19 1944 (58 Stat. 284) or Public Law 85-857 (72 Stat.
20 1203, 38 U.S.C. § 1801 et seq) except that if only a
21 portion of a loan is so guaranteed, the limitation
22 shall apply to the portion not so guaranteed or
23 insured by the administrator under these statutes.

24 (C) Upon real estate under lease to a
25 corporation or business trust, incorporated or
26 existing under the law of the United States or any
27 state, whose income available for fixed charges for
28 the period of five fiscal years next preceding the
29 date of investment has averaged not less than one and
30 one-half times its average annual fixed charges

1 applicable to that period, if there is pledged and
2 assigned, as additional security for the loan and for
3 application thereon, sufficient of the rentals
4 payable under the lease to provide for repayment of
5 the loan within the unexpired term of the lease.

6 (D) Upon such terms that the principal thereof
7 will be amortized by repayments of principal at least
8 once in each year in amounts sufficient to repay the
9 loan within a period of not more than 30 years, and
10 the loan is upon improved real estate, and at the
11 date investment does not exceed three-quarters of the
12 value of the real estate securing the loan.

13 (8) Purchase money securities.--Purchase money mortgages
14 or similar securities received by it upon the sale or
15 exchange of real property acquired pursuant to paragraph
16 (20).

17 (9) Federal Housing Administrator's debentures.--
18 Debentures issued by the Federal Housing Administrator or
19 Commissioner in settlement of claims pursuant to the National
20 Housing Act (48 Stat. 1247, 12 U.S.C. § 1707 et seq.).

21 (10) National mortgage association securities.--
22 Securities of national mortgage associations or similar
23 national mortgage credit institutions organized under the
24 National Housing Act (48 Stat. 1247, 12 U.S.C. § 1707 et
25 seq.).

26 (11) Federal land bank, Federal intermediate credit bank
27 and bank for cooperative securities.--Bonds, debentures and
28 other obligations of Federal land banks, Federal intermediate
29 credit banks or banks for cooperatives issued under the
30 Federal Farm Loan Act (39 Stat. 360, 12 U.S.C. § 641 et seq.)

1 or under the Farm Credit Act of 1971 (Public Law 92-181, 12
2 U.S.C. § 2001 et seq.).

3 (12) Loans upon leaseholds.--Loans upon leasehold
4 estates or unencumbered real estate located in any state but
5 no such loan shall exceed two-thirds of the value of the
6 leasehold at the date of investment, unless:

7 (i) the loan is guaranteed or insured by, or
8 commitment to guarantee or insure the loan has been made
9 by, the Federal Housing Administrator or Commissioner
10 under the National Housing Act (48 Stat. 1247, 12 U.S.C.
11 § 1707 et seq.);

12 (ii) the leasehold is of improved real estate and
13 the loan provides for amortization by repayments of
14 principal at least once in each year in amounts
15 sufficient to repay the loan within a period of four-
16 fifths of the unexpired term of the leasehold, but within
17 a period of not more than 30 years, and does not exceed
18 three-fourths of the value of the leasehold at the date
19 of investment; or

20 (iii) the real estate is under lease to a
21 corporation or business trust, incorporated or existing
22 under the laws of the United States or any state, whose
23 income available for fixed charges for the period of five
24 fiscal years next preceding the date of investment has
25 averaged not less than one and one-half times its average
26 annual fixed charges applicable to the period, if there
27 is pledged and assigned as additional security for the
28 loan and for application thereon sufficient of the
29 rentals payable under the lease to provide for repayment
30 of the loan within the unexpired term of the lease.

1 The terms of any loan under this paragraph shall require
2 repayments of principal at least once in each year in amounts
3 sufficient to repay the loan within the term of the
4 leasehold, unexpired at the date of investment, unless a
5 shorter period is required under subparagraph (ii).

6 (13) Savings and loan shares.--Shares of any Federal
7 savings and loan association, or of any building and loan or
8 savings and loan association, to the extent that the
9 withdrawal or repurchasable value of the shares is insured by
10 the Federal Savings and Loan Insurance Corporation under the
11 National Housing Act (48 Stat. 1247, 12 U.S.C. § 1707 et
12 seq.).

13 (14) Federal Savings and Loan Insurance Corporation
14 Obligations.--Bonds, notes or obligations issued, assumed or
15 guaranteed by the Federal Savings and Loan Insurance
16 Corporation under the National Housing Act.

17 (15) Federal Home Loan Bank Obligations.--Bonds, notes
18 or obligations issued, assumed or guaranteed by the Federal
19 Home Loan Bank or the Federal Home Loan Bank Board under the
20 Federal Home Loan Bank Act (47 Stat. 725, 12 U.S.C. § 1421 et
21 seq.).

22 (16) International Bank obligations.--Bonds, notes or
23 obligations issued, assumed or guaranteed by the
24 International Bank for Reconstruction and Development.

25 (17) Business development credit corporation shares.--
26 Shares of state and regional business development credit
27 corporations formed under the law of this Commonwealth.

28 (18) Pennsylvania Housing Finance Agency bonds and
29 notes.--Bonds and notes of the Pennsylvania Housing Finance
30 Agency created by the act of December 3, 1959 (P.L.1688,

1 No.621), known as the Housing Finance Agency Law.

2 (19) Inter-American Development Bank obligations.--
3 Bonds, notes or obligations issued, assumed or guaranteed by
4 the Inter-American Development Bank.

5 (20) Title plant.--A title plant if it keeps at least
6 \$250,000 invested in the classes of securities authorized for
7 the investment of capital other than title plant and real
8 estate. The title plant shall be considered an admitted asset
9 at the fair value thereof. In determining the fair value of a
10 title plant, no value shall be attributed to furniture and
11 fixtures, and the real estate in which the title plant is
12 housed shall be carried as real estate. The value of title
13 abstracts, title briefs, copies of conveyances or other
14 documents, indices and other records comprising the title
15 plant, shall be determined by considering the expenses
16 incurred in obtaining them, the age thereof, the cost of
17 replacements less depreciation and all other relevant
18 factors. Once the value of a title plant has been determined,
19 the value may be increased only by the acquisition of another
20 title plant by purchase, consolidation or merger. The value
21 of the title plant shall not be increased by additions made
22 thereto as part of the normal course of abstracting and
23 insuring titles to real estate. Subject to these limitations
24 and with the approval of the department, a title insurance
25 company may enter into agreements with one or more other
26 authorized title insurance companies whereby the companies
27 will participate in the ownership, management and control of
28 a title plant to service the needs of all the companies or
29 the companies may hold stock of a corporation owning and
30 operating a title plant for such purposes if each of the

1 companies participating in the ownership, management and
2 control of the jointly owned title plant keeps the sum of
3 \$250,000 invested as set forth in this paragraph.

4 (b) Real estate.--Any domestic title insurance company may
5 purchase, receive, hold and convey real estate or any interest
6 therein:

7 (1) required for its convenient accommodation in the
8 transaction of its business with reasonable regard to future
9 needs;

10 (2) acquired in connection with a claim under a policy
11 of title insurance;

12 (3) acquired in satisfaction or on account of loans,
13 mortgages, liens, judgments or decrees, owed to it in the
14 course of its business;

15 (4) acquired in part payment of the consideration of the
16 sale of real property owned by it if the transaction results
17 in a net reduction in the company's investment in real
18 estate; or

19 (5) reasonably necessary for the purpose of maintaining
20 or enhancing the sale value of real property previously
21 acquired or held by it under subparagraph (i), (ii), (iii) or
22 (iv), but no title insurance company shall continue to hold
23 any real estate acquired by it under subparagraph (ii), (iii)
24 or (iv) for more than five years from the date of acquisition
25 thereof unless it obtains the written approval of the
26 department to hold the real estate for a longer period of
27 time.

28 § 6739. Investment of surplus.

29 Money over and above capital, other than the unearned premium
30 reserve, may be invested in the following classes of

1 investments:

2 (1) Investments authorized for capital.--Any of the
3 classes of investment authorized in section 6738 (relating to
4 investment of capital).

5 (2) Corporate stock or shares.--Stock or shares of any
6 solvent corporation, incorporated under the law of the United
7 States or any state or of the Dominion of Canada or any
8 province thereof, including the stock of another title
9 insurance company.

10 (3) Corporate obligations.--Bonds, notes or obligations
11 issued, assumed or guaranteed by any solvent corporation or
12 business trust, incorporated or existing under the law of the
13 United States or any state or of the Dominion of Canada or
14 any province thereof.

15 (4) Canadian governmental subdivision obligations.--
16 Valid and legally authorized bonds, notes or obligations
17 issued, assumed or guaranteed by any province or political
18 subdivision of the Dominion of Canada.

19 (5) Other Loans or investments.--Loans or investments
20 not qualifying or permitted under paragraphs (1) through (4)
21 to an amount not exceeding 5% of the company's admitted
22 assets.

23 § 6740. Investment of unearned premium reserve.

24 The unearned premium reserve of a title insurance company
25 shall be invested in the same classes of investments, other than
26 title plant and real estate, authorized in section 6738
27 (relating to investment of capital), except that one-fourth of
28 the reserve may be invested in preferred or guaranteed stocks or
29 shares of any solvent corporation or business trust,
30 incorporated or existing under the law of the United States or

1 of any state, whose net earnings available for its fixed
2 charges, during either of the two years preceding the date of
3 such investment have been, and during each of the five years
4 preceding such date have averaged, not less than one and one-
5 half times the sum of its average annual fixed charges, as
6 referred to in section 6738(4) and its average annual preferred
7 dividend requirements. For the purposes of this section, the
8 computation refers to the fiscal year immediately preceding the
9 date of acquisition of an investment by the insurer, and the
10 term "preferred dividend requirement" includes cumulative or
11 noncumulative dividends, whether paid, earned or not.

12 § 6741. Other reserves.

13 Reserves other than the unearned premium reserve may be
14 invested in any of the classes of investments authorized in
15 section 6739 (relating to investment of surplus).

16 SUBCHAPTER D

17 RATE REGULATION

18 Sec.

19 6751. Rate filing.

20 6752. Justification for rates.

21 6753. Making of rates.

22 6754. Disapproval of filings.

23 6755. Rating organizations.

24 6756. Deviations.

25 6757. Appeals by minority.

26 6758. Information to be furnished insureds.

27 6759. Hearings and appeals of insureds.

28 6760. Examination of rating organizations.

29 6761. Recording and reporting of loss and expense experience.

30 6762. False or misleading information.

1 § 6751. Rate filing.

2 (a) General rule.--Every title insurance company shall file
3 with the department every manual of classifications, rules,
4 plans, schedules of fees and commissions payable to applicants
5 for title insurance and every modification of any of the
6 foregoing relating to the rates which it proposes to use. Each
7 filing shall state the proposed effective date thereof and shall
8 indicate the character and extent of the coverage contemplated.
9 A title insurance company or agent of a title insurance company
10 shall not charge any fee for any policy or contract of title
11 insurance except in accordance with filings or rates which are
12 in effect for the company or agent of the company as provided in
13 this chapter.

14 (b) Rating organizations.--A title insurance company may
15 satisfy its obligations to make its filings by becoming a member
16 of, or a subscriber to, a licensed rating organization which
17 makes such filings and by authorizing the department to accept
18 such filings on its behalf.

19 (c) Review.--The department shall make such review of the
20 filings as may be necessary to carry out the provisions of this
21 chapter.

22 (d) Waiting period.--Subject to subsections (f) and (g),
23 each filing shall be on file for a period of 30 days before it
24 becomes effective. The department may, upon written notice given
25 within such period to the person making the filing, extend the
26 waiting period for an additional period, not to exceed 30 days,
27 to enable it to complete the review of the filing. Further
28 extensions of the waiting period may also be made with the
29 consent of the title insurance company or rating organization
30 making the filing. Upon written application by the company or

1 organization making the filing, the department may authorize a
2 filing or any part thereof which it has reviewed to become
3 effective before the expiration of the waiting period or
4 extension thereof.

5 (e) Effective filings.--Except in the case of rates filed
6 under subsections (f) and (g), a filing which has become
7 effective shall be deemed to meet the requirements of this
8 chapter.

9 (f) Special permission by department.--When the department
10 finds that any rate for a particular kind or class of risk
11 cannot practicably be filed before it is used, or any contract
12 or kind of title insurance, by reason of rarity or peculiar
13 circumstances, does not lend itself to advance determination and
14 filing of rates, the department may, under such regulations as
15 it may prescribe, permit the rates to be used without a previous
16 filing and waiting period.

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

22 § 6752. Justification for rates.

23 (a) Statement.--A rate filing shall be accompanied by a
24 statement of the title insurance company or rating organization
25 making the filing, setting forth the basis upon which the rate
26 was fixed and the fees are to be computed. Any filing may be
27 justified by:

28 (1) the experience or judgment of the company or
29 organization making the filing;

30 (2) the experience of other title insurance companies or

1 rating organizations; or

2 (3) any other factors which the company or organization
3 deems relevant.

4 (b) Public inspection.--The statement and justification
5 shall be open to public inspection after the rate to which it
6 applies becomes effective.

7 § 6753. Making of rates.

8 (a) General rule.--Rates shall not be inadequate or unfairly
9 discriminatory, nor shall rates be so excessive as to permit
10 title insurance companies to earn a greater profit, after
11 payment of all taxes upon all income, than is necessary to
12 enable them to earn sufficient amounts to pay their actual
13 expenses and losses arising in the conduct of their title
14 insurance business, plus a reasonable profit.

15 (b) Factors considered.--In making rates, due consideration
16 shall be given to past and prospective loss experience; exposure
17 to loss; underwriting practice and judgment; past and
18 prospective expenses, including commissions paid to agents and
19 applicants for title insurance; a reasonable margin for profit
20 and contingencies; and all other relevant factors both in and
21 outside this Commonwealth. The systems of expense provisions and
22 the amount of expense charged against each class of contract or
23 policy may vary between title insurance companies. Rates may, in
24 the discretion of any title insurance company, be less than the
25 cost of performing the work in the case of smaller risks, and
26 the excess may be charged against the larger risks without
27 rendering the rates unfairly discriminatory.

28 (c) Reasonable profit.--In ascertaining the estimated future
29 earnings of title insurance companies, the department shall
30 utilize a properly weighted cross section of title insurance

1 companies operating in this Commonwealth representative of the
2 average of efficiently operated title insurance companies,
3 including on a weighted basis both title insurance companies
4 having their own title plants and those not operating upon the
5 title plant system. In ascertaining what is a reasonable profit
6 after payment of all taxes on such income, the department shall
7 give due consideration to the following matters:

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

10 (2) The desirability of stability of rate structure.

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

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

17 § 6754. Disapproval of filings.

18 (a) Standard of review.--A filing or modification thereof
19 shall not be disapproved if the rates in connection therewith
20 meet the requirements of this chapter.

21 (b) Hearing for insurer.--Upon the review at any time by the
22 department of a filing, it shall, before issuing an order of
23 disapproval, hold a hearing upon not less than ten days written
24 notice, specifying the matters to be considered at the hearing,
25 to every title insurance company and rating organization which
26 made the filing. A company or organization may at any time
27 withdraw a filing or a part thereof, subject to the provisions
28 of section 6756 (relating to deviations) in the case of a
29 deviation filing.

30 (c) Hearing for aggrieved parties.--Any person or

1 organization aggrieved with respect to any filing which is in
2 effect, except the company or organization which made the
3 filing, may make written application to the department for a
4 hearing thereon. The application shall specify the grounds to be
5 relied upon. If the department finds that the application may
6 justify relief, it shall, within 30 days after receipt of the
7 application, hold a hearing upon not less than ten days' written
8 notice to the applicant and to every company and organization
9 which made the filing.

10 (d) Decision of department.--If, after the hearing, the
11 department finds that the filing or a part thereof does not meet
12 the requirements of this chapter, it shall issue an order
13 specifying its objections. If the filing has become effective
14 under section 6751 (relating to rate filing) or otherwise, the
15 order shall state the time, within a reasonable period
16 thereafter, at which the filing or part thereof shall be deemed
17 no longer effective. Copies of the order shall be sent to the
18 applicant and to every title insurance company and rating
19 organization affected. The order shall not affect any contract
20 or policy made or issued prior to the expiration of the period
21 set forth in the order.

22 § 6755. Rating organizations.

23 (a) Licensure.--Any person located in or outside this
24 Commonwealth may apply to the department for a license as a
25 rating organization for title insurance companies. The
26 application shall include all of the following:

27 (1) A copy of its constitution, its articles of
28 agreement or association or its certificate of incorporation,
29 and of its bylaws, rules and regulations governing the
30 conduct of its business.

1 (2) A list of its members and subscribers.

2 (3) The name and address of a resident of this
3 Commonwealth upon whom notices or orders of the department or
4 process affecting the rating organization may be served.

5 (4) A statement of its qualifications as a rating
6 organization.

7 If the department finds that the applicant is competent,
8 trustworthy and otherwise qualified to act as a rating
9 organization, and that the documents submitted under paragraph
10 (1) conform to the requirements of law, it shall issue a license
11 authorizing the applicant to act as a rating organization for
12 title insurance. The application shall be granted or denied in
13 whole or in part by the department within 60 days of the date of
14 its filing with it. Licenses issued under this section shall
15 remain in effect for three years unless sooner suspended or
16 revoked by the department or withdrawn by the licensee. The fee
17 for the license shall be \$25. Licenses may be suspended or
18 revoked by the department, after hearing upon notice, if the
19 rating organization ceases to meet the requirements for
20 licensure under this section. Every rating organization shall
21 notify the department promptly of every change in the items
22 listed in paragraph (1), (2) or (3).

23 (b) Subscribers.--Subject to regulations approved by the
24 department, each rating organization shall permit any title
25 insurance company, not a member, to be a subscriber to its
26 rating services. Notices of proposed changes in its regulations
27 shall be given to subscribers. Each rating organization shall
28 furnish its rating services without discrimination to its
29 members and subscribers. The reasonableness of any regulation in
30 its application to subscribers or the refusal of any rating

1 organization to admit a title insurance company as a subscriber
2 shall, at the request of any subscriber or any such title
3 insurance company, be reviewed by the department at a hearing
4 held upon at least ten days' written notice to the rating
5 organization and to the subscriber or title insurance company.
6 If the department finds that the regulation is unreasonable in
7 its application to subscribers, it shall order that the
8 regulation shall not apply to subscribers. If the rating
9 organization fails to grant or reject an application of a title
10 insurance company for subscribership within 30 days after it is
11 made, the title insurance company may request a review by the
12 department as if the application had been rejected. If the
13 department finds that the title insurance company has been
14 refused admittance to the rating organization as a subscriber,
15 without justification, it shall order the rating organization to
16 admit the title insurance company as a subscriber; if the
17 department finds that the action of the rating organization was
18 justified, it shall make an order affirming its action.

19 (c) Cooperative activities.--Cooperation among rating
20 organizations, or among rating organizations and title insurance
21 companies, and concert of action among title insurance companies
22 under the same general management and control in rate making or
23 in other matters within the scope of this chapter is permitted,
24 but the filings resulting therefrom are subject to this chapter.
25 The department may review these activities and practices, and if
26 after a hearing it finds that any activity or practice is
27 unfair, unreasonable or otherwise inconsistent with this
28 chapter, it may issue a written order specifying its objections
29 and requiring the discontinuance of the activity or practice.

30 § 6756. Deviations.

1 (a) Deviation filings.--Every member of or subscriber to a
2 rating organization shall adhere to the filings made on its
3 behalf by such organization, except that a title insurance
4 company which is such a member or subscriber may file with the
5 department a uniform percentage of decrease or increase to be
6 applied to any or all elements of the fees produced by the
7 rating system so filed for a class of title insurance which is
8 found by the department to be a proper rating unit for the
9 application of such a uniform decrease or increase, or to be
10 applied to the rates for a particular area, or to be applied to
11 the amount of commissions to be paid.

12 (b) Contents of filings.--The deviation filing shall specify
13 the basis for the modification and shall be accompanied by the
14 data or historical pattern upon which the applicant relies. A
15 copy of the filing and data shall be sent simultaneously to the
16 rating organization.

17 (c) Waiting period.--Each deviation filing shall be on file
18 for 30 days before it becomes effective. The waiting period may
19 be extended in the same manner as under section 6751(d)
20 (relating to rate filing). Upon written application of the
21 person making the filing, the department may authorize a
22 deviation filing or any part thereof to become effective before
23 the expiration of the waiting period or any extension thereof.

24 (d) Effect.--Deviation filings shall be subject to section
25 6754 (relating to disapproval of filings). Each deviation shall
26 be effective for at least one year from the date the deviation
27 is filed unless terminated sooner with the approval of the
28 department or under section 6754.

29 § 6757. Appeals by minority.

30 (a) Right to appeal.--Any member of or subscriber to a

1 rating organization may appeal to the department from any
2 decision of the rating organization approving or rejecting any
3 proposed change in or addition to the filings of the rating
4 organization. The failure of a rating organization to make a
5 decision within 30 days after submission to it of a proposal
6 under this section shall be deemed a rejection of the proposal.

7 (b) Decision by department.--The department shall, after a
8 hearing held upon not less than ten days' written notice to the
9 appellant and to the rating organization, issue an order
10 approving the decision of the rating organization or directing
11 it to give further consideration to the proposal and to take
12 action upon it within 30 days. If the appeal is from a decision
13 of the rating organization rejecting a proposed addition to its
14 filings, the department may issue an order directing the rating
15 organization to make an addition to its filings on behalf of its
16 members and subscribers in a manner consistent with its
17 findings, within a reasonable time. If the appeal is from a
18 decision of the rating organization with regard to a rate or a
19 proposed change in or addition to its filings relating to the
20 character and extent of coverage, the department shall approve
21 the rate applied by the rating organization or the rate
22 suggested by the appellant, if either rate is in accordance with
23 this chapter. If the appeal is based upon the failure of the
24 rating organization to make a filing on behalf of the member or
25 subscriber which is based on a system of expense provisions
26 which differs, in accordance with section 6753(b) (relating to
27 making of rates), from the system of expense provisions included
28 in a filing made by the rating organization, the department
29 shall, if it grants the appeal, order the rating organization to
30 make the requested filing for use by the appellant. In deciding

1 the appeal, the department shall apply the standards set forth
2 in section 6753.

3 § 6758. Information to be furnished insureds.

4 Every rating organization and every title insurance company
5 which makes its own rates shall, within a reasonable time after
6 receiving written request therefor and upon payment of such
7 reasonable charge as it may make, furnish all pertinent
8 information as to the rate to any insured affected by a rate
9 made by it or to the authorized representative of such an
10 insured.

11 § 6759. Hearings and appeals of insureds.

12 Every rating organization and every title insurance company
13 which makes its own rates shall provide reasonable means whereby
14 any person aggrieved by the application of its rating system may
15 be heard, in person or by his authorized representative, on his
16 written request to review the manner in which the rating system
17 has been applied in connection with the insurance afforded him.
18 If the organization or company fails to grant or reject the
19 request within 30 days after it is made, the applicant may
20 proceed as if his application had been rejected. Any party
21 affected by the action of the organization or company on such a
22 request may, within 30 days after written notice of the action,
23 appeal to the department, which, after a hearing held upon not
24 less than ten days' written notice to the appellant and to the
25 organization or company, may affirm or reverse the action.

26 § 6760. Examination of rating organizations.

27 The department shall, at least once in five years, make an
28 examination of each rating organization licensed under this
29 chapter. The reasonable costs of any such examination shall be
30 paid by the organization examined upon presentation to it of a

1 detailed account of these costs. The officer, manager, agents
2 and employees of the organization may be examined at any time
3 under oath and shall exhibit all books, records, accounts,
4 documents or agreements governing its method of operation. The
5 department shall furnish two copies of the examination report to
6 the organization examined and shall notify it that it may,
7 within 20 days thereafter, request a hearing on the report or on
8 any facts or recommendations therein. Before filing a report for
9 public inspection, the department shall grant a hearing to the
10 organization examined. The report of any examination, when filed
11 for public inspection, shall be admissible in evidence in any
12 action or proceeding brought by the department against the
13 organization examined or its officers or agents, and shall be
14 prima facie evidence of the facts stated therein. The department
15 may withhold the report of any examination from public
16 inspection for such time as it deems proper. In lieu of an
17 examination, the department may accept the report of an
18 examination made by the insurance supervisory official of
19 another state pursuant to the law of that state.

20 § 6761. Recording and reporting of loss and expense experience.

21 The department shall promulgate reasonable regulations and
22 statistical plans, reasonably adapted to each of the rating
23 systems on file with it, which may be modified from time to
24 time, and which shall be used by each title insurance company in
25 the recording and reporting of the composition of its business,
26 its loss and countrywide expense experience and those of its
27 title insurance underwriters in order that the experience of all
28 companies may be made available at least annually in such form
29 and detail as necessary to aid the department in determining
30 whether rating systems comply with the standards set forth in

1 this chapter. These regulations and plans may also provide for
2 the recording and reporting of expense experience items which
3 are specially applicable to this Commonwealth and are not
4 susceptible of determination by a prorating of countrywide
5 expense experience. In promulgating the regulations and plans,
6 the department shall give due consideration to the rating
7 systems on file with it and, in order that the regulations and
8 plans may be as uniform as practicable among the several states,
9 to the regulations and the form of the plans used for rating
10 systems in other states. The regulations and plans shall be
11 drafted so as not to place an unreasonable burden of expense on
12 any company. A company shall not be required to record or report
13 its expense and loss experience on a classification basis that
14 is inconsistent with the rating system filed by it, nor shall
15 any company be required to report its experience to any agency
16 of which it is not a member or subscriber. The department may
17 designate one or more rating organizations or other agencies to
18 assist it in making compilations of experience information.
19 These compilations shall be made available, subject to
20 reasonable regulations promulgated by the department, to title
21 insurance companies and rating organizations. Reasonable rules
22 and plans may be promulgated by the department for the
23 interchange of data necessary for the application of rating
24 plans. In order to further uniform administration of rate
25 regulatory laws, the department and every title insurance
26 company and rating organization may exchange information and
27 experience data with insurance supervisory officials, title
28 insurance companies and rating organizations in other states and
29 may consult with them with respect to ratemaking and the
30 application of rating systems.

1 § 6762. False or misleading information.

2 A person or organization shall not willfully withhold
3 information from, or knowingly give false or misleading
4 information to, the department, any statistical agency
5 designated by the department rating organization, or title
6 insurance company, which will affect the rates or fees
7 chargeable under this chapter.

8 SUBCHAPTER E

9 PENALTIES AND PROCEDURES

10 Sec.

11 6771. Penalties.

12 6772. Hearing procedure.

13 § 6771. Penalties.

14 (a) Fines.--The department may, if it finds that any person
15 or organization has violated this chapter, impose a penalty of
16 not more than \$50 for each violation, but if it finds the
17 violation to be willful, it may impose a penalty of not more
18 than \$500 for each violation. These penalties may be in addition
19 to any other penalty provided by law.

20 (b) Suspension of license.--The department may suspend the
21 license of any rating organization or title insurance company
22 which fails to comply with an order of the department within the
23 time limited by the order or any extension thereof granted by
24 the department. The department shall not suspend the license of
25 any organization or company for failure to comply with an order
26 until the time prescribed for an appeal therefrom has expired,
27 or if an appeal has been taken, until the order has been
28 affirmed. The department may determine when a suspension of
29 license shall become effective, and it shall remain in effect
30 for the period fixed by the department, unless the department

1 modifies or rescinds the suspension, or until the order upon
2 which the suspension is based is modified, rescinded or reversed
3 by a court.

4 (c) Procedure.--A penalty shall not be imposed or license
5 suspended or revoked except upon a written order of the
6 department, stating its findings, made after a hearing held upon
7 not less than ten days' written notice to the person or
8 organization, specifying the alleged violation.

9 § 6772. Hearing procedure.

10 (a) Right to hearing.--Any title insurance company, rating
11 organization or other person aggrieved by any action of the
12 department, except disapproval of a filing or a part thereof, or
13 by any regulation promulgated by the department, may file a
14 complaint with the department and have a hearing thereon before
15 it. Pending the hearing and the decision thereon, the department
16 may suspend or postpone the effective date of its previous
17 action, rule or regulation.

18 (b) Procedure.--All hearings provided for under this chapter
19 shall be conducted, and the decision of the department on the
20 issue or filing involved shall be rendered, pursuant to Title 2
21 (relating to administrative law and procedure).

22 CHAPTER 69

23 HEALTH AND ACCIDENT INSURANCE

24 Subchapter

- 25 A. Preliminary Provisions
- 26 B. General Requirements
- 27 C. Group, Blanket and Franchise Policies
- 28 D. Minimum Standards for Individual Policies
- 29 E. Medicare Supplement Insurance

30 SUBCHAPTER A

PRELIMINARY PROVISIONS

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Sec.

6901. Construction of "insured."

6902. (Reserved).

6903. Applicability.

6904. Nonconforming policies.

6905. Penalties.

§ 6901. Construction of "insured."

As used in any of the provisions listed in section 6903(f) (relating to applicability), the term "insured" does not prevent a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided in the policy.

§ 6902. (Reserved).

§ 6903. Applicability.

(a) Workmen's compensation insurance.--The provisions listed in subsection (f) do not apply to any policy of workmen's compensation insurance.

(b) Group health and accident policies.--Policies of group health and accident insurance, as defined in section 6931 (relating to definitions), are not subject to section 6904(b) and (c) (relating to nonconforming policies), sections 6911 (relating to approval of policies by department) through 6915 (relating to relationship of policy provisions) or section 6922(b) and (c) (relating to applications for insurance).

However, no policy of group health and accident insurance shall be issued or delivered in this Commonwealth unless the form of the policy is filed with the department and approved by it in accordance with section 6911.

1 (c) Life insurance.--The provisions listed in subsection (f)
2 do not apply to life insurance, endowment or annuity contracts,
3 or contracts supplemental thereto, which contain only such
4 provisions relating to health and accident insurance as:

5 (1) provide additional benefits in case of death by
6 accidental means; and

7 (2) operate to safeguard such contracts against lapse,
8 or to give a special surrender value or special benefit or an
9 annuity if the insured or annuitant becomes totally and
10 permanently disabled, as defined by the contract or
11 supplemental contract.

12 The department may make reasonable regulations concerning such
13 provisions.

14 (d) Liability insurance.--The provisions listed in
15 subsection (f) do not apply to any insurance of medical,
16 hospital, surgical and funeral expenses and disability and death
17 benefits issued with and supplemental to a liability insurance
18 policy as referred to in section 3302(c)(4) (relating to
19 authorized classes of insurance).

20 (e) Certain plans and programs.--Only the following
21 provisions of this chapter apply to an entity to the extent it
22 is subject to Chapter 45 (relating to fraternal benefit
23 societies), 73 (relating to health maintenance organizations),
24 75 (relating to hospital plan corporations) or 77 (relating to
25 professional health services plan corporations):

26 Section 6903 (relating to applicability).

27 Section 6916 (relating to coverage of certain services).

28 Section 6917 (relating to coverage of newborn children).

29 Section 6919 (relating to services of nurse midwives).

30 Section 6919.1 (relating to insurance payments to

1 registered nurses).

2 Subchapter D (relating to minimum standards for
3 individual policies).

4 Subchapter E (relating to Medicare supplement insurance).
5 However, Subchapter E does not apply to an entity to the
6 extent it is subject to Chapter 45 or 73.

7 Subchapter F (relating to benefits for alcohol abuse and
8 dependency).

9 (f) Applicability of certain provisions.--Sections 6901
10 (relating to construction of "insured") and 6905 (relating to
11 penalties) apply only to the following provisions:

12 Section 6904 (relating to nonconforming policies).

13 Section 6911 (relating to approval of policies by
14 department).

15 Section 6912 (relating to formal requirements).

16 Section 6913 (relating to mandatory policy provisions).

17 Section 6914 (relating to optional policy provisions).

18 Section 6915 (relating to relationship of policy
19 provisions).

20 Section 6920 (relating to age limits).

21 Section 6921 (relating to cost-of-living increases).

22 Section 6922 (relating to applications for insurance).

23 Section 6923 (relating to preservation of rights of
24 insurer).

25 Section 6924 (relating to discrimination).

26 Section 6925 (relating to preferred provider
27 organizations).

28 Subchapter C (relating to group, blanket and franchise
29 policies).

30 The provisions listed in this subsection apply as provided under

1 subsections (a), (c) and (d) and section 6904.

2 § 6904. Nonconforming policies.

3 (a) Requirements of other jurisdictions.--Any policy of a
4 foreign or alien insurer, when delivered or issued for delivery
5 to any person in this Commonwealth, may contain any provision
6 which is not less favorable to the insured or the beneficiary
7 than the policy provisions required under the provisions listed
8 in section 6903(f) (relating to applicability) and which is
9 required by the law of the state under which the insured is
10 organized. Any policy of a domestic insurer may, when issued for
11 delivery in any other state or country, contain any provision
12 permitted or required by the law of the other state or country.

13 (b) Certain policy provisions.--A policy provision which is
14 not subject to section 6913 (relating to mandatory policy
15 provisions) or 6914 (relating to optional policy provisions)
16 shall not make a policy, or any portion thereof, less favorable
17 in any respect to the insured or the beneficiary than the
18 provisions thereof which are subject to the provisions listed in
19 section 6903(f).

20 (c) Policy conflicting with chapter.--A policy delivered or
21 issued for delivery to any person in this Commonwealth in
22 violation of the provisions listed in section 6903(f) shall be
23 held valid but shall be construed as provided by the provisions
24 listed in section 6903(f). When any provision in a policy is in
25 conflict with the provisions listed in section 6903(f), the
26 rights and duties of the insurer, the insured and the
27 beneficiary shall be governed by the provisions listed in
28 section 6903(f) and the policy shall be deemed to contain all of
29 the required policy provisions.

30 § 6905. Penalties.

1 (a) Criminal.--Any insurer, or any officer or agent thereof,
2 which issues or delivers a policy to any person in this
3 Commonwealth or which alters any written application for
4 insurance, in violation of any of the provisions listed in
5 section 6903(f) (relating to applicability) commits a summary
6 offense.

7 (b) Civil.--The department may take any one or more of the
8 following courses of action:

9 (1) Revoke the license of any foreign or alien insurer,
10 or of any agent thereof, who violates any of the provisions
11 listed in section 6903(f).

12 (2) Impose a penalty of not more than \$1,000 for each
13 such violation.

14 Before the department takes any action under this section, it
15 shall give written notice to the person accused of the
16 violation, stating specifically the nature thereof and fixing a
17 time and place, at last ten days thereafter, when a hearing of
18 the matter shall be held. After the hearing or upon failure of
19 the accused to appear at the hearing, the department shall
20 impose the penalty.

21 SUBCHAPTER B

22 GENERAL REQUIREMENTS

23 Sec.

24 6911. Approval of policies by department.

25 6912. Formal requirements.

26 6913. Mandatory policy provisions.

27 6914. Optional policy provisions.

28 6915. Relationship of policy provisions.

29 6916. Coverage of certain services.

30 6917. Coverage of newborn children.

1 6918. Licensed medical treatment.
2 6919. Services of nurse midwives.
3 6919.1. Insurance payments to registered nurses.
4 6920. Age limits.
5 6921. Cost-of-living increases.
6 6922. Applications for insurance.
7 6923. Preservation of rights of insurer.
8 6924. Discrimination.
9 6925. Preferred provider organizations.
10 § 6911. Approval of policies by department.

11 An insurer shall not issue or deliver any policy to any
12 person in this Commonwealth unless a copy of the form thereof,
13 and of the classification of risks and the premium rates
14 pertaining thereto, has been filed with and formally approved by
15 the department. If the department notifies the insurer filing
16 the form that it does not comply with the requirements of law,
17 specifying its objections in writing, the insurer shall not
18 issue any policy in that form.

19 § 6912. Formal requirements.

20 (a) General rule.--A policy shall not be issued or delivered
21 to any person in this Commonwealth unless each of the following
22 requirements is complied with:

23 (1) The entire money and other considerations therefor
24 and the time when the insurance takes effect and terminates
25 shall be stated in the policy.

26 (2) The policy shall purport to insure only one person,
27 except that, upon the application of an adult head of a
28 family who shall be deemed the policyholder, a policy may
29 insure, originally or by amendment, any two or more eligible
30 members of that family, including husband, wife, dependent

1 children or any children under a specified age, which shall
2 not exceed 19 years, and any other person dependent upon the
3 policyholder.

4 (3) The style, arrangement and appearance of the policy
5 shall give no undue prominence to any portion of the text.
6 Unless every printed portion of the text of the policy and of
7 any endorsements or attached papers is plainly printed in
8 light-face type of a style in general use, the size of the
9 type throughout the form shall be uniform and not less than
10 ten-point with a lower-case unspaced alphabet length not less
11 than 120-point. For the purposes of this paragraph the term
12 "text" includes all printed matter except the name and
13 address of the insurer, name or title of the policy, a brief
14 description, if any, and captions and subcaptions.

15 (4) The exceptions and reductions of indemnity shall be
16 set forth in the policy. Except for the exceptions and
17 reductions set forth in sections 6913 (relating to mandatory
18 policy provisions) and 6914 (relating to optional policy
19 provisions), these may be printed, at the insurer's option,
20 either included with the benefit provision to which they
21 apply or under an appropriate caption, such as "exceptions"
22 or "exceptions and reductions". If an exception or reduction
23 specifically applies only to a particular benefit of the
24 policy, a statement of the exception or reduction shall be
25 included with the benefit provision to which it applies.

26 (5) Each form, including riders and endorsements, shall
27 be identified by a form number in the lower left-hand corner
28 of the first page.

29 (6) The policy shall contain no provision purporting to
30 make any portion of the charter, rules, constitution or

1 bylaws of the insurer a part of the policy unless the portion
2 is set forth in full in the policy, except for a statement of
3 rates or classification of risks, or short-rate table filed
4 with the department.

5 (7) If the policy is entitled or referred to as
6 "noncancelable," the policy shall be automatically renewable
7 until age 60 upon payment of the required premiums by the
8 insured.

9 (8) A policy delivered or issued for delivery after
10 January 1, 1968, under which coverage of a dependent of a
11 policyholder terminates at a specified age, with respect to
12 an unmarried child covered by the policy prior to the
13 attainment of 19 years of age, who is incapable of self-
14 sustaining employment by reason of mental retardation or
15 physical handicap, becomes so incapable prior to attainment
16 of 19 years of age and is chiefly dependent upon the
17 policyholder for support and maintenance, shall not so
18 terminate while the policy remains in force and the dependent
19 remains in such condition, if the policyholder has within 31
20 days of the dependent's attainment of the limiting age
21 submitted proof of the dependent's incapacity. This paragraph
22 does not require an insurer to insure a dependent who is a
23 mentally retarded or physically handicapped child if the
24 policy is underwritten on evidence of insurability based on
25 health factors set forth in the application or where the
26 dependent does not satisfy the conditions of the policy as to
27 any requirement for evidence of insurability or other
28 provisions of the policy, satisfaction of which is required
29 for coverage thereunder to take effect. In any such case the
30 terms of the policy shall apply with regard to the coverage

1 or exclusion from coverage of the dependent.

2 (9) Except for a single premium nonrenewable policy, the
3 policy form shall have prominently printed thereon a notice
4 that the policyholder shall be permitted to return the policy
5 within ten days of its delivery and to have the premium paid
6 refunded if after examination of the policy the policyholder
7 is not satisfied with it for any reason. If a policyholder,
8 pursuant to this notice, returns the policy to the insurer at
9 its home or branch office or to the agent through whom it was
10 purchased, it shall be deemed void from the beginning, and
11 the parties shall be in the same position as if no policy had
12 been issued.

13 (b) Policy on insured in other state.--If any policy is
14 issued by a domestic insurer for delivery to a person residing
15 in another state, and if the official having responsibility for
16 the administration of the insurance statutes of the other state
17 has advised the department that any such policy is not subject
18 to approval or disapproval by the official, the department may
19 by ruling require that the policy comply with subsection (a) and
20 sections 6913 (relating to mandatory policy provisions) through
21 6915 (relating to relationship of policy provisions).

22 § 6913. Mandatory policy provisions.

23 (a) General rule.--Except as provided in section 6915(a)
24 (relating to relationship of policy provisions), each such
25 policy delivered or issued for delivery to any person in this
26 Commonwealth shall contain the provisions specified in this
27 subsection in the words in which the provision appears in this
28 section, except that the insurer may, at its option, substitute
29 for one or more of these provisions corresponding provisions of
30 different wording approved by the department which are in each

1 instance not less favorable in any respect to the insured or the
2 beneficiary. These provisions shall be preceded individually by
3 the caption appearing in this subsection or, at the option of
4 the insurer, by such appropriate individual or group captions or
5 subcaptions as the department approves.

6 (b) Complete integration.--There shall be a provision as
7 follows:

8 Entire contract; changes: This policy, including the
9 endorsements and the attached papers, if any, constitutes
10 the entire contract of insurance. No change in this
11 policy shall be valid until approved by an executive
12 officer of the insurer and unless such approval be
13 endorsed hereon or attached hereto. No agent has
14 authority to change this policy or to waive any of its
15 provisions.

16 (c) Time limitation defenses.--

17 (1) There shall be a provision as follows:

18 Time Limit on Certain Defenses: After three years
19 from the date of issue of this policy no
20 misstatements, except fraudulent misstatements, made
21 by the applicant in the application for such policy
22 shall be used to void the policy or to deny a claim
23 for loss incurred or disability (as defined in the
24 policy) commencing after the expiration of such
25 three-year period.

26 (2) The policy provision set forth in paragraph (1)
27 shall not affect any legal requirement for avoidance of a
28 policy or denial of a claim during the initial three-year
29 period, nor shall it limit the application of section
30 6914(b), (c), (d) and (e) (relating to optional policy

1 provisions) in the event of misstatement with respect to age
2 or occupation or other insurance.

3 (3) In a policy where the premiums are payable weekly,
4 the words "if such application is made a part of the policy"
5 may be inserted in the policy provision set forth in
6 paragraph (1) between the word "policy" and the word "shall"
7 immediately following.

8 (4) A policy which the insured has the right to continue
9 in force subject to its terms by the timely payment of
10 premium until at least 50 years of age, or in the case of a
11 policy issued after 44 years of age, for at least five years
12 from its date of issue, may contain in lieu of the policy
13 provision set forth in paragraph (1) the following provision,
14 from which the clause in parentheses may be omitted at the
15 insurer's option:

16 Incontestable: After this policy has been in force
17 for a period of three years during the lifetime of
18 the insured (excluding any period during which the
19 insured is disabled), it shall become incontestable
20 as to the statements contained in the application.

21 (d) Prior condition.--

22 (1) There shall be a provision as follows:

23 Prior condition: No claim for loss incurred or
24 disability (as defined in the policy) commencing
25 after three years from the date of issue of this
26 policy shall be reduced or denied on the ground that
27 a disease or physical condition not excluded from
28 coverage by name or specific description effective on
29 the date of loss had existed prior to the effective
30 date of coverage of this policy.

1 (2) In policies whereon the premiums are payable weekly,
2 the words "or from the date of any reinstatement thereof" may
3 be inserted in the policy provision set forth in paragraph
4 (1) between the word "policy" and the word "shall"
5 immediately following.

6 (e) Grace period.--

7 (1) There shall be a provision as follows:

8 Grace Period: A grace period of (insert a number not
9 less than "7" for weekly premium policies, "10" for
10 monthly premium policies and "31" for all other
11 policies) days will be granted for the payment of
12 each premium falling due after the first premium,
13 during which grace period the policy shall continue
14 in force.

15 (2) A policy which contains a cancellation provision may
16 add at the end of the provision set forth in paragraph (1)
17 "subject to the right of the insurer to cancel in accordance
18 with the cancellation provision hereof."

19 (3) A policy in which the insurer reserves the right to
20 refuse any renewal shall have, at the beginning of the
21 provision set forth in paragraph (1): "Unless not less than
22 five days prior to the premium due date the insurer has
23 delivered to the insured or has mailed to his last address as
24 shown by the records of the insurer written notice of its
25 intention not to renew this policy beyond the period for
26 which the premium has been accepted, ..."

27 (f) Reinstatement.--

28 (1) There shall be a provision as follows:

29 Reinstatement: If any renewal premium be not paid
30 within the time granted the insured for payment, a

1 subsequent acceptance of premium by the insurer or by
2 any agent duly authorized by the insurer to accept
3 such premium, without requiring in connection
4 therewith an application for reinstatement, shall
5 reinstate the policy: Provided, however, That if the
6 insurer or such agent requires an application for
7 reinstatement and issues a conditional receipt for
8 the premium tendered, the policy will be reinstated
9 upon approval of such application by the insurer or,
10 lacking such approval, upon the 45th day following
11 the date of such conditional receipt unless the
12 insurer has previously notified the insured in
13 writing of its disapproval of such application. The
14 reinstated policy shall cover only loss resulting
15 from such accidental injury as may be sustained after
16 the date of reinstatement and loss due to such
17 sickness as may begin more than ten days after such
18 date. In all other respects the insured and insurer
19 shall have the same rights thereunder as they had
20 under the policy immediately before the due date of
21 the defaulted premium, subject to any provisions
22 endorsed hereon or attached hereto in connection with
23 the reinstatement. Any premium accepted in connection
24 with a reinstatement shall be applied to a period for
25 which premium has not been previously paid, but not
26 to any period more than 60 days prior to the date of
27 reinstatement.

28 (2) The last sentence of the provision set forth in
29 paragraph (1) may be omitted:

30 (i) from any policy which the insured has the right

1 to continue in force subject to its terms by the timely
2 payment of premiums:

3 (A) until at least 50 years of age; or

4 (B) in the case of a policy issued after 44
5 years of age, for at least five years from the date
6 of its issue; or

7 (ii) from any policy on which the premiums are
8 payable weekly.

9 (g) Notification of claim.--

10 (1) There shall be a provision as follows:

11 Notice of Claim: Written notice of claim must be
12 given to the insurer within 20 days after the
13 occurrence or commencement of any loss covered by the
14 policy, or as soon thereafter as is reasonably
15 possible. Notice given by or on behalf of the insured
16 or the beneficiary to the insurer at (insert the
17 location of such office as the insurer may designate
18 for the purpose), or to any authorized agent of the
19 insurer, with information sufficient to identify the
20 insured, shall be deemed notice to the insurer.

21 (2) In a policy whereon the premiums are payable weekly,
22 the first sentence of the policy provision set forth in
23 paragraph (1) may read:

24 Written notice of claim must be given to the insurer
25 within ten days of the commencement of any
26 nonhospital confining sickness covered by the policy
27 and within 20 days after the occurrence or
28 commencement of any other loss covered by the policy,
29 or as soon thereafter as is reasonably possible.

30 (3) In a policy providing a loss-of-time benefit which

1 may be payable for at least two years, an insurer may, at its
2 option, insert the following between the first and second
3 sentences of the policy provision set forth in paragraph (1):

4 Subject to the qualifications set forth below, if the
5 insured suffers loss of time on account of disability
6 for which indemnity may be payable for at least two
7 years, he shall, at least once in every six months
8 after having given notice of claim, give to the
9 insurer notice of continuance of said disability,
10 except in the event of legal incapacity.

11 (4) The period of six months following any filing of
12 proof by the insured or any payment by the insurer on account
13 of such claim or any denial of liability in whole or in part
14 by the insurer shall be excluded in applying the policy
15 provision set forth in paragraph (3). Delay in the giving of
16 such notice under that provision shall not impair the
17 insured's right to any indemnity which would otherwise have
18 accrued during the period of six months preceding the date on
19 which the notice is actually given.

20 (h) Claim forms.--There shall be a provision as follows:

21 Claim Forms: The insurer, upon receipt of a notice of
22 claim, will furnish to the claimant such forms as are
23 usually furnished by it for filing proofs of loss. If
24 such forms are not furnished within 15 days after the
25 giving of such notice, the claimant shall be deemed to
26 have complied with the requirements of this policy as to
27 proof of loss upon submitting, within the time fixed in
28 the policy for filing proofs of loss, written proof
29 covering the occurrence, the character and the extent of
30 the loss for which claim is made.

1 (i) Proofs of loss.--There shall be a provision as follows:
2 Proofs of Loss: Written proof of loss must be furnished
3 to the insurer at its said office in case of claim for
4 loss for which this policy provides any periodic payment
5 contingent upon continuing loss within 90 days after the
6 termination of the period for which the insurer is liable
7 and in case of claim for any other loss within 90 days
8 after the date of such loss. Failure to furnish such
9 proof within the time required shall not invalidate nor
10 reduce any claim if it was not reasonably possible to
11 give proof within such time, provided such proof is
12 furnished as soon as reasonably possible and in no event,
13 except in the absence of legal capacity, later than one
14 year from the time proof is otherwise required.

15 (j) Time of payment of claims.--There shall be a provision
16 as follows:

17 Time of Payment of Claims: Indemnities payable under this
18 policy for any loss other than loss for which this policy
19 provides any periodic payment will be paid immediately
20 upon receipt of due written proof of such loss. Subject
21 to due written proof of loss, all accrued indemnities for
22 loss for which this policy provides periodic payment will
23 be paid (insert period for payment, which
24 must not be less frequently than monthly) and any balance
25 remaining unpaid upon the termination of liability will
26 be paid immediately upon receipt of due written proof.

27 (k) Manner of payment of claims.--

28 (1) There shall be a provision as follows:

29 Payment of Claims: Indemnity for loss of life will be
30 payable in accordance with the beneficiary

1 designation and the provisions respecting such
2 payment which may be prescribed herein and effective
3 at the time of payment. If no such designation or
4 provision is then effective, such indemnity shall be
5 payable to the estate of the insured. Any other
6 accrued indemnities unpaid at the insured's death
7 may, at the option of the insurer, be paid either to
8 such beneficiary or to such estate. All other
9 indemnities will be payable to the insured.

10 (2) The policy provisions set forth in subparagraphs (i)
11 and (ii), or either of them, may be included with the policy
12 provision set forth in paragraph (1) at the option of the
13 insurer:

14 (i) If any indemnity of this policy shall be payable
15 to the estate of the insured, or to an insured or
16 beneficiary who is a minor or otherwise not competent to
17 give a valid release, the insurer may pay such indemnity,
18 up to an amount not exceeding \$ (insert an amount which
19 shall not exceed \$1,000), to any relative by blood or
20 connection by marriage of the insured or beneficiary who
21 is deemed by the insurer to be equitably entitled
22 thereto. Any payment made by the insurer in good faith
23 pursuant to this provision shall fully discharge the
24 insurer to the extent of such payment.

25 (ii) Subject to any written direction of the insured
26 in the application or otherwise, all or a portion of any
27 indemnities provided by this policy on account of
28 hospital, nursing, medical or surgical services may, at
29 the insurer's option and, unless the insured requests
30 otherwise in writing, not later than the time of filing

1 proofs of such loss, be paid directly to the hospital or
2 person rendering such services; but it is not required
3 that the service be rendered by a particular hospital or
4 person.

5 (l) Physical examinations.--There shall be a provision as
6 follows:

7 Physical Examinations and Autopsy: The insurer at its own
8 expense shall have the right and opportunity to examine
9 the person of the insured when and as often as it may
10 reasonably require during the pendency of a claim
11 hereunder and to make an autopsy in case of death where
12 it is not forbidden by law.

13 (m) Legal actions.--There shall be a provision as follows:

14 Legal Actions: No action at law or in equity shall be
15 brought to recover on this policy prior to the expiration
16 of 60 days after written proof of loss has been furnished
17 in accordance with the requirements of this policy. No
18 such action shall be brought after the expiration of
19 three years after the time written proof of loss is
20 required to be furnished.

21 (n) Change of beneficiary.--

22 (1) There shall be a provision as follows:

23 Change of Beneficiary: Unless the insured makes an
24 irrevocable designation of beneficiary, the right to
25 change of beneficiary is reserved to the insured and
26 the consent of the beneficiary or beneficiaries shall
27 not be requisite to surrender or assignment of this
28 policy or to any change of beneficiary or
29 beneficiaries, or to any other changes in this
30 policy.

1 (2) The first clause of the policy provision set forth
2 in paragraph (1), relating to the irrevocable designation of
3 beneficiary, may be omitted at the insurer's option.

4 (o) Common carriers.--The provisions contained in
5 subsections (b), (f), (j) and (l) may be omitted from ticket
6 policies sold only to passengers by common carriers.

7 § 6914. Optional policy provisions.

8 (a) General rule.--Except as provided in section 6915(a)
9 (relating to relationship of policy provisions), a policy issued
10 or delivered to any person in this Commonwealth shall not
11 contain provisions respecting the matters set forth in this
12 section unless the provisions are in the words appearing in this
13 section. However, the insurer may use in lieu of any such
14 provision a corresponding provision of different wording
15 approved by the department, which is not less favorable in any
16 respect to the insured or the beneficiary. Any such provision
17 contained in the policy shall be preceded individually by the
18 appropriate caption appearing in this subsection or, at the
19 option of the insurer, by such appropriate individual or group
20 captions or subcaptions as the department approves.

21 (b) Change of occupation.--The provision on change of
22 occupation shall be as follows:

23 Change of Occupation: If the insured be injured or
24 contract sickness after having changed his occupation to
25 one classified by the insurer as more hazardous than that
26 stated in this policy or while doing for compensation
27 anything pertaining to an occupation so classified, the
28 insurer will pay only such portion of the indemnities
29 provided in this policy as the premium paid would have
30 purchased at the rates and within the limits fixed by the

1 insurer for such more hazardous occupation. If the
2 insured changes his occupation to one classified by the
3 insurer as less hazardous than that stated in this
4 policy, the insurer, upon receipt of proof of such change
5 of occupation, will reduce the premium rate accordingly,
6 and will return the excess pro rata unearned premium from
7 the date of change of occupation or from the policy
8 anniversary date immediately preceding receipt of such
9 proof, whichever is the more recent. In applying this
10 provision, the classification of occupational risk and
11 the premium rates shall be such as have been last filed
12 by the insurer prior to the occurrence of the loss for
13 which the insurer is liable or prior to date of proof of
14 change in occupation with the state official having
15 supervision of insurance in the state where the insured
16 resided at the time this policy was issued; but if such
17 filing was not required, then the classification of
18 occupational risk and the premium rates shall be those
19 last made effective by the insurer in such state prior to
20 the occurrence of the loss or prior to the date of proof
21 of change in occupation.

22 (c) Misstatement of age.--The provision on misstatement of
23 age shall be as follows:

24 Misstatement of Age: If the age of the insured has been
25 misstated, all amounts payable under this policy shall be
26 such as the premium paid would have purchased at the
27 correct age.

28 (d) Other insurance in the same insurer.--The provision on
29 other insurance by the insured in the same insurer shall be as
30 follows:

1 Other Insurance in This Insurer: If an accident or
2 sickness or accident and sickness policy or policies
3 previously issued by the insurer to the insured be in
4 force concurrently herewith, making the aggregate
5 indemnity for (insert type of coverage or coverages) in
6 excess of \$ (insert maximum limit of indemnity or
7 indemnities), the excess insurance shall be void and all
8 premiums paid for such excess shall be returned to the
9 insured or to his estate or, in lieu thereof, insurance
10 effective at any one time on the insured under a like
11 policy or policies in this insurer is limited to the one
12 such policy elected by the insured, his beneficiary or
13 his estate, as the case may be, and the insurer will
14 return all premiums paid for all other such policies.

15 (e) Insurance with other insurers.--

16 (1) The provision on insurance by the insured with other
17 insurers shall be as follows, except as provided in paragraph
18 (3):

19 Insurance with Other Insurers: If there be other
20 valid coverage, not with this insurer, providing
21 benefits for the same loss on a provision of service
22 basis or on an expense incurred basis and of which
23 this insurer has not been given written notice prior
24 to the occurrence or commencement of loss, the only
25 liability under any expense incurred coverage of this
26 policy shall be for such proportion of the loss as
27 the amount which would otherwise have been payable
28 hereunder plus the total of the like amounts under
29 all such other valid coverages for the same loss of
30 which this insurer had notice bears to the total like

1 amounts under all valid coverages for such loss, and
2 for the return of such portion of the premiums paid
3 as shall exceed the pro rata portion for the amount
4 so determined. For the purpose of applying this
5 provision when other coverage is on a provision of
6 service basis, the "like amount" of such other
7 coverage shall be taken as the amount which the
8 services rendered would have cost in the absence of
9 such coverage.

10 (2) If the policy provision set forth in paragraph (1)
11 is included in a policy which also contains the policy
12 provision set forth in paragraph (3), there shall be added to
13 the caption of the policy provision set forth in paragraph
14 (1) the phrase "----- Expense Incurred Benefits".

15 (3) The following provision may appear in addition to or
16 in lieu of the provision set forth in paragraph (1):

17 Insurance with Other Insurers: If there be other
18 valid coverage, not with this insurer, providing
19 benefits for the same loss on other than an expense
20 incurred basis and of which this insurer has not been
21 given written notice prior to the occurrence or
22 commencement of loss, the only liability for such
23 benefits under this policy shall be for such
24 proportion of the indemnities otherwise provided
25 hereunder for such loss as the like indemnities of
26 which the insurer had notice (including the
27 indemnities under this policy) bear to the total
28 amount of all like indemnities for such loss, and for
29 the return of such portion of the premium paid as
30 shall exceed the pro rata portion for the indemnities

1 thus determined.

2 (4) If the policy provision set forth in paragraph (3)
3 is included in a policy which also contains the policy
4 provision set forth in paragraph (1), there shall be added to
5 the caption of the policy provision set forth in paragraph
6 (3) the phrase "----- Other Benefits".

7 (5) The insurer may include in the provisions set forth
8 in this subsection a definition of "other valid coverage",
9 approved as to form by the department, which definition shall
10 be limited in subject matter to coverage provided by
11 organizations subject to regulation by insurance law or by
12 insurance authorities of this or any other state or any
13 province of the Dominion of Canada, and to any other coverage
14 the inclusion of which is approved by the department. In the
15 absence of this definition, the term shall not include group
16 insurance, or benefits provided by union welfare plans or by
17 employer or employee benefit organizations. For the purpose
18 of applying the policy provisions set forth in this
19 subsection with respect to any insured, any amount of benefit
20 provided for the insured pursuant to any compulsory benefit
21 statute, including any workmen's compensation or employers'
22 liability statute, whether provided by a governmental agency
23 or otherwise, shall be deemed to be "other valid coverage" of
24 which the insurer has had notice. In applying these policy
25 provisions, third-party liability coverage shall not be
26 included as "other valid coverage".

27 (f) Relation of earnings to insurance.--

28 (1) The provision on relation of earnings to insurance
29 shall be as follows:

30 Relation of Earnings to Insurance: If the total

1 monthly amount of loss of time benefits promised for
2 the same loss under all valid loss of time coverage
3 upon the insured, whether payable on a weekly or
4 monthly basis, shall exceed the monthly earnings of
5 the insured at the time disability commenced or his
6 average monthly earnings for the period of two years
7 immediately preceding a disability for which claim is
8 made, whichever is the greater, the insurer will be
9 liable only for such proportionate amount of such
10 benefits under this policy as the amount of such
11 monthly earnings or such average monthly earnings of
12 the insured bears to the total amount of monthly
13 benefits for the same loss under all such coverage
14 upon the insured at the time such disability
15 commences and for the return of such part of the
16 premiums paid during such two years as shall exceed
17 the pro rata amount of the premiums for the benefits
18 actually paid hereunder; but this shall not operate
19 to reduce the total monthly amount of benefits
20 payable under all such coverage upon the insured
21 below the sum of \$200 or the sum of the monthly
22 benefits specified in such coverages, whichever is
23 less, nor shall it operate to reduce benefits other
24 than those payable for loss of time.

25 (2) The policy provision set forth in paragraph (1) may
26 be inserted only in a policy which the insured has the right
27 to continue in force subject to its terms by the timely
28 payment of premiums until at least 50 years of age or, in the
29 case of a policy issued after 44 years of age, for at least
30 five years from its date of issue.

1 (3) The insurer may include in the policy provision set
2 forth in paragraph (1) a definition of "valid loss of time
3 coverage", approved as to form by the department, which
4 definition shall be limited in subject matter to coverage
5 provided by governmental agencies or by organizations subject
6 to regulation by insurance law or by insurance authorities of
7 this or any other state or any province of the Dominion of
8 Canada, or to any other coverage the inclusion of which may
9 be approved by the department, or any combination of such
10 coverages. In the absence of this definition, the term shall
11 not include any coverage provided for such insured pursuant
12 to any compulsory benefit statute, including any workmen's
13 compensation or employers' liability statute, or benefits
14 provided by union welfare plans or by employer or employee
15 benefit organizations.

16 (g) Unpaid premium.--The provision on setoff of unpaid
17 premium shall be as follows:

18 Unpaid Premium: Upon the payment of a claim under this
19 policy, any premium then due and unpaid or covered by any
20 note or written order may be deducted therefrom.

21 (h) Cancellation.--The provision on cancellation of the
22 policy shall be as follows:

23 Cancellation: The insurer may cancel this policy at any
24 time by written notice delivered to the insured, or
25 mailed to his last address as shown by the records of the
26 insurer, stating when, not less than five days
27 thereafter, such cancellation shall be effective; and
28 after the policy has been continued beyond its original
29 term, the insured may cancel this policy at any time by
30 written notice delivered or mailed to the insurer,

1 effective upon receipt or on such later date as may be
2 specified in such notice. In the event of cancellation,
3 the insurer will return promptly the unearned portion of
4 any premium paid. If the insured cancels, the earned
5 premium shall be computed by the use of the short-rate
6 table last filed with the state official having
7 supervision of insurance in the state where the insured
8 resided when the policy was issued. If the insurer
9 cancels, the earned premium shall be computed pro rata.
10 Cancellation shall be without prejudice to any claim
11 originating prior to the effective date of cancellation.

12 (i) Conformity with state statutes.--The provision on
13 conformity of the policy with state statutes shall be as
14 follows:

15 Conformity with State Statutes: Any provision of this
16 policy which, on its effective date, is in conflict with
17 the statutes of the state in which the insured resides on
18 such date, is hereby amended to conform to the minimum
19 requirements of such statutes.

20 (j) Illegal activity.--The provision on denial of coverage
21 for claims arising from illegal activity shall be as follows:

22 Illegal Occupation: The insurer shall not be liable for
23 any loss to which a contributing cause was the insured's
24 commission of or attempt to commit a felony, or to which
25 a contributing cause was the insured's being engaged in
26 an illegal occupation.

27 (k) Intoxicants and narcotics.--

28 (1) The provision on denial of coverage for claims
29 arising from the use of intoxicants and narcotics shall
30 appear as follows:

1 Intoxicants and Narcotics: The insurer shall not be
2 liable for any loss sustained or contracted in
3 consequence of the insured's being intoxicated, or
4 under the influence of any narcotic unless
5 administered on the advice of a physician.

6 (2) Paragraph (1) does not permit any policy provisions
7 which would deny or purport to deny benefits for alcohol
8 abuse and dependency where such benefits are required under
9 Subchapter F (relating to benefits for alcohol abuse and
10 dependency).

11 § 6915. Relationship of policy provisions.

12 (a) Inapplicable or inconsistent provisions.--If any policy
13 provision referred to in section 6913 (relating to mandatory
14 policy provisions) or 6914 (relating to optional policy
15 provisions) is in whole or in part inapplicable to or
16 inconsistent with the coverage provided by a particular form of
17 policy, the insurer, with the approval of the department, shall
18 omit from the policy any inapplicable provision or part of a
19 provision, and shall modify any inconsistent provision or part
20 of the provision.

21 (b) Order of certain policy provisions.--The provisions
22 which are the subject of sections 6913 and 6914, or any
23 corresponding provisions which are used in lieu thereof under
24 those sections, may be printed in the consecutive order of the
25 provisions in those sections or, at the option of the insurer,
26 any such provision may appear as a unit in any part of the
27 policy, with other provisions to which it is logically related,
28 provided the resulting policy shall not be in whole or in part
29 unintelligible, ambiguous or likely to mislead a person to whom
30 the policy is offered, delivered or issued.

1 § 6916. Coverage of certain services.

2 (a) Psychological services.--This subsection applies to
3 every group or individual policy delivered or issued for
4 delivery in this Commonwealth. Whenever such a policy provides
5 for reimbursement for any psychologically necessary service
6 which is within those areas for which the psychologist is
7 licensed pursuant to the act of March 23, 1972 (P.L.136, No.52),
8 referred to as the Psychologists License Act, the insured or any
9 other person covered by the policy, contract or certificate
10 shall be entitled to reimbursement for such service whether the
11 service is performed by a physician or a psychologist operating
12 within those areas for which he is licensed. The department
13 shall promulgate such regulations as are deemed necessary for
14 the effective implementation and operation of this subsection.
15 Public hearings shall be held prior to the promulgation of any
16 substantial regulation under this section, or substantial change
17 thereof. The hearing shall be transcribed and cross-examination
18 of all witnesses shall be permitted in accordance with law.

19 (b) Optometric services.--Whenever any insurer, under any
20 policy or plan of insurance, or any self-insured health or
21 welfare plan, provides for a service or for the reimbursement of
22 a service to or on behalf of any of its individual or group
23 policyholders or subscribers or any other person or groups,
24 which service is within the lawful scope of practice of a
25 licensed optometrist, the person rendering such service or such
26 policyholder, subscriber or other person shall be entitled to
27 the same reimbursement for the service whether the service is
28 performed by a licensed physician or by a licensed optometrist.
29 Under any such contract, policy or plan which pays on the basis
30 of usual, customary and reasonable charges or on some similar

1 basis, only the method of determining the amount of
2 reimbursement shall be the same. Unless the policy provides
3 otherwise, there shall be no reimbursement for ophthalmic
4 materials, lenses, eyeglasses or appurtenances thereto.

5 § 6917. Coverage of newborn children.

6 (a) General rule.--All health insurance policies providing
7 coverage on an expense incurred basis and service or indemnity
8 type contracts issued by a nonprofit corporation subject to
9 Chapter 45 (relating to fraternal benefit societies), 75
10 (relating to hospital plan corporations) or 77 (relating to
11 professional health services plan corporations) and all health
12 services provided by plans operating under Chapter 73 (relating
13 to health maintenance organizations) shall also provide that the
14 health insurance benefits or health services applicable shall be
15 payable with respect to a newborn child of the insured or
16 subscriber from the moment of birth.

17 (b) Policy provisions.--The coverage for newborn children
18 shall consist of coverage of injury or sickness, including the
19 necessary care and treatment of medically diagnosed congenital
20 defects, birth abnormalities, prematurity and routine nursery
21 care, but need not include routine well-baby care, immunizations
22 and medical examinations or tests not necessary for the
23 treatment of a covered injury, illness, defect, deformity or
24 disease except to the extent that these coverages are provided
25 the insured or for dependent children under the same class of
26 coverage.

27 (c) Notice of birth.--If payment of a specific premium or
28 subscription fee is required to provide coverage for a child,
29 the policy or contract may require that notification of birth of
30 a newborn child and payment of the required premium or fees

1 shall be furnished to the insurer or nonprofit service or
2 indemnity corporation within 31 days after the date of birth in
3 order to have the coverage continue beyond that 31-day period.

4 § 6918. Licensed medical treatment.

5 Notwithstanding any provision of any policy of insurance or
6 self-insured health or welfare plan providing benefits whenever
7 the policy or plan provides for reimbursement for any service
8 which may be legally performed by a person licensed under the
9 law of this Commonwealth for the practice of medicine,
10 osteopathy, dentistry, chiropractic podiatry, physical therapy
11 or midwifery reimbursement under the policy or plan shall not be
12 denied when the service is rendered by a person so licensed.

13 § 6919. Services of nurse midwives.

14 (a) Applicability.--This section applies to all policies of
15 health and accident insurance and all private and public
16 programs for health services and facilities reimbursement,
17 including, but not limited to, any such reimbursement programs
18 operated by the Commonwealth.

19 (b) Reimbursement for services.--Whenever a policy or
20 program within subsection (a) provides for reimbursement for any
21 health care service which is within those areas of practice for
22 which a midwife may be licensed in this Commonwealth or in the
23 state where the service is delivered, or for the cost of
24 birthing facilities, the insured or any other person covered
25 thereby shall be entitled to reimbursement for the service or
26 use of the facilities whenever the service is performed by a
27 licensed nurse midwife or other person licensed to perform such
28 services. Whenever the service is performed by a licensed nurse
29 midwife and reimbursed by a professional health services
30 corporation, the licensed nurse midwife shall have such rights

1 of participation, plan admission and registration as are granted
2 by the professional health services plan corporation under
3 Chapter 77 (relating to professional health services plan
4 corporations) to a physician performing such service. When
5 payment is made for health care services performed by a licensed
6 nurse midwife, no payment or reimbursement shall be payable to a
7 physician for the service performed by the licensed nurse
8 midwife.

9 (c) Regulations.--The department may promulgate such
10 regulations as are deemed necessary for the effective
11 implementation and operation of this section.

12 § 6919.1. Insurance payments to registered nurses.

13 (a) Scope of coverage.--When a service is performed by a
14 certified registered nurse anesthetist, certified registered
15 nurse practitioner, certified enterostomal therapy nurse,
16 certified community health nurse, certified psychiatric mental
17 health nurse or certified clinical nurse specialist who is
18 certified by the State Board of Nursing or a national nursing
19 organization recognized by the State Board of Nursing and is
20 lawfully permitted to perform that service under the act of May
21 22, 1951 (P.L.317, No.69), known as The Professional Nursing
22 Law, and a policy, contract or certificate provides for
23 reimbursement for that service, the insured or any other person
24 covered shall be entitled to reimbursement either to the insured
25 or to the registered professional nurse providing that service.
26 This section does not apply to registered professional nurses
27 who are employees of health care facilities as the term "health
28 care facilities" is defined in the act of July 19, 1979
29 (P.L.130, No.48), known as the Health Care Facilities Act, or to
30 anesthesiology groups. This subsection does not apply to the

1 assignment of benefits and payment of claims process of a stock
2 insurance company or a mutual insurance company described in
3 subsection (c)(1).

4 (b) Nonduplication of payments.--Duplicate payments shall
5 not be made to both a nurse provider as set forth in subsection
6 (a) and another provider, or to the same provider, for the same
7 services provided in a single encounter.

8 (c) Applicability.--This section applies to every group
9 policy, contract or certificate issued thereunder of health and
10 accident insurance delivered or issued for delivery within this
11 Commonwealth, including, but not limited to, policies, contracts
12 or certificates issued by any person who sells or issues
13 contracts or certificates of insurance which meet the
14 requirements of this section. This subsection shall apply to
15 policies, contracts or certificates issued, renewed, modified,
16 altered, amended or reissued on or after March 19, 1987.

17 (d) Regulations.--The department shall promulgate the
18 regulations and forms necessary to carry out the provisions of
19 this section. Following publication of the initial set of
20 proposed regulations in the Pennsylvania Bulletin, but prior to
21 their formal adoption, the department shall hold public hearings
22 thereon.

23 (e) Construction.--This section does not affect or impair
24 The Professional Nursing Law nor confer upon any public or
25 private organization or agency the power to interpret or enforce
26 this section, except as may be provided for in this section.

27 § 6920. Age limits.

28 If any policy contains a provision establishing, as an age
29 limit or otherwise, a date after which the coverage provided by
30 the policy will not be effective, and if the date falls within a

1 period for which a premium is accepted by the insurer or if the
2 insurer accepts a premium after that date, the coverage provided
3 by the policy will continue in force subject to any right of
4 cancellation until the end of the period for which premium has
5 been accepted. If the age of the insured has been misstated and
6 if, according to the correct age of the insured, the coverage
7 provided by the policy would not have become effective, or would
8 have ceased prior to the acceptance of such premium or premiums,
9 then the liability of the insurer shall be limited to the
10 refund, upon request, of all premiums paid for the period not
11 covered by the policy.

12 § 6921. Cost-of-living increases.

13 A claim for benefits for loss of time from the insured
14 person's occupation, under a group or individual policy issued
15 or renewed in this Commonwealth, shall not be reduced by reason
16 of any cost-of-living increase, designated as such under the
17 Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), if
18 the cost-of-living increase occurs while the policy's benefits
19 are payable for that claim.

20 § 6922. Applications for insurance.

21 (a) False statements.--The falsity of any statement in the
22 application for any policy shall not bar the right to recover
23 thereunder, unless the false statement was made with intent to
24 deceive or unless the statement materially affected either the
25 acceptance of the risk or the hazard assumed by the insurer.

26 (b) Inclusion of representations in policy.--The insured
27 shall not be bound by any statement made in an application for a
28 policy unless a copy of the application is attached to or
29 endorsed on the policy when issued as a part thereof. If any
30 policy delivered or issued for delivery to any person in this

1 Commonwealth is reinstated or renewed, and the insured or the
2 beneficiary or assignee of the policy makes written request to
3 the insurer for a copy of the application for reinstatement or
4 renewal, the insurer shall, within 15 days after the receipt of
5 the request at its home office or any branch office of the
6 insurer, deliver or mail a copy of the application to the person
7 making the request. If the copy is not delivered or mailed, the
8 insurer shall not introduce the application as evidence in any
9 action or proceeding regarding the policy.

10 (c) Alterations.--An alteration of any written application
11 for any policy shall not be made by any person other than the
12 applicant without his written consent, except that insertions
13 may be made by the insurer, for administrative purposes only, in
14 such manner as to indicate clearly that the insertions are not
15 to be ascribed to the applicant.

16 § 6923. Preservation of rights of insurer.

17 The acknowledgment by any insurer of the receipt of notice
18 given under any policy, the furnishing of forms for filing
19 proofs of loss, the acceptance of such proofs or the
20 investigation of any claim thereunder shall not operate as a
21 waiver of any of the rights of the insurer in defense of any
22 claim arising under the policy.

23 § 6924. Discrimination.

24 Except as provided in section 6925 (relating to preferred
25 provider organizations), insurers shall not discriminate between
26 individuals of the same class in the amount of premiums or rates
27 charged for any policy, in the benefits payable thereon, in the
28 terms or conditions of the policy or in any other manner.

29 § 6925. Preferred provider organizations.

30 (a) General rule.--Upon compliance with the provisions of

1 this title and notwithstanding any other provision of law to the
2 contrary, any health care insurer or purchaser may do any of the
3 following:

4 (1) Enter into agreements with providers or physicians
5 relating to health care services which may be rendered to
6 persons for whom the insurer or purchaser is providing health
7 care coverage, including agreements relating to the amounts
8 to be charged by the provider or physician for services
9 rendered.

10 (2) Issue or administer policies or subscriber contracts
11 in this Commonwealth which include incentives for the covered
12 person to use the services of a provider who has entered into
13 an agreement with the insurer or purchaser.

14 (3) Issue or administer policies or subscriber contracts
15 in this Commonwealth that provide for reimbursement for
16 services only if the services have been rendered by a
17 provider or physician who has entered into an agreement with
18 the insurer or purchaser.

19 (b) Regulation by department.--The department shall
20 determine that:

21 (1) A preferred provider organization which assumes
22 financial risk is licensed as an insurer in this
23 Commonwealth, has adequate working capital and reserves, or
24 is governed and regulated under the provisions of the
25 Employee Retirement Income Security Act of 1974 (Public Law
26 93-406, 88 Stat. 829), referred to as ERISA, and has filed a
27 certificate to that effect with the department.

28 (2) Enrollee literature adequately discloses provisions,
29 limitations and conditions of benefits available or that the
30 preferred provider organization is governed and regulated

1 under the provisions of ERISA and has filed a certificate to
2 that effect with the department.

3 (c) Regulation by department and Department of Health.--The
4 department, in consultation with the Department of Health, shall
5 determine that arrangements and provisions for preferred
6 provider organizations which assume financial risk which may
7 lead to undertreatment or poor quality care are adequately
8 addressed by quality and utilization controls and by a formal
9 grievance system, unless the department makes a prior
10 determination that the preferred provider organization is
11 governed by and regulated under the provisions of the Employee
12 Retirement Income Security Act of 1974, and has filed a
13 certificate to that effect with the department.

14 (d) Requirements for commencement of operations.--No
15 preferred provider organization which assumes financial risk may
16 commence operations until it has reported to the department and
17 the Department of Health such information as the department and
18 the Department of Health require in accordance with the duties
19 required under this section. If, after 60 days, either the
20 department or the Department of Health has not informed the
21 preferred provider organization of deficiencies, the preferred
22 provider organization may commence operations unless and until
23 such time as the department or the Department of Health has
24 identified significant deficiencies and the deficiencies have
25 not subsequently been corrected within 60 days of notification.

26 (e) Appeal.--Any disapproval or order to cease operations
27 issued in accordance with this section shall be subject to
28 appeal in accordance with Title 2 (relating to administrative
29 law and procedure).

30

SUBCHAPTER C

1 GROUP, BLANKET AND FRANCHISE POLICIES

2 Sec.

3 6931. Definitions.

4 6932. Required provisions for group health and accident
5 policies.

6 6933. Provision for direct payment.

7 6934. Conversion privileges.

8 6935. Blanket health and accident insurance.

9 6936. Companies authorized to write policies.

10 § 6931. Definitions.

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

14 "Blanket health and accident insurance." That form of health
15 and accident insurance covering groups of persons under a policy
16 or contract issued:

17 (1) To any common carrier or to any operator, owner or
18 lessee of a means of transportation, which shall be deemed
19 the policyholder, covering all persons or all persons of a
20 class who may become passengers on the common carrier or
21 means of transportation.

22 (2) To an employer, which shall be deemed the
23 policyholder, covering all employees, dependents or guests
24 defined by reference to specified hazards incident to the
25 activities or operations of the employer or that class of
26 employees, dependents or guests.

27 (3) To a school or other institution of learning, camp
28 or sponsor thereof, or to the head or principal thereof, who
29 or which shall be deemed the policyholder, covering students
30 or campers and which may cover supervisors and employees.

1 (4) In the name of any religious, charitable,
2 recreational, educational or civic organization, which shall
3 be deemed the policyholder, covering participants in
4 activities sponsored by the organization.

5 (5) To a sports team or sponsors thereof, which shall be
6 deemed the policyholder, covering members, officials and
7 supervisors.

8 (6) To cover any other risk or class of risks, which in
9 the discretion of the department may be properly eligible for
10 blanket health and accident insurance. The discretion of the
11 department may be exercised on the basis of an individual
12 risk or class of risks, or both.

13 "Franchise health and accident insurance." That form of
14 health and accident insurance issued to:

15 (1) Five or more employees of any corporation,
16 partnership or individual employer or any governmental
17 corporation, agency or department thereof.

18 (2) Ten or more members, employees or employees of
19 members of any trade or professional association, labor union
20 or any other association having had an active existence for
21 at least two years, if the association or union has a
22 constitution or bylaws and is formed in good faith for
23 purposes other than that of obtaining insurance, and if the
24 persons, with or without their dependents, are issued the
25 same form of an individual policy, varying only as to amounts
26 and kinds of coverage applied for by such persons under an
27 arrangement whereby the premiums on such policies may be paid
28 to the insurer periodically by the employer, with or without
29 payroll deductions, or by the association for its members or
30 by some designated person acting on behalf of such employer

1 or association.

2 For the purposes of this definition the term "employees"
3 includes the officers, managers and employees of the employer
4 and the individual proprietor or partners, if the employer is an
5 individual proprietor or partnership.

6 "Group health and accident insurance." That form of health
7 and accident insurance covering groups of persons defined in
8 this section with or without one or more members of their
9 families or one or more of their dependents, or covering one or
10 more members of the families or one or more dependents of such
11 groups or persons and issued upon the following basis:

12 (1) Under a policy issued to an employer or trustees of
13 a fund established by an employer, who shall be deemed the
14 policyholder insuring at least ten employees of such employer
15 for the benefit of persons other than the employer. As used
16 in this paragraph the term "employees" means the officers,
17 managers and employees of the employer, the individual
18 proprietor or partner, if the employer is an individual
19 proprietor or partnership, the officers, managers and
20 employees of subsidiary or affiliated corporations, the
21 individual proprietors, partners and employees of individuals
22 and firms, if the business of the employer and the individual
23 or firm is under common control through stock ownership,
24 contract or otherwise, and the term may include retired
25 employees. A policy issued to insure employees of a public
26 body may provide that the term "employees" shall include
27 elected or appointed officials.

28 (2) Under a policy issued to an association, including a
29 labor union, which has a constitution and bylaws and which
30 has been organized and is maintained in good faith for

1 purposes other than that of obtaining insurance insuring at
2 least 25 members, employees or employees of members of the
3 association for the benefit of persons other than the
4 association or its officers or trustees. For the purposes of
5 this paragraph, the term "employees" may include retired
6 employees.

7 (3) Under a policy issued to the trustees of a fund
8 established by two or more employers in the same industry or
9 by one or more labor unions or by one or more employers and
10 one or more labor unions or by an association as defined in
11 paragraph (2), which trustees shall be deemed the
12 policyholder to insure employees of the employers or members
13 of the unions or such association for the benefit of persons
14 other than the employers or the unions or such association.
15 As used in this paragraph the term "employees" includes the
16 officers, managers and employees of the employer and the
17 individual proprietor or partners, if the employer is an
18 individual proprietor or partnership, and the term may
19 include retired employees. The policy may provide that the
20 term "employees" shall include the trustees or their
21 employees, or both, if their duties are principally connected
22 with such trusteeship.

23 (4) Under a policy issued to any person or organization
24 to which a policy of group life insurance may be issued or
25 delivered in this Commonwealth to insure any class or classes
26 of individuals that could be insured under the group life
27 policy.

28 (5) Under a policy issued to cover any other
29 substantially similar group, which in the discretion of the
30 department may be subject to the issuance of a policy of

1 group health and accident insurance.

2 (6) A policy delivered or issued for delivery on or
3 after January 1, 1968, under which coverage of a dependent of
4 an employee or other member of the insured group terminates
5 at a specified age, with respect to an unmarried child
6 covered by the policy prior to the attainment of 19 years of
7 age who is incapable of self-sustaining employment by reason
8 of mental retardation or physical handicap, who becomes so
9 incapable prior to the attainment of 19 years of age and who
10 is chiefly dependent upon the employee or member for support
11 and maintenance, shall not so terminate while the insurance
12 of the employee or member remains in force and the dependent
13 remains in such condition, if the insured employee or member
14 has within 31 days of the dependent's attainment of the
15 termination age submitted proof of the dependent's
16 incapacity. This paragraph does not require an insurer to
17 insure such a dependent if the dependent does not satisfy the
18 conditions of the group policy as to any requirements for
19 evidence of insurability or other provisions as stated in the
20 group policy required for coverage thereunder to take effect;
21 in any such case the terms of the policy shall apply with
22 regard to the coverage or exclusion from coverage of the
23 dependent.

24 § 6932. Required provisions for group health and accident
25 policies.

26 Each group health and insurance policy shall contain in
27 substance the following provisions:

28 (1) A provision that, in the absence of fraud, all
29 statements made by any applicant, the policyholder or an
30 insured person shall be deemed representations and not

1 warranties and that no statement made for the purpose of
2 effecting insurance shall avoid the insurance or reduce
3 benefits, unless contained in a written instrument signed by
4 the policyholder or the insured person, a copy of which has
5 been furnished to the policyholder, to the insured person or
6 his beneficiary.

7 (2) A provision that the insurer will furnish to the
8 policyholder, for delivery to each employee or member of the
9 insured group, an individual certificate setting forth, in
10 summary form, a statement of the essential features of the
11 insurance coverage of the employee or member and to whom
12 benefits thereunder are payable. If dependents are included
13 in the coverage, only one certificate need be issued for each
14 family unit.

15 (3) A provision that to the group originally insured may
16 be added from time to time eligible new employees, members or
17 dependents, as the case may be, in accordance with the terms
18 of the policy.

19 § 6933. Provision for direct payment.

20 Any group health and accident insurance policy may provide
21 that all or any portion of any indemnities provided by the
22 policy, on account of hospital, nursing, medical or surgical
23 services, may at the insurer's option be paid directly to the
24 hospital or person rendering the services. Except as provided in
25 section 6925 (relating to preferred provider organizations), the
26 policy may not require that the service be rendered by a
27 particular hospital or person. Payment so made shall discharge
28 the insurer's obligation with respect to the amount of insurance
29 so paid.

30 § 6934. Conversion privileges.

1 (a) Right to conversion.--A group health and accident
2 insurance policy delivered or issued for delivery in this
3 Commonwealth which provides hospital, surgical or major medical
4 expense insurance, or any combination of these coverages, on an
5 expense incurred basis, unless it is a policy which provides
6 indemnity benefits or benefits for specific diseases or for
7 accidental injuries only, shall provide that an employee or
8 member whose insurance under the group policy has been
9 terminated for any reason, including discontinuance of the group
10 policy in its entirety or with respect to an insured class, and
11 who has been continuously insured under the group policy, and
12 under any group policy providing similar benefits which it
13 replaces, for at least three months immediately prior to
14 termination, shall be entitled to have issued to him by the
15 insurer a policy of health insurance, referred to in this
16 subchapter as the "converted policy." An employee or member
17 shall not be entitled to have a converted policy issued to him
18 if termination of his insurance under the group policy occurred
19 because he failed to pay any required contribution, or if any
20 discontinued group coverage was replaced by similar group
21 coverage within 31 days.

22 (b) Terms of converted policies.--The issuance of a
23 converted policy shall be subject to the following conditions:

24 (1) Written application for the converted policy shall
25 be made and the first premium paid to the insurer not later
26 than 31 days after the termination.

27 (2) The converted policy shall be issued without
28 evidence of insurability.

29 (3) The premium on the individual policy shall be at the
30 insurer's then customary rate applicable to the form and

1 amount of the individual policy, to the class of risk to
2 which the person then belongs and to the age he has attained
3 on the effective date of the individual policy.

4 (4) The effective date of the converted policy shall be
5 the day following the termination of insurance under the
6 group policy.

7 (5) The converted policy shall cover the employee or
8 member and his dependents who were covered by the group
9 policy on the date of termination of insurance. At the option
10 of the insurer, a separate converted policy may be issued to
11 cover any dependent.

12 (6) The insurer shall not be required to issue a
13 converted policy covering any person if the person is or
14 could be covered by Medicare under the Health Insurance for
15 the Aged Act, Title XVIII of the Social Security Act (Public
16 Law 89-97, 42 U.S.C. § 1395 et seq.). The insurer shall not
17 be required to issue a converted policy covering any person
18 if:

19 (i) (A) the person is covered for similar benefits
20 by another hospital, surgical, medical or major
21 medical expense insurance policy or hospital or
22 medical service subscriber contract or medical
23 practice or other prepayment plan or by any other
24 plan or program;

25 (B) the person is eligible for similar benefits,
26 whether or not covered therefor, under any
27 arrangement of coverage for individuals in a group,
28 whether on an insured or uninsured basis; or

29 (C) similar benefits are provided for or
30 available to the person under any state or Federal

1 law; and

2 (ii) the benefits provided under any of the sources
3 referred to in subparagraph (i) for the person, together
4 with the benefits provided by the converted policy, would
5 result in overinsurance according to the insurer's
6 standards.

7 The insurer's standards must bear some reasonable
8 relationship to actual health care costs in the area in which
9 the insured lives at the time of conversion and must be filed
10 with the department prior to their use in denying coverage.

11 (7) A converted policy may include a provision whereby
12 the insurer may request information in advance of any premium
13 due date of the policy of any person covered thereunder as to
14 whether similar benefits are available to the person through
15 a source referred to in paragraph (6)(i).

16 (8) The converted policy may provide that the insurer
17 may refuse to renew the policy or the coverage of any person
18 insured thereunder for the following reasons only:

19 (i) Overinsurance as described in paragraph (6)(ii)
20 would result or the converted policyholder fails to
21 provide the requested information with respect to
22 possible overinsurance.

23 (ii) Fraud or material misrepresentation in applying
24 for any benefits under the converted policy.

25 (iii) Eligibility of the insured person for Medicare
26 coverage under the Health Insurance for the Aged Act,
27 Title XVIII of the Social Security Act (Public Law 89-97,
28 42 U.S.C. § 1395 et seq.) or under any other Federal or
29 state law providing for benefits similar to those
30 provided by the converted policy.

1 (iv) Other reasons approved by the department.

2 (9) An insurer shall not be required to issue a
3 converted policy which provides benefits in excess of those
4 provided under the group policy from which conversion is
5 made.

6 (10) The converted policy shall not exclude a
7 preexisting condition not excluded by the group policy.
8 However, the converted policy may provide that any hospital,
9 surgical or medical benefits payable thereunder may be
10 reduced by the amount of any such benefits payable under the
11 group policy after the termination of the individual's
12 insurance thereunder. The converted policy may also provide
13 that during the first policy year the benefits payable under
14 the converted policy, together with the benefits payable
15 under the group policy, shall not exceed those that would
16 have been payable had the individual insurance under the
17 group policy remained in force.

18 (11) Subject to the provisions and conditions of this
19 title, if the group insurance policy from which conversion is
20 made insures the employee or member for basic hospital or
21 surgical expense insurance, the employee or member shall be
22 entitled to obtain a converted policy providing, at his
23 option, coverage on an expense incurred basis under Plan A, B
24 or C meeting the following requirements:

25 (i) Plan A:

26 (A) Hospital room and board daily expense
27 benefits in a maximum dollar amount approximating the
28 average semiprivate rate charged in metropolitan
29 areas of this Commonwealth, for a maximum duration of
30 70 days.

1 (B) Miscellaneous hospital expense benefits of a
2 maximum amount of ten times the hospital room and
3 board daily expense benefits.

4 (C) Surgical operation expense benefits
5 according to a surgical schedule consistent with
6 those customarily offered by the insurer under group
7 or individual health insurance policies and providing
8 a maximum benefit of \$800.

9 (ii) Plan B:

10 (A) Hospital room and board daily expense
11 benefits in a maximum dollar amount equal to 75% of
12 the maximum dollar amount determined for Plan A, for
13 a maximum duration of 70 days.

14 (B) Miscellaneous hospital expense benefits of a
15 maximum amount of ten times the hospital room and
16 board daily expense benefits.

17 (C) Surgical operation expense benefits
18 according to a surgical schedule consistent with
19 those customarily offered by the insurer under group
20 or individual health insurance policies and providing
21 a maximum benefit of \$600.

22 (iii) Plan C:

23 (A) Hospital room and board daily expense
24 benefits in a maximum dollar amount equal to 50% of
25 the maximum dollar amount determined for Plan A, for
26 a maximum duration of 70 days.

27 (B) Miscellaneous hospital benefits of a maximum
28 amount of ten times the hospital room and board daily
29 expense benefits.

30 (C) Surgical operation expense benefits

1 according to a surgical schedule consistent with
2 those customarily offered by the insurer under group
3 or individual health insurance policies and providing
4 a maximum benefit of \$400.

5 (iv) The maximum dollar amounts in Plan A shall be
6 determined by the department and may be redetermined by
7 it, from time to time, as to converted policies issued
8 subsequent to the redetermination. A redetermination
9 shall not be made more often than once in three years.
10 The maximum dollar amounts in Plans A, B and C shall be
11 rounded to the nearest multiple of \$10.

12 (v) If the benefit levels otherwise required under
13 this paragraph exceed the benefit levels provided under
14 the group policy, the conversion policy may offer
15 benefits which are substantially similar to those
16 provided under the group policy in lieu of those
17 otherwise required under this paragraph.

18 (12) Subject to the provisions and conditions of this
19 title, if the group insurance policy from which conversion is
20 made insures the employee or member for major medical expense
21 insurance, the employee or member shall be entitled to obtain
22 a converted policy providing catastrophic or major medical
23 coverage under a plan meeting the following requirements:

24 (i) A maximum benefit at least equal to either, at
25 the option of the insurer the benefit described in clause
26 (A) or (B):

27 (A) The smaller of the following amounts: the
28 maximum benefit provided under the group policy or a
29 maximum payment of \$250,000 per covered person for
30 all covered medical expenses incurred during the

1 covered person's lifetime.

2 (B) The smaller of the following amounts: the
3 maximum benefit provided under the group policy or a
4 maximum payment of \$250,000 for each unrelated injury
5 or sickness.

6 (ii) Payment of benefits at the rate of 80% of
7 covered medical expenses which are in excess of the
8 deductible, until 20% of such expenses in a benefit
9 period reaches \$1,000, after which benefits will be paid
10 at the rate of 100% during the remainder of the benefit
11 period. Payment of benefits for outpatient treatment of
12 mental illness, if provided in the converted policy, may
13 be at a lesser rate but not less than 50%.

14 (iii) A deductible for each benefit period which, at
15 the option of the insurer, shall be:

16 (A) the sum of the benefits deductible and \$100;

17 (B) a cash deductible, not to exceed \$1,000;

18 (C) the greater of the benefits deductible or
19 \$500; or

20 (D) the corresponding deductible in the group
21 policy.

22 As used in this subparagraph the term "benefits
23 deductible" means the value of any benefits provided on
24 an expense incurred basis which are provided with respect
25 to covered medical expenses by any other hospital,
26 surgical or medical insurance policy or hospital or
27 medical service subscriber contract or medical practice
28 or other prepayment plan, or any other plan or program
29 whether on an insured or uninsured basis, or in
30 accordance with the requirements of any Federal or state

1 law and, if pursuant to paragraph (13), the converted
2 policy provides both basic hospital or surgical coverage
3 and major medical coverage, the value of such basic
4 benefits. If the maximum benefit is determined by
5 subparagraph (i)(B), the insurer may require that the
6 deductible be satisfied during a period of not less than
7 three months if the deductible is \$100 or less, and not
8 less than six months if the deductible exceeds \$100.

9 (iv) The benefit period shall be each calendar year
10 when the maximum benefit is determined by subparagraph
11 (i)(A) or 24 months when the maximum benefit is
12 determined by subparagraph (i)(B).

13 (v) For the purposes of this paragraph, the term
14 "covered medical expenses" includes at least, in the case
15 of hospital room and board charges, the lesser of the
16 dollar amount in Plan A and the average semiprivate room
17 and board rate for the hospital in which the individual
18 is confined and twice that amount for charges in an
19 intensive care unit. Any surgical schedule shall be
20 consistent with those customarily offered by the insurer
21 under group or individual health insurance policies and
22 shall provide at least a \$1,200 maximum benefit.

23 (13) The conversion privilege required by this section
24 shall, if the group insurance policy insures the employee or
25 member for both basic hospital or surgical expense insurance
26 and medical expense insurance, make available the plans of
27 benefits set forth in paragraphs (11) and (12). At the option
28 of the insurer, these plans of benefits may be provided under
29 one policy.

30 (14) The insurer may also, in lieu of the plans of

1 benefits set forth in paragraphs (11) and (12), provide a
2 policy of comprehensive medical expense benefits without
3 first dollar coverage. This policy shall conform to the
4 requirements of paragraph (12), except that an insurer
5 electing to provide such a policy shall make available a low
6 deductible option not to exceed \$100, a high deductible
7 option between \$500 and \$1,000 and a third deductible option
8 midway between the high and low deductible options.

9 (15) The insurer may offer alternative plans for group
10 health conversion in addition to those required by this
11 section. The insurer may provide group insurance coverage in
12 lieu of the issuance of a converted individual policy.

13 (16) If coverage would be continued under the group
14 policy on an employee following his retirement prior to the
15 time he is or could be covered by Medicare, he may elect, in
16 lieu of continuation of group insurance, to have the same
17 conversion rights as would apply had his insurance terminated
18 at retirement by reason of termination of employment or
19 membership.

20 (17) The converted policy may provide for reduction of
21 coverage on any person upon his eligibility for Medicare
22 coverage under the Health Insurance for the Aged Act, Title
23 XVII of the Social Security Act or under any other Federal or
24 state law providing for benefits similar to those provided by
25 the converted policy.

26 (18) The conversion privilege shall also be available:

27 (i) to the surviving spouse, if any, at the death of
28 the employee or member, with respect to the spouse and
29 the children whose coverage under the group policy
30 terminates by reason of the death, otherwise to each

1 surviving child whose coverage under the group policy
2 terminates by reason of the death, or, if the group
3 policy provides for continuation of dependents coverage
4 following the employee's or member's death, at the end of
5 such continuation;

6 (ii) to the spouse of the employee or member upon
7 termination of coverage of the spouse, while the employee
8 or member remains insured under the group policy, by
9 reason of ceasing to be a qualified family member under
10 the group policy, with respect to the spouse and those
11 children whose coverage under the group policy terminates
12 at the same time; or

13 (iii) to a child solely with respect to himself upon
14 termination of his coverage by reason of his ceasing to
15 be a qualified family member under the group policy, if a
16 conversion privilege is not otherwise provided in this
17 paragraph with respect to the termination.

18 (19) Each certificate holder in the insured group shall
19 be given written notice of the conversion privilege and its
20 duration within 15 days before or after the date of
21 termination of group coverage which notice shall be included
22 in his certificate of coverage. If the notice is given more
23 than 15 days but less than 90 days after the date of
24 termination of group coverage, the time allowed for the
25 exercise of the privilege of conversion shall be extended for
26 15 days after the giving of the notice. If the notice is not
27 given within 90 days after the date of termination of group
28 coverage, the time allowed for the exercise of the conversion
29 privilege shall expire at the end of the 90 days. Written
30 notice by the contract holder given to the certificate holder

1 or mailed to the certificate holder at his last known
2 address, or written notice by the insurer mailed to the
3 certificate holder at the last address furnished to the
4 insurer by the contract holder, shall be deemed full
5 compliance with the notification provisions of this
6 paragraph. A group contract issued by an insurer may provide
7 that notice of the conversion privilege and its duration
8 shall be given by the contract holder to each certificate
9 holder upon termination of his group coverage.

10 (20) If the contract holder is the employer of the
11 certificate holder, the insurer shall also give written
12 notice of termination of the group contract to any
13 organization representing the certificate holder for the
14 purpose of collective bargaining. The employer shall provide
15 to the insurer a written list of such organizations within
16 ten days after the date the policy is issued and thereafter
17 within ten days of the beginning or termination of
18 representation by the organization of any certificate holder
19 or holders by the organization, including the collective
20 bargaining unit and the group insurance contract to which the
21 request relates. There shall be no liability on the part of
22 any labor organization representing the employees of a
23 contract holder for the purposes of collective bargaining due
24 to any action it takes or fails to take as to the written
25 notice required to be given by the insurer under this
26 paragraph unless done in bad faith by the organization.
27 Compliance or noncompliance with this paragraph shall not
28 affect the rights or duties of the contract holder, insurer
29 or certificate holder as otherwise set forth in this title.

30 (21) A converted policy which is delivered outside this

1 Commonwealth may be on a form which could be delivered in the
2 other jurisdiction as a converted policy had the group policy
3 been issued in that jurisdiction.

4 § 6935. Blanket health and accident insurance.

5 (a) Required provisions.--Every blanket health and accident
6 insurance policy shall contain provisions which, in the opinion
7 of the department, are at least as favorable to the policyholder
8 and the individual insured as the following:

9 (1) A provision that the policy and the application
10 shall constitute the entire contract between the parties;
11 that all statements made by the policyholder shall, in the
12 absence of fraud, be deemed representations and not
13 warranties; and that no such statements shall be used in
14 defense to a claim under the policy, unless it is contained
15 in a written application.

16 (2) A provision that written notice of sickness or of
17 injury must be given to the insurer within 20 days after the
18 date when the sickness or injury occurred. Failure to give
19 notice within such time shall not invalidate nor reduce any
20 claim, if it is be shown not to have been reasonably possible
21 to give the notice, and that notice was given as soon as was
22 reasonably possible.

23 (3) A provision that the insurer will furnish to the
24 policyholder such forms as are usually furnished by it for
25 filing proof of loss. If such forms are not furnished before
26 the expiration of 15 days after the giving of such notice,
27 the claimant shall be deemed to have complied with the
28 requirements of the policy as to proof of loss upon
29 submitting, within the time fixed in the policy for filing
30 proof of loss, written proof covering the occurrence,

1 character and extent of the loss for which claim is made.

2 (4) A provision that in the case of claim for loss of
3 time for disability, written proof of the loss shall be
4 furnished to the insurer within 30 days after the
5 commencement of the period for which the insurer is liable;
6 that subsequent written proofs of the continuance of the
7 disability shall be furnished to the insurer at such
8 intervals as the insurer may reasonably require; and that in
9 the case of claim for any other loss written proof of loss
10 shall be furnished to the insurer within 90 days after the
11 date of the loss. Failure to furnish proof within the time
12 required shall not invalidate nor reduce any claim if it is
13 shown not to have been reasonably possible to furnish the
14 proof and that the proof was furnished as soon as was
15 reasonably possible.

16 (5) A provision that all benefits payable under the
17 policy, other than benefits for loss of time, will be payable
18 immediately upon receipt of due written proof of loss; that
19 subject to due proof of loss all accrued benefits payable
20 under the policy for loss of time will be paid not later than
21 at the expiration of each period of 30 days during the
22 continuance of the period for which the insurer is liable;
23 and that any balance remaining unpaid at the termination of
24 the period shall be paid immediately upon receipt of such
25 proof.

26 (6) A provision that the insurer, at its own expense,
27 may examine the person of the insured when and so often as it
28 may reasonably require during the pendency of claim under the
29 policy and may make an autopsy if not prohibited by law.

30 (7) A provision that no action at law or in equity shall

1 be commenced to recover under the policy prior to the
2 expiration of 60 days after written proof of loss has been
3 furnished in accordance with the requirements of the policy
4 and that no such action shall be brought after the expiration
5 of three years after the time written proof of loss is
6 required to be furnished.

7 (b) Application and certificates.--An individual application
8 shall not be required from a person covered under a blanket
9 accident or health policy or contract, nor shall it be necessary
10 for the insurer to furnish each person a certificate.

11 (c) Payment of benefits.--Except as otherwise provided in
12 this section, all benefits under any blanket health and accident
13 policy shall be payable to the person insured or his designated
14 beneficiaries or his estate. If the person insured is a minor or
15 mental incompetent, the benefits may be made payable to his
16 parent, guardian or other person actually supporting him. If the
17 entire cost of the insurance has been borne by the employer, the
18 benefits may be made payable to the employer. The policy may
19 provide that all or any portion of the indemnities provided by
20 the policy on account of hospital, nursing, medical or surgical
21 services may, at the insurer's option, be paid directly to the
22 hospital or person rendering the services; payment so made shall
23 discharge the insurer's obligation with respect to the amount of
24 insurance so paid. The policy may not require that the service
25 be rendered by a particular hospital or person.

26 § 6936. Companies authorized to write policies.

27 Any insurance company authorized to write health and accident
28 insurance in this Commonwealth may issue group, blanket or
29 franchise health and accident insurance but no such policy may
30 be issued or delivered in this Commonwealth unless a copy of the

1 form thereof has been filed in accordance with section 3515
2 (relating to approval of contracts by department).

3 SUBCHAPTER D

4 MINIMUM STANDARDS FOR INDIVIDUAL POLICIES

5 Sec.

6 6941. Short title of subchapter.

7 6941.1. Definitions.

8 6942. Standards for policy provisions.

9 6943. Minimum standards for benefits.

10 6944. Outline of coverage.

11 6945. Preexisting conditions.

12 6946. Procedure regarding regulations.

13 § 6941. Short title of subchapter.

14 This subchapter shall be known and may be cited as the
15 Individual Accident and Health Insurance Minimum Standards Act.

16 § 6941.1. Definitions.

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

20 "Accident and health insurance." Insurance written under
21 section 3302(a)(1) or (2) or (c)(2) (relating to authorized
22 classes of insurance) or Subchapter E of Chapter 45 (relating to
23 accident, health and disability insurance contracts). The term
24 does not include life insurance, annuities or insurance subject
25 to Chapter 65 (relating to credit insurance).

26 "Forms." Policies, contracts, riders, endorsements and
27 applications relating to accident and health insurance subject
28 to approval by the department under section 3515 (relating to
29 approval of contracts by department), 7324 (relating to filing
30 of rates and contract forms), 7524 (relating to rates and

1 contracts) or 7729 (relating to rates and contracts).

2 "Policy." A contract issued by any person providing accident
3 and health insurance, including such a subscriber contract
4 issued by a health plan corporation or nonprofit health service
5 plan or such a certificate issued by a fraternal benefit society
6 and including any riders or endorsements and the application, if
7 attached.

8 § 6942. Standards for policy provisions.

9 The department shall issue regulations to establish specific
10 standards, including standards of full and fair disclosure, that
11 set forth the manner, content and required disclosures for their
12 sale for individual policies of accident and health insurance
13 and required disclosures for their sale. These regulations shall
14 be in addition to other applicable laws and may cover, but need
15 not be limited to:

- 16 (1) Terms of renewability.
- 17 (2) Initial and subsequent conditions of eligibility.
- 18 (3) Nonduplication of coverage provisions.
- 19 (4) Coverage of dependents.
- 20 (5) Preexisting conditions.
- 21 (6) Termination of insurance.
- 22 (7) Probationary periods.
- 23 (8) Limitations.
- 24 (9) Exceptions.
- 25 (10) Reductions.
- 26 (11) Elimination periods.
- 27 (12) Requirements for replacement.
- 28 (13) Recurrent conditions.
- 29 (14) Definitions of terms, including, but not limited
30 to, the following: "hospital," "accident," "sickness,"

1 "injury," "physician," "accidental means," "total
2 disability," "partial disability," "nervous disorder,"
3 "guaranteed renewable" and "noncancelable".

4 (15) Prohibited policy provisions not otherwise
5 specifically prohibited by statute which in the opinion of
6 the department are unjust, unfair or unfairly discriminatory
7 to the policyholder, subscriber, any insured or beneficiary.

8 § 6943. Minimum standards for benefits.

9 (a) Scope of regulations.--The department shall issue
10 regulations to establish minimum standards for benefits under
11 each of the following categories of coverage in individual
12 policies:

13 (1) Basic hospital expense coverage.

14 (2) Basic medical-surgical expense coverage.

15 (3) Hospital confinement indemnity coverage.

16 (4) Major medical expense coverage.

17 (5) Disability income protection coverage.

18 (6) Accident only coverage.

19 (7) Specified disease or specified accident coverage.

20 (b) Permitted coverage.--Supplemental coverage shall be
21 permitted for all the categories of coverages listed in
22 subsection (a), except for specified disease or specified
23 accident coverage. This section does not preclude the issuance
24 of any policy or contract which combines two or more of the
25 categories of coverage listed in subsection (a).

26 (c) Compliance with regulations.--A policy shall not be
27 delivered or issued for delivery in this Commonwealth which does
28 not meet the prescribed minimum standards for those categories
29 of coverage listed in subsection (a) or supplemental coverage
30 under subsection (b), which are contained within the policy,

1 unless the department finds that the policy will not be unjust,
2 unfair or unfairly discriminatory to the policyholder,
3 subscriber, any insured or beneficiary. Changes to a policy
4 required by regulations promulgated pursuant to this subchapter,
5 including changes to premium rates applicable thereto, shall be
6 permitted by endorsement or rider unless the department
7 determines that the changes substantially alter the policy.

8 (d) Special approval of policies.--Notwithstanding any other
9 provision of this subchapter or regulations promulgated
10 thereunder, any policy submitted for approval which does not
11 meet the prescribed minimum standards for those categories of
12 coverage listed in subsection (a) or supplemental coverage under
13 subsection (b), which are contained within the policy may be
14 approved if, in the opinion of the department, the policy is not
15 unjust, unfair, or unfairly discriminatory to the policyholder,
16 subscriber or any insured or beneficiary.

17 (e) Regulations.--The department shall promulgate
18 regulations prescribing the method of identification of policies
19 based upon coverages provided.

20 § 6944. Outline of coverage.

21 (a) Requirement.--In order to provide for full and fair
22 disclosure in the sale of individual policies except for
23 supplemental policies sold on the debit plan, and except for
24 riders or amendments to policies, a policy shall not be
25 delivered or issued for delivery in this Commonwealth unless an
26 outline of coverage either accompanies the policy or is
27 delivered to the applicant at the time application is made.

28 (b) Regulation of form and contents.--The department shall
29 issue regulations prescribing the format and contents of the
30 outline of coverage. The outline of coverage shall include all

1 of the following, in a form understandable to a person of
2 average intelligence and education:

3 (1) A statement identifying the applicable category or
4 categories of coverage provided by the policy as prescribed
5 in section 6943 (relating to minimum standards for benefits).

6 (2) A description of the principal benefits and coverage
7 provided in the policy.

8 (3) A statement of the exceptions, reductions and
9 limitations contained in the policy.

10 (4) A statement of the renewal provisions including any
11 reservation by the insurer of a right to change premiums.

12 (5) A statement that the outline is a summary of the
13 policy issued or applied for and that the policy should be
14 consulted to determine the governing contractual provisions.

15 (c) Definition.--As used in this section, the term "format"
16 means style, arrangement and overall appearance, including such
17 items as the size, color and prominence of type and the
18 arrangement of text and captions.

19 § 6945. Preexisting conditions.

20 Notwithstanding section 6913(c) (relating to mandatory policy
21 provisions), if an insurer elects to use a simplified
22 application form, with or without a question as to the
23 applicant's health at the time of application, but without any
24 questions concerning the insured's health history or medical
25 treatment history, the policy shall cover any loss occurring
26 after 12 months from any preexisting condition not specifically
27 excluded from coverage by terms of the policy. Except as so
28 provided, the policy shall not include any provision that would
29 permit a defense based upon preexisting conditions. Changes to
30 policies required under this section, including changes to

1 premium rates applicable thereto, shall be permitted by
2 endorsement or rider.

3 § 6946. Procedure regarding regulations.

4 All regulations promulgated under this subchapter, including
5 those under section 6943(c) (relating to minimum standards for
6 benefits), shall specify an effective date applicable to
7 policies or benefit riders delivered or issued for delivery in
8 this Commonwealth on or after the effective date, which shall
9 not be less than 365 days after their adoption or promulgation.
10 Public hearings shall be held prior to the promulgation of any
11 substantial regulation under this section or substantial change
12 thereof. The hearing shall be transcribed verbatim, and cross-
13 examination of all witnesses shall be permitted. The order
14 promulgating any such regulation shall contain findings and the
15 reasons for the regulation and copies of the order shall be
16 mailed to those appearing of record at the hearing. This section
17 does not create or permit any right of action at law or equity
18 not otherwise authorized or permitted under the law.

19 SUBCHAPTER E

20 MEDICARE SUPPLEMENT INSURANCE

21 Sec.

22 6951. Short title of subchapter.

23 6952. Definitions.

24 6953. Definitions in Medicare supplement policies.

25 6954. Prohibited policy provisions.

26 6955. Minimum benefit standards.

27 6956. Loss ratio standards.

28 6957. Required disclosures.

29 6958. Requirements for replacement.

30 6959. Regulations.

1 6960. Applicability of mandated coverages.

2 6961. Applicability of subchapter.

3 § 6951. Short title of subchapter.

4 This subchapter shall be known and may be cited as the
5 Medicare Supplement Insurance Act.

6 § 6952. Definitions.

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

10 "Applicant." The proposed certificate holder under a group
11 Medicare supplement policy or subscriber contract.

12 "Certificate." A certificate issued under a group Medicare
13 supplement policy, which policy has been delivered or issued for
14 delivery in this Commonwealth.

15 "Medicare." The Health Insurance for the Aged Act, Title
16 XVIII of the Social Security Act (Public Law 89-97, 42 U.S.C. §
17 1395 et seq.).

18 "Medicare supplement policy." A group policy of accident and
19 health insurance or group subscriber contract of health plan
20 corporations and nonprofit health service plans delivered or
21 issued for delivery in this Commonwealth which is advertised,
22 marketed or designed primarily to supplement coverage for the
23 hospital, medical or surgical expenses of persons eligible for
24 Medicare by reason of age. This term does not include:

25 (1) A policy or contract of one or more employers or
26 labor organizations, or of the trustees of a fund established
27 by one or more employers or labor organizations, or
28 combination thereof, for employees or former employees, or
29 combination thereof, or for members or former members, or
30 combination thereof, of the labor organizations.

1 (2) A policy or contract of any professional, trade or
2 occupational association for its members or former or retired
3 members, or combination thereof, if the association:

4 (i) is composed of individuals all of whom are
5 actively engaged in the same profession, trade or
6 occupation;

7 (ii) has been maintained in good faith for purposes
8 other than obtaining insurance; and

9 (iii) has been in existence for at least two years
10 prior to the date of its initial offering of such policy
11 or plan to its members.

12 § 6953. Definitions in Medicare supplement policies.

13 As used in any Medicare supplement policy issued under this
14 subchapter:

15 (1) "Accident," "accidental injury" and "accidental
16 means" shall be defined using "result" language and shall not
17 include words which establish an accidental means test or use
18 words such as "external, violent, visible wounds" or similar
19 words of description or characterization. The definition
20 shall not be more restrictive than the following: injury or
21 injuries, for which benefits are provided, means accidental
22 bodily injury sustained by the insured person which is the
23 direct result of an accident, independent of disease or
24 bodily infirmity or any other cause and occurrence while the
25 insurance is in force. The definition may provide that
26 injuries shall not include injuries for which benefits are
27 provided under any workmen's compensation, employers'
28 liability or similar law, or pursuant to Chapter 63 (relating
29 to motor vehicle financial responsibility) or similar law,
30 unless prohibited by law, or injuries occurring while the

1 insured person is engaged in any activity pertaining to any
2 trade, business, employment or occupation for wage or profit.

3 (2) "Convalescent nursing home," "extended care
4 facility" or "skilled nursing facility" shall be defined in
5 relation to its status, facilities and available services;
6 and:

7 (i) The definition shall not be more restrictive
8 than one requiring that it:

9 (A) be operated pursuant to law;

10 (B) be primarily engaged in providing, in
11 addition to room and board accommodations, skilled
12 nursing care under the supervision of a duly licensed
13 physician;

14 (C) provide continuous 24-hour a day nursing
15 service by or under the supervision of a registered
16 graduate professional nurse; and

17 (D) maintain a daily medical record of each
18 patient.

19 (ii) The definition may provide that the term does
20 not include:

21 (A) any home, facility or part thereof used
22 primarily for rest;

23 (B) a home or facility for the aged or for the
24 care of drug addicts or alcoholics; or

25 (C) a home or facility primarily used for the
26 care and treatment of mental diseases or disorders or
27 custodial or educational care.

28 (3) "Hospital" may be defined in relation to its status,
29 facilities and available services or to reflect its
30 accreditation by the Joint Commission on Accreditation of

1 Hospitals or the American Osteopathic Association.

2 (i) The definition shall not otherwise be more
3 restrictive than one requiring that the hospital:

4 (A) be an institution operated pursuant to law;

5 (B) be primarily and continuously engaged in
6 providing the medical care and treatment of sick or
7 injured persons on an inpatient basis for which a
8 charge is made; and

9 (C) provide 24-hour nursing service by or under
10 the supervision of registered graduate professional
11 nurses.

12 (ii) The definition may state that the term does not
13 include:

14 (A) convalescent homes or convalescent, rest or
15 nursing facilities;

16 (B) facilities primarily affording custodial or
17 educational care;

18 (C) facilities for the aged, drug addicts or
19 alcoholics; or

20 (D) any military or veterans hospital or
21 soldiers home or any hospital contracted for or
22 operated by any national government or agency thereof
23 for the treatment of members or ex-members of the
24 armed forces, except for services rendered on an
25 emergency basis where a legal liability exists for
26 charges made to the individual for such services.

27 (4) "Mental or nervous disorders" shall not be defined
28 more restrictively than a definition including neurosis,
29 psychoneurosis, psychopathy, psychosis or mental or emotional
30 disease or disorder of any kind.

1 (5) "Nurses" may be defined so that the description of
2 nurse is restricted to a type of nurse, such as a registered
3 graduate professional nurse, a licensed practical nurse or a
4 licensed vocational nurse. If the words "nurse," "trained
5 nurse" or "registered nurse" are used without specific
6 instruction, then the use of those terms requires the insurer
7 to recognize the services of any individual who qualified
8 under such terminology in accordance with the law regarding
9 licensing of those professionals.

10 (6) "Physician" may be defined by including words such
11 as "duly qualified physician" or "duly licensed physician."
12 The use of such terms requires an insurer to recognize and to
13 accept, to the extent of its obligation under the contract,
14 all providers of medical care and treatment when such
15 services are within the scope of the provider's licensed
16 authority and are provided under applicable law.

17 (7) "Sickness" shall not be defined to be more
18 restrictive than the following: sickness means sickness or
19 disease of an insured person which is diagnosed or treated
20 after the effective date of insurance and while the insurance
21 is in force. The definition may exclude sickness or disease
22 for which benefits are provided under any workmen's
23 compensation, occupational disease, employers' liability or
24 similar law.

25 § 6954. Prohibited policy provisions.

26 A Medicare supplement policy shall not limit or exclude
27 coverage by type of illness, accident, treatment or medical
28 condition except to the extent they are excluded or limited by
29 Medicare. Such policies may exclude coverage for any expense to
30 the extent of any benefit available to the insured under

1 Medicare.

2 § 6955. Minimum benefit standards.

3 A policy shall not be filed with the department as a Medicare
4 supplement policy unless the policy meets or exceeds, either in
5 a single policy or, in the case of health plan corporations and
6 nonprofit health service plans, in one or more policies issued
7 in conjunction with one another, the requirements of the NAIC
8 Model Regulation to Implement the Individual Accident and
9 Sickness Insurance Minimum Standards Act, as adopted by the
10 National Association of Insurance Commissioners on June 6, 1979,
11 as it applies to Medicare supplement policies. At least the
12 following provisions and benefits shall be provided in the
13 policy:

14 (1) A Medicare supplement policy may not exclude losses
15 incurred more than six months from the effective date of
16 coverage for a preexisting condition. The policy may not
17 define a preexisting condition more restrictively than a
18 condition for which medical advice was given or treatment was
19 recommended by or received from a physician within six months
20 prior to the effective date of coverage.

21 (2) The term "Medicare benefit period" shall mean the
22 unit of time used in the Medicare program to measure use of
23 services and availability of benefits under Part A, medical
24 hospital insurance.

25 (3) The term "Medicare eligible expenses" shall mean
26 health care expenses of the kinds covered by Medicare to the
27 extent recognized as reasonable by Medicare. Payment of
28 benefits by insurers for Medicare eligible expenses may be
29 conditioned upon the same or less restrictive payment
30 conditions, including determinations of medical necessity as

1 are applicable to Medicare claims.

2 (4) Coverage shall not indemnify against losses
3 resulting from sickness on a different basis than losses
4 resulting from accidents. Coverage shall provide that
5 benefits designed to cover cost-sharing amounts under
6 Medicare shall be changed automatically to coincide with any
7 changes in the applicable Medicare deductible amount and
8 copayment percentage factors; premiums may be changed to
9 correspond with such changes.

10 (5) The Medicare supplement policy shall include all of
11 the following:

12 (i) Coverage of Part A Medicare eligible expenses
13 for hospitalization to the extent not covered by Medicare
14 from the 61st day through the 90th day in any Medicare
15 benefit period.

16 (ii) Coverage of Part A Medicare eligible expenses
17 incurred as daily hospital charges during use of
18 Medicare's lifetime hospital inpatient reserve days.

19 (iii) Upon exhaustion of all Medicare hospital
20 inpatient coverage including the lifetime reserve days,
21 coverage of 90% of all Medicare Part A eligible expenses
22 for hospitalization not covered by Medicare subject to a
23 lifetime maximum benefit of an additional 365 days.

24 (iv) Coverage of 20% of the amount of Medicare
25 eligible expenses under Part B regardless of hospital
26 confinement, subject to a maximum calendar year out-of-
27 pocket deductible of \$200 of such expenses and to a
28 maximum benefit of at least \$5,000 per calendar year.

29 (6) Insurers which make available in this Commonwealth
30 any Medicare supplement policy shall also simultaneously

1 offer to the prospective insureds an additional benefit plan
2 Medicare supplement coverage which both conforms to the terms
3 and conditions of section 6954 (relating to prohibited policy
4 provisions) and which also provides at least the following
5 coverages:

6 (i) The initial Part A deductible.

7 (ii) Skilled nursing home charges incurred in
8 addition to those covered by Medicare.

9 (iii) Coverage of 20% of eligible expenses incurred
10 under Part B of Medicare in excess of the deductible
11 amount applied to such expenses by Medicare.

12 This offer shall be given prominence in any solicitation of
13 the Medicare supplement policy benefits described in this
14 section and shall provide the prospective insured the
15 opportunity to simultaneously enroll or apply for the
16 additional benefit plan Medicare supplement coverage. The
17 description of the additional benefit plan Medicare
18 supplement coverage shall include a statement of the
19 coverages, the premium charges and any additional applicable
20 exclusions and limitations permitted for the additional
21 benefit plan Medicare supplement coverage. The additional
22 benefit plan coverage, if elected by the prospective insured
23 person, shall take effect no later than 15 days following the
24 effective date which applies to the rest of the Medicare
25 supplement coverage.

26 § 6956. Loss ratio standards.

27 The terms and premiums of Medicare supplement policies shall
28 be prepared so as to return to policyholders in the form of
29 aggregate benefits under the policy, as estimated for the entire
30 period for which rates are computed to provide coverage, on the

1 basis of incurred claims experience and earned premiums for such
2 period, and in accordance with accepted actuarial principles and
3 practices:

4 (1) at least 75% of the aggregate amount of premiums
5 collected; or

6 (2) in the case of certificates issued as a result of
7 solicitations of individuals through the mail or mass media
8 advertising, including both print and broadcast advertising,
9 at least 60% of the aggregate amount of premiums collected.

10 § 6957. Required disclosures.

11 (a) Renewal provisions.--Each Medicare supplement policy
12 shall include a renewal, continuation or nonrenewal provision.
13 The terms of this provision shall be consistent with the type of
14 contract to be issued. The provision shall be appropriately
15 captioned, shall appear on the first page of the certificate and
16 shall clearly state the duration, where limited, of renewability
17 and the duration of the term of coverage for which the policy is
18 issued and for which it may be renewed.

19 (b) Standards for payment.--A Medicare supplement policy
20 which provides for the payment of benefits based on standards
21 described as "usual and customary," "reasonable and customary"
22 or words of similar import shall include a definition of the
23 terms and an explanation of the terms in its accompanying
24 outline of coverage.

25 (c) Preexisting condition provisions.--If a Medicare
26 supplement policy contains any limitations with respect to
27 preexisting conditions, these limitations shall appear as a
28 separate paragraph of the certificate and be labeled as
29 "Preexisting Condition Limitations."

30 (d) Right of return.--Certificates, other than those issued

1 pursuant to direct response solicitation, shall have a notice
2 prominently printed on the first page of the certificate or
3 attached thereto stating in substance that the certificate
4 holder shall have the right to return the certificate within ten
5 days of its delivery and to have the premium refunded if, after
6 examination of the certificate, the insured person is not
7 satisfied for any reason. Medicare supplement certificates
8 issued pursuant to a direct response solicitation to persons
9 eligible for Medicare by reason of age shall have a notice
10 prominently printed on the first page, or attached thereto,
11 stating in substance that the certificate holder shall have the
12 right to return the certificate within 30 days of its delivery
13 and to have the premium refunded if after examination the
14 insured person is not satisfied for any reason.

15 (e) Buyer's guide.--Insurers issuing accident and health
16 certificates under group policies delivered or issued for
17 delivery in this Commonwealth which provide hospital or medical
18 expense coverage on an expense incurred or indemnity basis,
19 other than incidentally, to a person eligible for Medicare by
20 reason of age, shall provide to the certificate holder a
21 Medicare supplement buyer's guide in the form consistent with
22 the then current edition of the model jointly developed by the
23 National Association of Insurance Commissioners and the Health
24 Care Financing Administration of the United States Department of
25 Health and Human Services. Delivery of the buyer's guide shall
26 be made whether or not the group policy qualifies as a Medicare
27 supplement policy. Except in the case of direct response
28 insurers, delivery of the buyer's guide shall be made at the
29 time of application, and acknowledgment of receipt of
30 certification of delivery of the buyer's guide shall be provided

1 to the insurer. Direct response insurers issuing Medicare
2 supplement policies shall deliver the buyer's guide upon
3 request, but not later than at the time the certificate is
4 delivered.

5 (f) Description of coverage.--The terms "Medicare
6 supplement," "medigap" and words of similar import shall not be
7 used unless the policy is issued in compliance with section 6955
8 (relating to minimum benefit standards).

9 (g) Outline of coverage.--Insurers issuing Medicare
10 supplement policies shall deliver an outline of coverage to the
11 applicant at the time application is made. Except in the case of
12 a direct response policy, an acknowledgment of receipt or
13 certification of delivery of the outline of coverage shall be
14 provided to the insurer. If an outline of coverage was delivered
15 at the time of application and the certificate is issued on a
16 basis which would require revision of the outline, a substitute
17 outline of coverage properly describing the certificate shall
18 accompany the certificate when it is delivered and shall contain
19 the following statement, in no less than 12-point type,
20 immediately above the company name:

21 "NOTICE: Read this outline of coverage carefully. It is
22 not identical to the outline of coverage provided upon
23 application and the coverage originally applied for has
24 not been issued."

25 The outline of coverage shall be in a form consistent with the
26 then current model adopted by the National Association of
27 Insurance Commissioners and amended to reflect changes in the
28 Medicare program.

29 § 6958. Requirements for replacement.

30 (a) Question to applicant.--Application or enrollment forms

1 shall include a question designed to elicit information as to
2 whether a certificate to be issued under a Medicare supplement
3 policy is intended to replace any other health and accident
4 insurance presently in force. A supplementary application or
5 other form to be signed by the applicant containing such a
6 question may be used.

7 (b) Notice.--Upon determining that a sale will involve
8 replacement, an insurer, other than a direct response insurer,
9 or its agent, shall furnish the applicant, prior to issuance or
10 delivery of the certificate, a notice designed to inform the
11 applicant of the essential differences in coverage on a form
12 consistent with the then current model notification form adopted
13 by the National Association of Insurance Commissioners. One copy
14 of the notice shall be retained by the applicant, and an
15 additional copy signed by the applicant shall be retained by the
16 insurer. A direct response insurer shall deliver the notice to
17 the applicant upon issuance of the certificate.

18 § 6959. Regulations.

19 (a) General rule.--Public hearings shall be held prior to
20 the promulgating of any regulations promulgated under this
21 subchapter unless the regulation is insubstantial. The order
22 promulgating the regulation shall contain findings and reasons
23 for the regulation. This section does not create or permit any
24 right or action at law or in equity not otherwise authorized by
25 law.

26 (b) Modifications required by Medicare statute.--The
27 department may promulgate regulations changing the requirements
28 of this subchapter, other than sections 6960 (relating to
29 applicability of mandated coverages) and 6961 (relating to
30 applicability of subchapter), to the extent necessary to comply

1 with changes made by Congress as to the requirements contained
2 in section 1882 of the Social Security Act (Public Law 96-26, 42
3 U.S.C. § 1395ss), as these requirements were in effect on July
4 1, 1983. These regulations shall take effect within 60 days
5 after their promulgation.

6 § 6960. Applicability of mandated coverages.

7 Coverage which is required to be included in any group or
8 blanket health and accident policy by any statute enacted on or
9 after July 1, 1983, shall not be required to be included in any
10 Medicare supplement policy, unless inclusion thereof is
11 specifically required by the statute.

12 § 6961. Applicability of subchapter.

13 This subchapter shall apply to all group health and accident
14 policies issued or renewed.

15 SUBCHAPTER F

16 BENEFITS FOR ALCOHOL ABUSE AND DEPENDENCY

17 Sec.

18 6971. Definitions.

19 6972. Mandated policy coverage and options.

20 6973. Inpatient detoxification.

21 6974. Nonhospital residential alcohol services.

22 6975. Outpatient alcohol services.

23 6976. Deductibles, copayment plans and prospective pay.

24 6977. Regulations.

25 6978. Preservation of certain benefits.

26 6979. Applicability and expiration of subchapter.

27 § 6971. Definitions.

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

1 "Alcohol abuse." Any use of alcohol which produces a pattern
2 of pathological use causing impairment in social or occupational
3 functioning or which produces physiological dependency evidenced
4 by physical tolerance or withdrawal.

5 "Detoxification." The process whereby an alcohol-intoxicated
6 or alcohol-dependent person is assisted, in a facility licensed
7 by the Department of Health, through the period of time
8 necessary to eliminate, by metabolic or other means, the
9 intoxicating alcohol, alcohol dependency factors or alcohol in
10 combination with drugs as determined by a licensed physician,
11 while keeping the physiological risk to the patient at a
12 minimum.

13 "Hospital." A facility licensed as a hospital by the
14 Department of Health or the Department of Public Welfare or
15 operated by the Commonwealth and conducting an alcoholism
16 treatment program licensed by the Department of Health.

17 "Inpatient care." The provision of medical, nursing,
18 counseling or therapeutic services 24 hours a day in a hospital
19 or nonhospital facility, according to individualized treatment
20 plans.

21 "Nonhospital facility." A facility, licensed by the
22 Department of Health, for the care or treatment of alcohol-
23 dependent persons, except for transitional living facilities.

24 "Nonhospital residential care." The provision of medical,
25 nursing, counseling or therapeutic services to patients
26 suffering from alcohol abuse or dependency in a residential
27 environment, according to individualized treatment plans.

28 "Outpatient care." The provision of medical, nursing,
29 counseling or therapeutic services in a hospital or nonhospital
30 facility on a regular and predetermined schedule, according to

1 individualized treatment plans.

2 "Partial hospitalization." The provision of medical,
3 nursing, counseling or therapeutic services on a planned and
4 regularly scheduled basis in a hospital or nonhospital facility
5 licensed as an alcoholism treatment program by the Department of
6 Health, designed for a patient or client who would benefit from
7 more intensive services than are offered in outpatient treatment
8 but who does not require inpatient care.

9 § 6972. Mandated policy coverage and options.

10 (a) General rule.--All group health or sickness or accident
11 insurance policies providing hospital or medical-surgical
12 coverage and all group subscriber contracts or certificates
13 issued by any entity of any nature subject to this chapter or
14 Chapter 45 (relating to fraternal benefit societies), 73
15 (relating to health maintenance organizations), 75 (relating to
16 hospital plan corporations) or 77 (relating to professional
17 health services plan corporations) and providing hospital or
18 medical-surgical coverage shall, in addition to other provisions
19 required by this chapter, include within the coverage those
20 benefits for alcohol abuse and dependency as provided in
21 sections 6973 (relating to inpatient detoxification), 6974
22 (relating to nonhospital residential alcohol services) and 6975
23 (relating to outpatient alcohol services).

24 (b) Combinations of policies.--The benefits specified in
25 subsection (a) may be provided through a combination of such
26 policies.

27 (c) Prospective payment plans.--The benefits specified in
28 subsection (a) may be provided through prospective payment
29 plans.

30 (d) Applicability.--Subsection (a) does not apply to

1 Medicare or Medicaid supplemental contracts or limited coverage
2 accident and sickness policies, including, but not limited to,
3 cancer insurance, polio insurance, dental care and similar
4 policies identified as exempt from this section by the
5 department.

6 § 6973. Inpatient detoxification.

7 (a) Eligible providers.--Inpatient detoxification as a
8 covered benefit under this subchapter shall be provided either
9 in a hospital or in an inpatient nonhospital facility which:

10 (1) has a written affiliation agreement with a hospital
11 for emergency, medical and psychiatric or psychological
12 support services;

13 (2) meets minimum standards for client-to-staff ratios
14 and staff qualifications which shall be established by the
15 Department of Health; and

16 (3) is licensed as an alcoholism treatment program.

17 (b) Covered services.--The following services shall be
18 covered under inpatient detoxification:

19 (1) Lodging and dietary services.

20 (2) Physician, psychologist, nurse, certified addictions
21 counselor and trained staff services.

22 (3) Diagnostic X-ray.

23 (4) Psychiatric, psychological and medical laboratory
24 testing.

25 (5) Drugs, medicines, equipment use and supplies.

26 (c) Limitations of coverage.--Treatment under this section
27 may be subject to a lifetime limit, for a covered individual, of
28 four admissions for detoxification, and reimbursement per
29 admission may be limited to seven days of treatment or an
30 equivalent amount.

1 § 6974. Nonhospital residential alcohol services.

2 (a) Requirements for coverage.--Minimal additional treatment
3 as a covered benefit under this subchapter shall be provided in
4 a facility which:

5 (1) meets minimum standards for client-to-staff ratios
6 and staff qualifications, which shall be established by the
7 Office of Drug and Alcohol Programs; and

8 (2) is appropriately licensed by the Department of
9 Health as an alcoholism treatment program.

10 An insured shall not qualify to receive benefits under this
11 section unless a licensed physician or licensed psychologist
12 certifies the insured as a person suffering from alcohol abuse
13 or dependency and refers the insured for the appropriate
14 treatment.

15 (b) Covered services.--The following services shall be
16 covered under this section:

17 (1) Lodging and dietary services.

18 (2) Physician, psychologist, nurse, certified addictions
19 counselor and trained staff services.

20 (3) Rehabilitation therapy and counseling.

21 (4) Family counseling and intervention.

22 (5) Psychiatric, psychological and medical laboratory
23 tests.

24 (6) Drugs, medicines, equipment use and supplies.

25 (c) Time of coverage.--The treatment under this section
26 shall be covered, as required by this subchapter, for a minimum
27 of 30 days per year for residential care. Additional days shall
28 be available as provided in section 6975(d) (relating to
29 outpatient alcohol services). Treatment may be subject to a
30 lifetime limit, for any covered individual, of 90 days.

1 § 6975. Outpatient alcohol services.

2 (a) Requirements for coverage.--Minimal additional treatment
3 as a covered benefit under this subchapter shall be provided in
4 a facility appropriately licensed by the Department of Health as
5 an alcoholism treatment program. An insured may not qualify to
6 receive benefits under this section unless a licensed physician
7 or licensed psychologist certifies the insured as a person
8 suffering from alcohol abuse or dependency and refers the
9 insured for the appropriate treatment.

10 (b) Covered services.--The following services shall be
11 covered under this section:

12 (1) Physician, psychologist, nurse, certified addictions
13 counselor and trained staff services.

14 (2) Rehabilitation therapy and counseling.

15 (3) Family counseling and intervention.

16 (4) Psychiatric, psychological and medical laboratory
17 tests.

18 (5) Drugs, medicines, equipment use and supplies.

19 (c) Time of coverage.--Treatment under this section shall be
20 covered as required by this subchapter for a minimum of 30
21 outpatient, full-session visits or equivalent partial visits per
22 year. Treatment may be subject to a lifetime limit, for any
23 covered individual, of 120 outpatient, full-session visits or
24 equivalent partial visits.

25 (d) Additional coverage.--In addition, treatment under this
26 section shall be covered as required by this subchapter for a
27 minimum of 30 separate sessions of outpatient or partial
28 hospitalization services per year, which may be exchanged on a
29 two-to-one basis to secure up to 15 additional nonhospital,
30 residential alcohol treatment days.

1 § 6976. Deductibles, copayment plans and prospective pay.

2 Reasonable deductible or copayment plans, or both, after
3 approval by the department, may be applied to benefits paid to
4 or on behalf of patients during the course of alcohol abuse or
5 dependency treatment. In the first instance or course of
6 treatment, under a prospective payment plan or otherwise, no
7 deductible or copayment shall be less favorable than those
8 applied to similar classes or categories of treatment for
9 physical illness generally in each policy.

10 § 6977. Regulations.

11 The department and the Department of Health shall jointly
12 promulgate those regulations deemed necessary for the effective
13 implementation and operation of this subchapter.

14 § 6978. Preservation of certain benefits.

15 This subchapter does not diminish the benefits of any insured
16 or subscriber existing on December 8, 1986, nor prevent the
17 offering or acceptance of benefits which exceed the minimum
18 benefits required by this subchapter.

19 § 6979. Applicability and expiration of subchapter.

20 (a) Applicability.--This subchapter shall apply only to
21 contracts of insurance issued or renewed after June 11, 1986.

22 (b) Expiration.--This subchapter shall expire December 31,
23 1989.

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CHAPTER 59

FIRE AND MARINE INSURANCE

Subchapter

- A. Insurers Generally
- B. Stock Companies
- C. Mutual Companies

SUBCHAPTER A

INSURERS GENERALLY

Sec.

- 5901. Resident agents for foreign or alien insurance entities.
- 5902. Examination of foreign or alien entities by department.
- 5903. Annual returns.
- 5904. Penalties and revocation of license.
- 5905. Reports of fires to Bureau of Fire Protection.
- 5906. Provisions of fire insurance policies.
- 5907. Penalties for issuing other than standard fire policies.

§ 5901. Resident agents for foreign or alien insurance entities.

(a) General rule.--An authorized foreign or alien stock or mutual fire insurance entity authorized to transact business in this Commonwealth shall not make, write or place, or cause to be made, written or placed, any policy, duplicate policy, contract of insurance or general or floating policy upon property located in this Commonwealth except after the risk has been approved in writing by an agent, who is a resident of or whose principal place of business is in this Commonwealth and who is licensed to transact insurance business in this Commonwealth. The agent shall countersign all policies so issued and receive the commission thereon when the premium is paid, so that the

1 Commonwealth may receive the taxes required to be paid on the
2 premiums collected for insurance on all property located in this
3 Commonwealth.

4 (b) Policies written at principal office.--The entity may
5 issue policies at its principal or department offices covering
6 property in this Commonwealth, if these policies are issued upon
7 applications procured and submitted to the entity by agents who
8 are residents of this Commonwealth and licensed to transact the
9 business of insurance in this Commonwealth, and who shall
10 receive the commission thereon when paid.

11 (c) Exclusions.--This section does not apply to direct
12 insurance covering the rolling stock of railroad corporations,
13 or property in transit while in the possession and custody of
14 railroad corporations or other common carriers nor to the
15 property of such common carriers used or employed by them in
16 their business as common carriers of freight, merchandise or
17 passengers, nor in the case of bid bonds issued in connection
18 with public or private contracts. Except as to payment of taxes,
19 this section does not apply to authorized foreign or alien
20 insurance exchanges maintaining no office in this Commonwealth
21 and paying no commissions to agents or representatives in this
22 Commonwealth.

23 § 5902. Examination of foreign or alien entities by department.

24 Whenever the department has information that any foreign or
25 alien insurance entity has violated section 5901 (relating to
26 resident agents for foreign or alien insurance entities), it
27 may, at the expense of the entity, examine all books, records
28 and papers of the entity and examine the officers, managers and
29 agents of the entity under oath as to any violation. The
30 examination may take place at the principal office or offices of

1 the entity located in the United States or in any foreign
2 country and at its other offices or agencies. The refusal of any
3 entity to submit to examination shall be presumptive evidence
4 that it has violated section 5901 and shall subject it to the
5 penalties prescribed and imposed by section 5904 (relating to
6 penalties and revocation of license).

7 § 5903. Annual returns.

8 Every foreign or alien stock and mutual fire insurance entity
9 shall, annually and at such other times as the department
10 requires, make a return to the department, in such form and
11 detail as shall be prescribed by it, of all insurance,
12 reinsurance or cessions of risks or liability contracted for or
13 effected by it, whether by issue of policy, entry on bordereau,
14 general participation agreement, excess loss reinsurance or any
15 other manner upon property located in this Commonwealth, or
16 covering any risk or liability upon property so located. The
17 return shall be certified:

18 (1) if a foreign entity, by the oath of its president
19 and secretary or attorney; or

20 (2) if an alien company or association, by the oath of
21 its managers in the United States, as to the reinsurance or
22 cessions effected through its branch office in the United
23 States, and by the oath of its president and secretary or by
24 officers corresponding thereto at its home office, as to
25 reinsurance or cessions as aforesaid contracted for or
26 effected through any office in a foreign county.

27 The refusal of any such entity to make the returns required
28 under this section shall be presumptive evidence that it is
29 guilty of violating section 5901 (relating to resident agents
30 for foreign or alien insurance entities) and shall subject it to

1 the penalties under section 5904 (relating to penalties and
2 revocation of license).

3 § 5904. Penalties and revocation of license.

4 (a) Penalty.--Any foreign or alien stock or mutual fire
5 insurance entity violating section 5901 (relating to resident
6 agents for foreign or alien insurance entities), 5902 (relating
7 to examination of foreign or alien entities by department) or
8 5903 (relating to annual returns) shall be subject to a penalty
9 of \$500 for each violation. This penalty may be imposed by the
10 department upon satisfactory evidence of the violation by any
11 such entity.

12 (b) Revocation of authority.--Any foreign or alien fire
13 insurance entity which neglects or refuses to pay the penalty
14 for 30 days after the imposition thereof shall have its
15 authority to transact business in this Commonwealth revoked by
16 the department for at least one year from the date of the
17 violation. A fire insurance entity whose authority to transact
18 business in this Commonwealth has been so revoked shall not be
19 again authorized to transact business until it has paid the
20 penalty, and has filed with the department a certificate, signed
21 by its president or other chief officer, stating that the
22 provisions of this chapter are accepted by it as a part of the
23 conditions of its authority to transact business.

24 (c) Administrative procedure.--Before the department takes
25 any action under this section, it shall give written notice to
26 the person accused of violating the law, stating specifically
27 the nature of the alleged violation and fixing a time and place,
28 at least ten days thereafter, when a hearing of the matter shall
29 be held. Proceedings under this section are subject to Title 2
30 (relating to administrative law and procedure).

1 § 5905. Reports of fires to Bureau of Fire Protection.

2 Every stock or mutual fire insurance entity transacting
3 business in this Commonwealth shall file with the Bureau of Fire
4 Protection in the Pennsylvania State Police annual and monthly
5 reports in writing, containing such information as is required
6 to be reported by the entities under the act of April 27, 1927
7 (P.L.450, No.291), relating to fire and fire prevention. Any
8 entity which fails to make that report shall forfeit its
9 authority to do business in this Commonwealth.

10 § 5906. Provisions of fire insurance policies.

11 (a) Standard provisions.--Except as provided in this
12 section, an insurance entity shall not issue a policy affording
13 fire insurance on property in this Commonwealth unless the
14 policy contains the following provisions as to such insurance:

15 (1) Introductory provisions.--In Consideration of the
16 Provisions and Stipulations herein or added hereto and of
17 Dollars Premium this company, for the
18 term of from the day of 19.., at
19 noon to the day of 19.., at noon, at (location
20 of property involved) to an amount not exceeding
21 Dollars, does insure
22 and legal representatives, to the extent
23 of the actual cash value of the property at the time of loss,
24 but not exceeding the amount which it would cost to repair or
25 replace the property with material of like kind and quality
26 within a reasonable time after such loss, without allowance
27 for any increased cost of repair or reconstruction by reason
28 of any ordinance or law regulating construction or repair,
29 and without compensation for loss resulting from interruption
30 of business or manufacture, nor in any event for more than

1 the interest of the insured, against all DIRECT LOSS BY FIRE,
2 LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE
3 PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER
4 PROVIDED, to the property described hereinafter while located
5 or contained as described in this policy, or pro rata for
6 five days at each proper place to which any of the property
7 shall necessarily be removed for preservation from the perils
8 insured against in this policy, but not elsewhere.

9 Assignment of this policy shall not be valid except with
10 the written consent of this Company.

11 This policy is made and accepted subject to the foregoing
12 provisions and stipulations and those hereinafter stated,
13 which are hereby made a part of this policy, together with
14 such other provisions, stipulations and agreements as may be
15 added hereto, as provided in this policy.

16 IN WITNESS WHEREOF, this Company has executed and
17 attested these presents: but this policy shall not be valid
18 unless countersigned by the duly authorized agent of this
19 Company at Secretary. President.

20 Countersigned this day of 19 ... Agent.

21 (2) Concealment and fraud.--This entire policy shall be
22 void if, whether before or after a loss, the insured has
23 willfully concealed or misrepresented any material fact or
24 circumstance concerning this insurance or the subject
25 thereof, or the interest of the insured therein, or in case
26 of any fraud or false swearing by the insured relating
27 thereto.

28 (3) Uninsurable and excepted property.--This policy
29 shall not cover accounts, bills, currency, deeds, evidences
30 of debt, money or securities; nor, unless specifically named

1 hereon in writing, bullion or manuscripts.

2 (4) Perils not included.--This Company shall not be
3 liable for loss by fire or other perils insured against in
4 this policy caused, directly or indirectly, by:

5 (i) enemy attack by armed forces, including action
6 taken by military, naval or air forces in resisting an
7 actual or an immediately impending enemy attack;

8 (ii) invasion;

9 (iii) insurrection;

10 (iv) rebellion;

11 (v) revolution;

12 (vi) civil war;

13 (vii) usurped power;

14 (viii) order of any civil authority except acts of
15 destruction at the time of and for the purpose of
16 preventing the spread of fire, if the fire did not
17 originate from any of the perils excluded by this policy;

18 (ix) neglect of the insured to use all reasonable
19 means to save and preserve the property at and after a
20 loss, or when the property is endangered by fire in
21 neighboring premises; or

22 (x) theft.

23 (5) Other insurance.--Other insurance may be prohibited
24 or the amount of insurance may be limited by endorsement
25 attached hereto.

26 (6) Conditions suspending or restricting insurance.--
27 Unless otherwise provided in writing added hereto this
28 Company shall not be liable for loss occurring:

29 (i) While the hazard is increased by any means
30 within the control or knowledge of the insured.

1 (ii) While a described building, whether intended
2 for occupancy by owner or tenant, is vacant or unoccupied
3 beyond a period of 60 consecutive days.

4 (iii) As a result of explosion or riot, unless fire
5 ensues, and in that event for loss by fire only.

6 (7) Other perils or subjects.--Any other peril to be
7 insured against or subject of insurance to be covered in this
8 policy shall be by endorsement in writing hereon or added
9 hereto.

10 (8) Added provisions.--The extent of the application of
11 insurance under this policy and of the contribution to be
12 made by this Company in case of loss, and any other provision
13 or agreement not inconsistent with the provisions of this
14 policy, may be provided for in writing added hereto, but no
15 provision may be waived except such as by the terms of this
16 policy is subject to change.

17 (9) Waiver provisions.--No permission affecting this
18 insurance shall exist, or waiver of any provision be valid,
19 unless granted herein or expressed in writing added hereto.
20 No provision, stipulation or forfeiture shall be held to be
21 waived by any requirement or proceeding on the part of this
22 Company relating to appraisal or to any examination provided
23 for herein.

24 (10) Cancellation of policy.--This policy shall be
25 canceled at any time at the request of the insured, in which
26 case this Company shall, upon demand and surrender of this
27 policy, refund the excess of paid premium above the customary
28 short rates for the expired time. This policy may be canceled
29 at any time by this Company by giving to the insured a five
30 days' written notice of cancellation with or without tender

1 of the excess of paid premium above the pro rata premium for
2 the expired time, which excess, if not tendered, shall be
3 refunded on demand. Notice of cancellation shall state that
4 the excess premium (if not tendered) will be refunded on
5 demand.

6 (11) Mortgagee interests and obligations.--If loss
7 hereunder is made payable, in whole or in part, to a
8 designated mortgagee not named herein as the insured, such
9 interest in this policy may be canceled by giving to the
10 mortgagee a ten days' written notice of cancellation. If the
11 insured fails to render proof of loss, the mortgagee, upon
12 notice, shall render proof of loss in the form herein
13 specified within 60 days thereafter and shall be subject to
14 the provisions hereof relating to appraisal and time of
15 payment and of bringing suit. If this Company shall claim
16 that no liability existed as to the mortgagor or owner, it
17 shall, to the extent of payment of loss to the mortgagee, be
18 subrogated to all the mortgagee's rights of recovery, but
19 without impairing mortgagee's right to sue; or it may pay off
20 the mortgage debt and require an assignment thereof and of
21 the mortgage. Other provisions relating to the interests and
22 obligations of such mortgagee may be added hereto by
23 agreement in writing.

24 (12) Pro rata liability.--This Company shall not be
25 liable for a greater proportion of any loss than the amount
26 hereby insured shall bear to the whole insurance covering the
27 property against the peril involved, whether collectible or
28 not.

29 (13) Requirements in case loss occurs.--The insured
30 shall give immediate written notice to this Company of any

1 loss, protect the property from further damage, forthwith
2 separate the damaged and undamaged personal property, put it
3 in the best possible order, furnish a complete inventory of
4 the destroyed, damaged and undamaged property, showing in
5 detail quantities, costs, actual cash value and amount of
6 loss claimed; and within 60 days after the loss, unless such
7 time is extended in writing by this Company, the insured
8 shall render to this Company a proof of loss, signed and
9 sworn to by the insured, stating the knowledge and belief of
10 the insured as to the following: the time and origin of the
11 loss, the interest of the insured and of all others in the
12 property, the actual cash value of each item thereof and the
13 amount of loss thereto, all encumbrances thereon, all other
14 contracts of insurance, whether valid or not, covering any of
15 the property, any changes in the title, use, occupation,
16 location, possession or exposures of the property since the
17 issuing of this policy, by whom and for what purpose any
18 building herein described and the several parts thereof were
19 occupied at the time of loss and whether or not it then stood
20 on leased ground, and shall furnish a copy of all the
21 descriptions and schedules in all policies and, if required,
22 verified plans and specifications of any building, fixtures
23 or machinery destroyed or damaged. The insured, as often as
24 may be reasonably required, shall exhibit to any person
25 designated by this Company all that remains of any property
26 herein described, and submit to examinations under oath by
27 any person named by this Company, and subscribe the same;
28 and, as often as may be reasonably required, shall produce
29 for examination all books of account, bills, invoices and
30 other vouchers, or certified copies thereof if originals be

1 lost, at such reasonable time and place as may be designated
2 by this Company or its representative, and shall permit
3 extracts and copies thereof to be made.

4 (14) Appraisal.--In case the insured and this Company
5 shall fail to agree as to the actual cash value or the amount
6 of loss, then, on the written demand of either, each shall
7 select a competent and disinterested appraiser and notify the
8 other of the appraiser selected within 20 days of such
9 demand. The appraisers shall first select a competent and
10 disinterested umpire; and failing for 15 days to agree upon
11 such umpire, then, on request of the insured or this Company,
12 such umpire shall be selected by a judge of a court of record
13 in the state in which the property covered is located. The
14 appraisers shall then appraise the loss, stating separately
15 actual cash value and loss to each item; and, failing to
16 agree, shall submit their differences, only, to the umpire.
17 An award in writing, so itemized, of any two when filed with
18 this Company shall determine the amount of actual cash value
19 and loss. Each appraiser shall be paid by the party selecting
20 him and the expenses of appraisal and umpire shall be paid by
21 the parties equally.

22 (15) Company's options.--It shall be optional with this
23 Company to take all, or any part, of the property at the
24 agreed or appraised value, and also to repair, rebuild or
25 replace the property destroyed or damaged with other of like
26 kind and quality within a reasonable time, on giving notice
27 of its intention so to do within 30 days after the receipt of
28 the proof of loss herein required.

29 (16) Abandonment.--There can be no abandonment to this
30 Company of any property.

1 (17) When loss payable.--The amount of loss for which
2 this Company may be liable shall be payable 60 days after
3 proof of loss, as herein provided, is received by this
4 Company and ascertainment of the loss is made either by
5 agreement between the insured and this Company expressed in
6 writing or by the filing with this Company of an award as
7 herein provided.

8 (18) Suit.--No suit or action on this policy for the
9 recovery of any claim shall be sustainable in any court of
10 law or equity unless all the requirements of this policy
11 shall have been complied with, and unless commenced within
12 twelve months next after inception of the loss.

13 (19) Subrogation.--This Company may require from the
14 insured an assignment of all right of recovery against any
15 party for loss to the extent that payment therefor is made by
16 this Company.

17 (b) Designation.--There may be printed upon the face of a
18 policy which contains the provisions set forth in subsection (a)
19 the words "Standard Fire Insurance Policy of the State of
20 Pennsylvania" and including the name of any other states which
21 adopt this form of policy.

22 (c) Applicability.--Subsections (a) and (b) do not apply to
23 policies of perpetual insurance, policies of reinsurance,
24 policies of an all-risk type, policies insuring aircraft,
25 automobile or other motor vehicles against loss by fire, or
26 policies insuring against loss by fire resulting directly or
27 indirectly from bombardment, invasion, insurrection, riot, civil
28 war, commotion or military or usurped power or by order of civil
29 authority.

30 (d) Approved modifications.--A policy affording fire

1 insurance may, subject to the approval of the department as
2 provided in section 3515 (relating to approval of contracts by
3 department), include any other insurances which the insurer is
4 authorized to make, and the wording set out in subsection (a)
5 may be modified in conformity with the provisions thereof or to
6 accommodate additional property coverages and perils.

7 (e) Exceptions.--Notwithstanding any other provisions of
8 this section:

9 (1) An insurer may print on its policy its name, such
10 device or devices as the insurer issuing the policy may
11 desire, the location of its principal office, the date of its
12 formation, plan of operation, the amount of its paid-up
13 capital, if any, the name of its officers and agents, the
14 number and date of the policy, and, if it is issued through
15 an agent, the words: "This policy shall not be valid unless
16 countersigned by the duly authorized agent of the company at
17"

18 (2) An insurer may print in its policies any provisions
19 which it is authorized or required by law to insert therein,
20 and a foreign or alien insurer may, with the approval of the
21 department, so print any provisions required by its charter
22 or deed of settlement or by the laws of its own State or
23 country not contrary to the law of this Commonwealth.

24 (3) An insurer may add, either upon the face of the
25 policy or on the riders or endorsements to be attached
26 thereto, printed or written forms of description and
27 specification or schedules of the property covered by any
28 particular policy and any other matter necessary to express
29 clearly all the facts and conditions of insurance on any
30 particular risk. Insurers issuing the standard policy defined

1 in subsection (a) may affix thereto or include therein a
2 written statement that the policy does not cover loss or
3 damage caused by nuclear reaction or nuclear radiation or
4 radioactive contamination, whether directly or indirectly
5 resulting from an insured peril under the policy. This
6 subsection does not prohibit the attachment to any such
7 policy of an endorsement or endorsements specifically
8 assuming coverage for such loss or damage. Any endorsements
9 or riders so attached must be signed by officers or agents of
10 the company so issuing them.

11 (4) Binders or other contracts for temporary insurance
12 including fire insurance may be made orally or in writing,
13 for a period which shall not exceed 30 days, and shall be
14 deemed to include all the provisions of subsection (a) and
15 all applicable endorsements approved by the department as may
16 be designated in the contract of temporary insurance, except
17 that the cancellation clause and the clause specifying the
18 hour of the day at which the insurance shall commence may be
19 provided by the express terms of the contract of temporary
20 insurance.

21 (5) Appropriate forms of supplemental contracts or
22 extended coverage endorsements whereby the interest in the
23 property described in a policy affording fire insurance shall
24 be insured against one or more of the other perils which the
25 insurer is empowered to assume may be approved by the
26 department, and their use in connection with the fire
27 insurance policy may be authorized by it. A form of policy
28 affording fire insurance may be arranged to provide space for
29 the listing of amounts of insurance, with insurance rates and
30 premiums for the basic coverage insured thereunder, and for

1 additional coverages or perils insured under endorsements
2 attached, and such other data as may be conveniently included
3 for duplication on daily reports for office records.

4 (f) Printing on form.--The form of policy, including fire
5 insurance, upon property in this Commonwealth shall be plainly
6 printed, and no portion thereof shall be in type smaller than
7 seven point.

8 (g) Statement of location.--A foreign fire insurance company
9 shall not issue a policy affording fire insurance on property in
10 this Commonwealth unless the policy contains the exact name of
11 the municipal corporation in which the insured property is
12 located and the mailing address for each insured property.

13 (h) Definition.--As used in this section the term "fire
14 insurance" means insurance against loss by fire, lightning or
15 removal, as specified in section 3302(b)(1) (relating to
16 authorized classes of insurance) and does not include insurance
17 of the kind specified in any other portion of section 3302
18 whether or not the risks of fire, lightning or removal are
19 included.

20 § 5907. Penalties for issuing other than standard fire
21 policies.

22 (a) Civil penalties.--Upon satisfactory evidence that any
23 person, corporation or insurance entity has issued, or caused to
24 be issued, any policy or contract of fire insurance on property
25 situated in this Commonwealth contrary to the provisions of
26 section 5906 (relating to provisions of fire insurance
27 policies), the department may take against the offending party
28 any one or more of the following courses of actions:

29 (1) Suspend or revoke his or its license.

30 (2) Refuse, for a period not exceeding one year

1 thereafter, to issue him or it a new license.

2 (3) Impose a penalty of not more than \$1,000 for each
3 violation.

4 (b) Criminal penalties.--Any person, corporation or
5 insurance entity that, either as principal or agent, willfully
6 issues, or causes to be issued, any policy or contract of fire
7 insurance on property in this Commonwealth in violation of
8 section 5906 commits a summary offense.

9 (c) Construction of contract.--Any policy issued in
10 violation of section 5906 shall nevertheless be construed in
11 accordance with its provisions.

12 SUBCHAPTER B

13 STOCK COMPANIES

14 Sec.

15 5921. Capital of foreign or alien companies.

16 5922. Authorized investment of capital.

17 5923. Investment of surplus.

18 5924. Treasury stock.

19 5925. Estimation of surplus for dividends.

20 5926. Authorized holdings of real estate.

21 5927. Procedure when capital impaired.

22 § 5921. Capital of foreign or alien companies.

23 A foreign or alien stock fire, stock marine and stock fire
24 and marine insurance company shall not be authorized in this
25 Commonwealth to transact any of the classes of business referred
26 to in section 3302(b) (relating to authorized classes of
27 insurance) unless it has a paid-up and safely invested capital,
28 if a foreign company, or a deposit in the United States, if an
29 alien company, of not less than \$200,000. The company shall not
30 be authorized to do all of the classes of business referred to

1 in section 3302(b) unless it has a paid-up capital or deposit of
2 not less than \$400,000.

3 § 5922. Authorized investment of capital.

4 Every domestic stock fire, stock marine or stock fire and
5 marine insurance company shall invest and keep invested all its
6 capital in sound investments within the classes described in
7 section 5503 (relating to investment of capital), except such
8 cash as is required in the transaction of its business.

9 § 5923. Investment of surplus.

10 Any money over and above the capital of any stock fire, stock
11 marine and stock fire and marine insurance company, may be
12 invested in:

13 (1) The securities authorized for investment of capital.

14 (2) Any investment described in section 5505(a)(1) or

15 (3) (relating to investment of surplus).

16 (3) The stock or other evidence of indebtedness of any
17 solvent corporation created under the law of the United
18 States or any state, foreign country or political subdivision
19 thereof, or loaned upon the pledge of such a corporation.

20 The total investments made by such company in stocks of other
21 insurance companies which have invested in or loaned its funds
22 on the stock of the first investing company shall not exceed 5%
23 of the gross assets of the first investing company. The total
24 investments hereafter made by such company in the stocks or
25 other evidence of indebtedness of solvent alien corporations
26 shall not exceed 10% of the moneys of such company over and
27 above its capital and the reserves which it is required to
28 maintain under the law of this Commonwealth. The current market
29 value of securities shall at the time of any loan thereon be at
30 least 20% more than the sum loaned. The insurance company shall

1 not invest any of its funds in any unincorporated business or
2 enterprise or the stocks or evidence of indebtedness of any
3 corporation, if the owners or holders of its securities are or
4 may become liable on account thereof to any assessment, except
5 for taxes. The funds of such a company shall not be loaned on
6 personal security except for defraying the expenses of an
7 employee transferred or about to be transferred to a new place
8 of employment with the company. Not more than 20% of its capital
9 shall be invested in a single mortgage. If any investment or
10 loan is made or held which is not authorized by this section,
11 the officers and directors making or authorizing the investment
12 or loan shall be personally liable for any loss occasioned
13 thereby, and no value as an asset shall be allowed for the
14 investment or loan.

15 § 5924. Treasury stock.

16 Any stock fire, stock marine or stock fire and marine
17 insurance company may, with the approval of its board of
18 directors, acquire, retain, cancel or dispose of shares of its
19 own capital stock, but no such company shall acquire such stock
20 without the prior approval of the department, reduce its capital
21 stock without complying with law or directly or indirectly vote
22 shares of its own stock held by it.

23 § 5925. Estimation of surplus for dividends.

24 (a) General rule.--In estimating the surplus of a stock
25 fire, stock marine and stock fire and marine insurance company,
26 for the purpose of making any dividend upon its capital stock,
27 there shall be reserved from its admitted assets a sum equal to
28 the unearned premiums on unexpired risks and policies and all
29 outstanding liabilities. A company may not declare dividends to
30 the stockholders exceeding 10% on its capital stock in any one

1 year unless, in addition to the amount of its capital stock, the
2 dividend, all outstanding liabilities and the amount of all
3 unearned premiums on unexpired risks and policies, it has a
4 surplus to an amount equalling 30% of its unearned premiums or
5 50% of its capital stock, whichever is greater.

6 (b) Penalties.--Any dividend declared and paid contrary to
7 this section shall make the directors of the company voting in
8 favor of the dividend jointly and severally liable to the
9 creditors of the company to the extent of the dividend. Each
10 stockholder receiving the dividend shall be liable to the
11 creditors of the company to the extent of the dividend received,
12 in addition to any other penalties prescribed by law.

13 § 5926. Authorized holdings of real estate.

14 A domestic stock fire, stock marine or stock fire and marine
15 insurance company shall not purchase, hold or convey real
16 estate, except as authorized for domestic stock casualty
17 insurance companies under section 5506 (relating to authorized
18 holdings of real estate).

19 § 5927. Procedure when capital impaired.

20 Any stock fire, stock marine and stock fire and marine
21 insurance company, receiving notice from the department that its
22 capital is impaired, shall proceed as prescribed for stock
23 casualty insurance companies by section 5509 (relating to
24 procedure when capital impaired).

25 SUBCHAPTER C

26 MUTUAL COMPANIES

27 Sec.

28 5931. Licensing of foreign mutual companies.

29 5932. Rechartering of companies.

30 5933. Cash premium policies.

1 5934. Cash premiums.

2 5935. Surplus.

3 § 5931. Licensing of foreign mutual companies.

4 (a) Old companies.--A foreign mutual fire, mutual marine or
5 mutual fire and marine insurance company which was originally
6 licensed to transact business in this Commonwealth prior to and
7 was transacting business in this Commonwealth on June 23, 1931,
8 may be relicensed to transact the class of business referred to
9 in section 3302(b)(1) (relating to authorized classes of
10 insurance) if it has a surplus over all liabilities, including
11 unearned premiums, computed in accordance with the law of this
12 Commonwealth of not less than \$100,000, or has continuously
13 transacted business for not less than five years and has such a
14 surplus not less than \$50,000. To be relicensed to transact the
15 classes of business referred to in section 3302(b)(2) and (3),
16 the surplus shall be not less than \$250,000.

17 (b) More recent companies.--Any other foreign mutual fire,
18 mutual marine or mutual fire and marine insurance company may be
19 licensed and relicensed to transact the class of business
20 referred to in section 3302(b)(1) if it has a surplus over all
21 liabilities, including unearned premiums, computed in accordance
22 with the law of this Commonwealth of not less than \$150,000. To
23 be licensed or relicensed to transact the classes of business
24 referred to:

25 (1) in either section 3302(b)(2) or (3), the surplus
26 shall be of not less than \$200,000;

27 (2) in section 3302(b)(1) and in either section
28 3302(b)(2) or (3), the surplus shall be not less than
29 \$350,000;

30 (3) in both section 3302(b)(2) and (3), the surplus

1 shall be not less than \$400,000; or

2 (4) in section 3302(b)(1), (2) and (3), the surplus
3 shall be not less than \$550,000.

4 § 5932. Rechartering of companies.

5 Any domestic mutual fire or mutual fire and marine insurance
6 company, whose charter is about to expire, may call a special
7 meeting of the members. Notice of the object of this meeting
8 shall be given by advertisement for four weeks preceding, in at
9 least two daily or weekly newspapers published in the city or
10 county where the principal office of the company is located, or
11 by circular mailed to the address of each member. If at the
12 meeting two-thirds of the votes cast in person or by proxy favor
13 a resolution agreeing that the corporation shall hold its
14 charter subject to the provisions of the Constitution of
15 Pennsylvania, setting forth at length the sections of its
16 existing charter which it desires to retain and agreeing to be
17 subject to the provisions of this title so far as not
18 inconsistent with the charter, the resolution and the number of
19 votes cast for and against it at the special meeting shall be
20 stated in the records of the company. A certified copy of the
21 record shall be forwarded to the department, which shall submit
22 the same to the Attorney General. If the Attorney General
23 approves the resolution, he shall certify his approval to the
24 Governor, who shall cause letters patent to issue certifying the
25 company as a corporation under this title.

26 § 5933. Cash premium policies.

27 Any domestic mutual fire insurance company organized prior to
28 May 1, 1876, having a surplus not less than the minimum capital
29 required for the organization of a domestic stock fire insurance
30 company and an unearned premium reserve computed upon the same

1 basis as that required of domestic stock fire insurance
2 companies, may issue policies for a cash premium without any
3 contingent liability for assessment.

4 § 5934. Cash premiums.

5 Any domestic mutual fire insurance company, incorporated by a
6 special act of the General Assembly prior to May 1, 1876, and
7 having a surplus and unearned premium reserve as required in
8 section 5933 (relating to cash premium policies) may, instead of
9 collecting the deposit money as provided under its charter,
10 charge a cash premium in advance, on which no dividend or return
11 shall be due or accrue, other than return premiums on canceled
12 policies, if its charter provides:

13 (1) for a premium deposit, which shall remain as a
14 pledge for the performance of the depositor's covenants,
15 which deposit, under the provision of the charter, shall be
16 returned to the depositor at the expiration of the policy,
17 together with a proportional dividend of the profits after
18 deducting losses and incidental charges; and

19 (2) that the net profit, arising by interest or
20 otherwise, shall be ascertained yearly to every member in
21 proportion to his deposit for which the member shall have
22 credit on the company's books, payable at the cancellation of
23 the policy.

24 § 5935. Surplus.

25 The surplus of any domestic mutual fire insurance companies
26 issuing policies in accordance with section 5933 (relating to
27 cash premium policies) or 5934 (relating to cash premiums) shall
28 be held as a reserve for the payment of losses and expenses. In
29 the event of dissolution of the company, this surplus shall be
30 divided pro rata among the policyholders whose policies are in

1 force at the time of dissolution, but no policyholder, other
2 than a loss claimant, shall receive more than the amount of the
3 unearned cash premium last paid to the company for the current
4 term of such policy. Any balance remaining shall escheat to the
5 Commonwealth.

6 CHAPTER 61

7 ELIGIBILITY FOR MOTOR VEHICLE INSURANCE

8 Sec.

9 6101. Definitions.

10 6102. General provisions.

11 6103. Insufficient grounds for failure to insure.

12 6104. Grounds for cancellation.

13 6105. Premium increase or surcharge.

14 6106. Notice of refusal.

15 6107. Exclusions.

16 6108. Information regarding refusal to insure.

17 6109. Request for review.

18 6110. Review procedure.

19 6111. Powers of department.

20 6112. Penalty.

21 § 6101. Definitions.

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

25 "Insurer." Any insurance entity authorized to transact the
26 business of automobile insurance in this Commonwealth.

27 "Nonpayment of premium." Failure of the named insured to
28 discharge when due any of his obligations in connection with the
29 payment of premiums on a policy, or any installment of the
30 premium, whether the premium is payable directly to the insurer

1 or its agent or indirectly under any premium finance plan or
2 extension of credit.

3 "Policy." A policy of motor vehicle insurance delivered or
4 issued for delivery in this Commonwealth insuring a natural
5 person as named insured or one or more related individuals
6 resident of the same household, and under which the insured
7 vehicles therein designated are of the following types only:

8 (1) A motor vehicle of the private passenger or station
9 wagon type that is not used as a public or livery conveyance
10 for passengers and is not rented to others.

11 (2) Any other four-wheel motor vehicle with a gross
12 weight not exceeding 9,000 pounds which is not principally
13 used in the occupation, profession or business of the insured
14 other than farming.

15 "Renewal" or "to renew." The issuance and delivery by an
16 insurer of a policy superseding at the end of the policy period
17 a policy previously issued and delivered by the same insurer, if
18 the renewal policy provides types and limits of coverage at
19 least equal to those contained in the policy being superseded,
20 or the issuance and delivery of a certificate or notice
21 extending the term of a policy beyond its policy period or term
22 with types and limits of coverage at least equal to those
23 contained in the policy being extended.

24 § 6102. General provisions.

25 (a) Term of certain policies.--Any policy with a policy
26 period or term of less than 12 months or any period with no
27 fixed expiration date shall for purposes of this chapter be
28 considered as if written for successive policy periods or terms
29 of 12 months.

30 (b) Applicability to policies.--This chapter applies only to

1 that portion of a policy providing bodily injury and property
2 damage liability, comprehensive and collision coverages and to
3 the provisions in the policy relating to medical payments and
4 uninsured motorists coverage.

5 § 6103. Insufficient grounds for failure to insure.

6 (a) Prohibited grounds.--An insurer shall not cancel or
7 refuse to write or renew a policy for one or more of the
8 following reasons:

9 (1) Age.

10 (2) Residence or operation of a motor vehicle in a
11 specific geographic area.

12 (3) Race.

13 (4) Color.

14 (5) Creed.

15 (6) National origin.

16 (7) Ancestry.

17 (8) Marital status.

18 (9) Sex.

19 (10) Lawful occupation (including military service).

20 (11) The refusal of another insurer to write a policy,
21 or the cancellation or refusal to renew an existing policy by
22 another insurer.

23 (12) Illness or permanent or temporary disability, where
24 the insured can medically document that the illness or
25 disability will not impair his ability to operate a motor
26 vehicle. Failure to provide this documentation shall be
27 proper reason for the insurer to amend the policy of the
28 named insured to exclude the disabled insured from coverage
29 under the policy while operating a motor vehicle after the
30 effective date of the policy amendment, but shall not be

1 proper reason to cancel or refuse to write or renew the
2 policy. This paragraph does not affect the excluded
3 individual's eligibility for coverage under the named
4 insured's policy for any injury sustained while not operating
5 a motor vehicle. Illness or permanent or temporary disability
6 on the part of any insured shall not be proper reason for
7 canceling the policy of the named insured.

8 (13) Any accident which occurred under any of the
9 following circumstances:

10 (i) The motor vehicle was lawfully parked, except
11 that if the vehicle rolled from the parked position, any
12 accident shall be charged to the person who parked the
13 auto.

14 (ii) The applicant, owner or other resident operator
15 was reimbursed by, or on behalf of, a person who was
16 responsible for the accident or had a judgment against
17 such a person.

18 (iii) The vehicle was struck in the rear by another
19 vehicle and the applicant or other resident operator was
20 not convicted of a moving traffic violation in connection
21 with the accident.

22 (iv) The operator of the other vehicle involved in
23 the accident was convicted of a moving traffic violation,
24 and the applicant or resident operator was not convicted
25 of a moving traffic violation in connection with the
26 accident.

27 (v) The vehicle operated by the applicant or any
28 resident operator was struck by a "hit-and-run" vehicle,
29 if the accident was reported to the proper authority
30 within 24 hours by the applicant or resident operator.

1 (vi) The accident involved damage by contact with
2 animals or fowl.

3 (vii) The accident involved physical damage caused
4 by flying gravel, missiles or falling objects.

5 (viii) The accident occurred when using the vehicle
6 in response to any emergency if the operator of the
7 vehicle at the time of the accident was a paid or
8 volunteer member of any police or fire department, first
9 aid squad or any law enforcement agency, but not after
10 the auto ceased to be used in response to the emergency.

11 (ix) The accident occurred more than 36 months prior
12 to the later of the inception of the insurance policy or
13 the upcoming anniversary date of the policy.

14 (14) Any claim under the comprehensive portion of the
15 policy unless the loss was intentionally caused by the
16 insured.

17 (a.1) Single recent accident.--An insurer shall not cancel
18 or refuse to renew a policy on the basis of any one accident
19 occurring within the 36-month period prior to the upcoming
20 anniversary date of the policy.

21 (b) Terminated agent within one year.--For a period 12
22 months after notice of termination given to an agent, an insurer
23 shall not cancel or refuse to renew existing policies written
24 through the terminated agent because of the termination, unless
25 the action could have been taken had the agency relationship
26 continued. An insurer shall pay commissions for the policies
27 that are continued or renewed through the terminated agent,
28 except where:

29 (1) the insurer retained ownership of the expirations of
30 such policies; or

1 (2) the agent has misappropriated funds or property of
2 the insurer, has failed to remit to the insurer funds due it
3 promptly upon demand, has been terminated for insolvency,
4 abandonment or gross and willful misconduct or has had his
5 license suspended or revoked.

6 (c) Terminated agent after one year.--Subsequent to the 12-
7 month period after notice of termination given to an agent, an
8 insurer shall not cancel or refuse to renew existing policies
9 written through the terminated agent without offering to cover
10 the insured on a direct basis or refer the insured to one or
11 more new agents if the terminated agent could not find a
12 suitable insurer acceptable to the policyholder. The offer need
13 not be made if the insurer could have canceled or failed to
14 renew the policy had the agency relationship continued. If the
15 insurer retains ownership of the expirations of the policies,
16 the insurer is not required to offer a new agent.

17 (d) Accumulation of points.--An insurer shall not cancel or
18 refuse to renew a policy for two or fewer moving violations in
19 any jurisdiction or jurisdictions during a 24-month period when
20 the operator's record indicates that the named insured presently
21 bears five points or fewer under Title 75 (relating to
22 vehicles). However, this subsection does not apply under the
23 following conditions:

24 (1) All five points are incurred from one violation.

25 (2) The driver's license or motor vehicle registration
26 of the named insured has been suspended or revoked at any
27 time during the 24-month period. However, if the driver's
28 license has been suspended under 75 Pa.C.S. § 1533 (relating
29 to suspension of operating privilege for failure to respond
30 to citation), the insurer shall not cancel or refuse to renew

1 the policy on the basis of that suspension if the insured is
2 able to produce proof that he has responded to all citations
3 for which his operating privilege has been suspended and has
4 paid the fines and penalties imposed as a result of all such
5 citations and that he has done so on or before the
6 termination date of the policy.

7 (e) Other insureds.--The applicability of subsection (d) to
8 an individual, other than the named insured, who either is a
9 resident in the same household or who customarily operates a
10 vehicle insured under the policy shall be proper reason for the
11 insurer excluding the individual from coverage under the policy,
12 but not for canceling the policy.

13 (f) Regulations.--The department shall adopt appropriate
14 regulations to implement and enforce this section.

15 § 6104. Grounds for cancellation.

16 An insurer shall not cancel a policy except for one or more
17 of the following reasons:

18 (1) Nonpayment of premium.

19 (2) The driver's license or motor vehicle registration
20 of the named insured has been under suspension or revocation
21 at any time during the policy period. The applicability of
22 this reason to one who either is a resident in the same
23 household or who customarily operates a vehicle insured under
24 the policy shall be proper reason for the insurer excluding
25 the individual from coverage under the policy, but not for
26 canceling the policy.

27 (3) A determination that the insured has concealed a
28 fact, has made an allegation contrary to fact or has made a
29 misrepresentation of a fact if the fact concealed, alleged or
30 misrepresented was material to the acceptance of the risk by

1 the insurer.

2 § 6105. Premium increase or surcharge.

3 (a) General rule.--An insurer shall not increase an
4 individual insured's premium or assess a premium surcharge on
5 the basis of any moving traffic violation records, or any
6 revocation or suspension records, or any accident records, if
7 any of the following occurs:

8 (1) The insured establishes that the records are
9 erroneous or inaccurate.

10 (2) The suspension is issued under 75 Pa.C.S. § 1533
11 (relating to suspension of operating privilege for failure to
12 respond to citation) and the insured provides proof that he
13 has responded to all citations for which his operating
14 privilege has been suspended and has paid the fines and
15 penalties imposed as a result of all such citations. An
16 increase or surcharge imposed prior to the date when an
17 insured provides this proof shall terminate as of the date
18 the insured has responded to the citation which is the
19 subject of the increase or surcharge.

20 (b) Notification.--At the time an increase or surcharge is
21 applied, the insurer shall notify the insured that the increase
22 or surcharge will be terminated if the insured provides the
23 insurer with proof that the insured has responded to all
24 citations for which his operating privilege has been suspended
25 under 75 Pa.C.S. § 1533 and has paid the fines and penalties
26 imposed as a result of all such citations.

27 (c) Components of premium.--All insurers shall provide to
28 insureds a detailed statement of the components of a premium and
29 shall specifically show the amount of a surcharge or other
30 additional amount that is charged as a result of a claim having

1 been made under a policy of insurance or as a result of any
2 other factors.

3 § 6106. Notice of refusal.

4 A cancellation or refusal to renew by an insurer of a policy
5 shall not be effective unless the insurer delivers or mails to
6 the named insured at the address shown in the policy a written
7 notice of the cancellation or refusal to renew. The notice
8 shall:

9 (1) Be approved as to form by the department prior to
10 use.

11 (2) State the date, not less than 60 days after the date
12 of such mailing or delivering, on which the cancellation or
13 refusal to renew shall become effective, except that the
14 effective date may be 15 days from the date of mailing or
15 delivery when it is being canceled or not renewed for the
16 reasons set forth in section 6104(1) or (2) (relating to
17 grounds for cancellation).

18 (3) State the specific reasons of the insurer for
19 cancellation or refusal to renew.

20 (4) Advise the insured of his right to request in
21 writing, within 30 days of the receipt of the notice of
22 cancellation or intention not to renew, that the department
23 review the action of the insurer.

24 (5) Either in the notice or in an accompanying
25 statement, advise the insured of his possible eligibility for
26 insurance through the automobile assigned risk plan.

27 (6) Advise the insured that he must obtain compulsory
28 automobile insurance coverage if he operates or registers a
29 motor vehicle in this Commonwealth, that the insurer is
30 notifying the Department of Transportation that the insurance

1 is being canceled or not renewed, and that the insured shall
2 notify the Department of Transportation that he has replaced
3 such coverage.

4 (7) Clearly state that, when coverage is to be
5 terminated due to a suspension issued under 75 Pa.C.S. § 1533
6 (relating to suspension of operating privilege for failure to
7 respond to citation), coverage shall not terminate if the
8 insured provides the insurer with proof that the insured has
9 responded to all citations for which his operating privilege
10 has been suspended and has paid the fines and penalties
11 imposed as a result of all such citations and that he has
12 done so on or before the termination date of the policy.

13 § 6107. Exclusions.

14 This chapter does not apply:

15 (1) If the insurer has manifested its willingness to
16 renew by issuing or offering to issue a renewal policy,
17 certificate or other evidence of renewal, or has manifested
18 such intention by any other means.

19 (2) If the named insured has demonstrated by some overt
20 action to the insurer or its agent that he wishes the policy
21 to be canceled or that he does not wish the policy to be
22 renewed.

23 (3) To any policy which has been in effect less than 60
24 days, unless it is a renewal policy, except that no insurer
25 shall decline to continue in force such a policy on the basis
26 of the grounds set forth in section 6103(a) (relating to
27 insufficient grounds for failure to insure) and except that,
28 if an insurer cancels a policy in the first 60 days, the
29 insurer shall supply the insured with a written statement of
30 the reason for cancellation.

1 (4) To any policy issued under an automobile assigned
2 risk plan.

3 (5) To any policy insuring more than four automobiles.

4 (6) To any policy covering the hazards of operation of a
5 garage, automobile sales agency repair shop, service station
6 or public parking place.

7 § 6108. Information regarding refusal to insure.

8 (a) Immunity.--A cause of action shall not arise against the
9 department, any insurer, the authorized representatives, agents
10 and employees of either or any firm, person or corporation
11 furnishing to the insurer information as to reasons for
12 cancellation or refusal to write or renew for making any
13 statement in complying with this chapter or for providing
14 information pertaining thereto.

15 (b) Notification to insured.--The insurer shall furnish the
16 insured the notification required by the Fair Credit Reporting
17 Act (Public Law 91-508, 15 U.S.C. § 1681 et seq.) at the time of
18 the cancellation or refusal to write or renew.

19 (c) Records of insurer.--Each insurer shall maintain records
20 of the numbers of cancellations and refusals to write or renew
21 policies and the reasons therefor and shall supply to the
22 department such information therefrom as it may request.

23 § 6109. Request for review.

24 (a) Cancellation or failure to renew.--Any insured may
25 within 20 days of the receipt by the insured of notice of
26 cancellation or notice of intention not to renew request the
27 department in writing to review the action of the insurer.

28 (b) Refusal to write policy.--Any applicant for a policy who
29 is refused the policy by an insurer shall be given a written
30 notice of refusal to write by the insurer, which shall state the

1 specific reasons for the refusal. Within 20 days of the receipt
2 of the notice, the applicant may request the department in
3 writing to review the action of the insurer.

4 § 6110. Review procedure.

5 (a) Notice of hearing.--If, upon receipt of a request for
6 review or if as a result of investigation, the department has
7 good cause to believe that an insurer is violating this chapter,
8 the department shall notify the insurer thereof and shall review
9 the matter to determine whether the cancellation or refusal to
10 renew or to write was in violation of this chapter. The
11 department shall within 40 days of the receipt of the request
12 either order the policy written or reinstated or uphold the
13 cancellation or refusal to renew. If either of the parties
14 disputes the department's findings, the party shall have the
15 right to a hearing. If a hearing is requested, the department
16 shall immediately issue notice of the hearing, stating the time
17 and place, which shall not be less than 30 days from the date of
18 the notice.

19 (b) Hearing procedure.--The hearing shall be held at the
20 time and place fixed for the hearing in the notice. The insurer
21 may show cause why an order should not be made by the department
22 to cease and desist from acts constituting a violation of this
23 chapter. Upon good cause shown, the department shall permit any
24 person to intervene, appear and be heard at the hearing, in
25 person or by counsel. The department may administer oaths,
26 examine and cross-examine witnesses, receive oral and
27 documentary evidence and subpoena witnesses, compel their
28 attendance and require the production of books, papers, records
29 or other documents which it deems relevant to the hearing. The
30 department shall cause a record to be kept of all evidence and

1 all proceedings at the hearing.

2 (c) Order.--Following the hearing, the department shall
3 issue a written order resolving the factual issues presented at
4 the hearing and stating what remedial action, if any, is
5 required. The department shall send a copy of the order to the
6 persons participating in the hearing. In the case of a
7 cancellation of or refusal to renew a policy, the policy shall
8 remain in effect until the conclusion of the review or the date
9 referred to in section 6106(2) (relating to notice of refusal),
10 whichever is later, except for review of cancellations by reason
11 of nonpayment of premium, in which case the policy shall
12 terminate as of the date provided in the notice under of section
13 6106(2), unless the cancellation or refusal to renew is upheld
14 or the policy reinstated.

15 (d) Applicability of Title 2.--The review by the department
16 under this chapter shall not be subject to 2 Pa.C.S. Ch. 5
17 Subch. A (relating to practice and procedure of Commonwealth
18 agencies). The decision of the department shall be subject to
19 appeal in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to
20 judicial review of Commonwealth agency action).

21 § 6111. Powers of department.

22 (a) Regulations.--The department shall promulgate
23 regulations necessary for the administration of this chapter.

24 (b) Filing fee.--The department may provide in these
25 regulations for the establishment of a filing fee not exceeding
26 \$15, to accompany the request for review. If the department
27 decides the appeal in favor of the insured, the filing fee shall
28 be returned immediately and the fee shall be paid by the
29 insurer.

30 (c) Cease and desist order.--Upon a determination that this

1 chapter has been violated, the department may issue an order
2 requiring the insurer to cease and desist from engaging in the
3 violation, and may enforce the order by an action for
4 injunction, regardless of whether the insurer is licensed by the
5 department.

6 § 6112. Penalty.

7 Any individual or insurer who violates this chapter is
8 subject to a penalty, which shall not exceed \$5,000.

9 CHAPTER 63

10 MOTOR VEHICLE FINANCIAL RESPONSIBILITY

11 Subchapter

12 A. General Provisions

13 B. Motor Vehicle Liability Insurance First Party Benefits

14 C. Uninsured and Underinsured Motorist Coverage

15 D. Assigned Risk Plan

16 E. Assigned Claims Plan

17 F. (Reserved)

18 G. Nonpayment of Judgments

19 H. Proof of Financial Responsibility

20 I. Miscellaneous Provisions

21 SUBCHAPTER A

22 GENERAL PROVISIONS

23 Sec.

24 6301. Short title of chapter.

25 6302. Definitions.

26 6303. Applicability of chapter.

27 6304. Administration of chapter.

28 § 6301. Short title of chapter.

29 This chapter shall be known and may be cited as the Motor
30 Vehicle Financial Responsibility Law.

1 § 6302. Definitions.

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

5 "Benefits" or "first party benefits." Medical benefits,
6 income loss benefits, accidental death benefits and funeral
7 benefits.

8 "Financial responsibility." The ability to respond in
9 damages for liability on account of accidents arising out of the
10 maintenance or use of a motor vehicle in the amount of \$15,000
11 because of injury to one person in any one accident, in the
12 amount of \$30,000 because of injury to two or more persons in
13 any one accident and in the amount of \$5,000 because of damage
14 to property of others in any one accident. The financial
15 responsibility shall be in a form acceptable to the Department
16 of Transportation.

17 "Injury." Accidentally sustained bodily harm to an
18 individual and that individual's illness, disease or death
19 resulting therefrom.

20 "Insured." Any of the following:

21 (1) An individual identified by name as an insured in a
22 policy of motor vehicle liability insurance.

23 (2) If residing in the household of the named insured:

24 (i) a spouse or other relative of the named insured;

25 or

26 (ii) a minor in the custody of either the named
27 insured or relative of the named insured.

28 "Insurer" or "insurance company." A motor vehicle liability
29 insurer subject to the requirements of this chapter.

30 "Self-insurer." An entity providing benefits and qualified

1 in the manner set forth in section 6387 (relating to self-
2 insurance).

3 "Underinsured motor vehicle." A motor vehicle for which the
4 limits of available liability insurance and self-insurance are
5 insufficient to pay losses and damages.

6 "Uninsured motor vehicle." Any of the following:

7 (1) A motor vehicle for which there is no liability
8 insurance or self-insurance applicable at the time of the
9 accident.

10 (2) A motor vehicle for which the insurance company
11 denies coverage or the insurance company is or becomes
12 involved in insolvency proceedings in any jurisdiction.

13 (3) An unidentified motor vehicle that causes an
14 accident resulting in injury provided the accident is
15 reported to the police or proper governmental authority and
16 claimant notifies his insurer within 30 days, or as soon as
17 practicable thereafter, that the claimant or his legal
18 representative has a legal action arising out of the
19 accident.

20 § 6303. Applicability of chapter.

21 This chapter does not apply with respect to any motor vehicle
22 owned by the Federal Government.

23 § 6304. Administration of chapter.

24 (a) General rule.--Except as provided in subsection (b), the
25 Department of Transportation shall administer and enforce this
26 chapter and may make rules and regulations necessary for that
27 purpose.

28 (b) Insurance matters.--The department shall administer and
29 enforce those provisions of this chapter as to matters under its
30 jurisdiction as determined by this chapter or other statute and

1 may make rules and regulations necessary for that purpose.

2

SUBCHAPTER B

3

MOTOR VEHICLE LIABILITY INSURANCE

4

FIRST PARTY BENEFITS

5 Sec.

6 6311. Required benefits.

7 6312. Availability of benefits.

8 6312.1. Limitation on exclusion of benefits.

9 6313. Source of benefits.

10 6314. Ineligible claimants.

11 6315. Availability of adequate limits.

12 6316. Payment of benefits.

13 6317. Stacking of benefits.

14 6318. Exclusion from benefits.

15 6318.1. Certain nonexcludable conditions.

16 6319. Coordination of benefits.

17 6320. Subrogation.

18 6321. Statute of limitations.

19 6322. Preclusion of recovering required benefits.

20 6323. Reporting requirements.

21 § 6311. Required benefits.

22 An insurer issuing or delivering liability insurance policies
23 covering any motor vehicle of the type required to be registered
24 under Title 75 (relating to vehicles), except recreational
25 vehicles not intended for highway use, motorcycles, motor-driven
26 cycles or motorized pedalcycles or like type vehicles,
27 registered and operated in this Commonwealth, shall include
28 coverage providing a medical benefit in the amount of \$10,000,
29 an income loss benefit up to a monthly maximum of \$1,000 up to a
30 maximum benefit of \$5,000 and a funeral benefit in the amount of

1 \$1,500, as defined in section 6312 (relating to availability of
2 benefits), with respect to injury arising out of the maintenance
3 or use of a motor vehicle. The income loss benefit provided
4 under this section may be expressly waived by the named insured
5 provided the named insured has no expectation of actual income
6 loss due to age, disability or lack of employment history.

7 § 6312. Availability of benefits.

8 An insurer issuing or delivering liability insurance policies
9 covering any motor vehicle required to be covered under section
10 6311 (relating to required benefits) shall make available for
11 purchase first party benefits with respect to injury arising out
12 of the maintenance or use of a motor vehicle as follows:

13 (1) Medical benefit.--Coverage to provide for reasonable
14 and necessary medical treatment and rehabilitative services,
15 including, but not limited to, hospital, dental, surgical,
16 psychiatric, psychological, osteopathic, ambulance,
17 chiropractic, licensed physical therapy, nursing services,
18 vocational rehabilitation and occupational therapy, speech
19 pathology and audiology, optometric services, medications,
20 medical supplies and prosthetic devices, all without
21 limitation as to time in cases where within 18 months from
22 the date of the accident causing injury, it is ascertainable
23 with reasonable medical probability that further expenses may
24 be incurred as a result of the injury. Benefits under this
25 paragraph may include any nonmedical remedial care and
26 treatment rendered in accordance with a recognized religious
27 method of healing.

28 (2) Income loss benefit.--Includes the following:

29 (i) Eighty percent of actual loss of gross income.

30 (ii) Reasonable expenses actually incurred for

1 hiring a substitute to perform self-employment services
2 thereby mitigating loss of gross income or for hiring
3 special help thereby enabling a person to work and
4 mitigate loss of gross income.

5 Income loss does not include loss of expected income for any
6 period following the death of an individual or expenses
7 incurred for services performed following the death of an
8 individual. Income loss shall not commence until five working
9 days have been lost after the date of the accident.

10 (3) Accidental death benefit.--A death benefit paid to
11 the personal representative of the insured, if injury
12 resulting from a motor vehicle accident causes death within
13 24 months from the date of the accident.

14 (4) Funeral benefit.--Expenses directly related to the
15 funeral, burial, cremation or other form of disposition of
16 the remains of a deceased individual, incurred as a result of
17 the death of the individual as a result of the accident and
18 within 24 months from the date of the accident.

19 (5) Combination benefit.--A combination of benefits
20 described in paragraphs (1) through (4) as an alternative to
21 the separate purchase of those benefits.

22 § 6312.1. Limitation on exclusion of benefits.

23 (a) General rule.--A motor vehicle rented from any location
24 in this Commonwealth may not be covered by an insurance policy
25 or self-insurance arrangement which would exclude benefits if
26 the lessee or any other authorized driver were involved in a
27 vehicular accident while under the influence of drugs or
28 intoxicating beverages at the time of the accident.

29 (b) Duty of motor vehicle lessor.--The lessor of a motor
30 vehicle shall ensure that, if the rented motor vehicle is not

1 returned during the contracted rental period, all liability or
2 first party coverage continues until the motor vehicle is
3 reported to the police as stolen.

4 (c) Liability of motor vehicle lessor.--Failure of a person
5 engaged in the rental of motor vehicles to comply with
6 subsections (a) and (b) shall, as a matter of law, render the
7 person responsible for the mandated minimum limits of financial
8 responsibility as set forth in this chapter with respect to any
9 liability arising out of the use of the motor vehicle for which
10 the lessee would otherwise be responsible.

11 (d) Effect of violation.--A violation of this section
12 constitutes a violation of the act of December 17, 1968
13 (P.L.1224, No.387), known as the Unfair Trade Practices and
14 Consumer Protection Law.

15 § 6313. Source of benefits.

16 (a) General rule.--Except as provided in section 6314
17 (relating to ineligible claimants), a person who suffers injury
18 arising out of the maintenance or use of a motor vehicle shall
19 recover first party benefits against applicable insurance
20 coverage in the following order of priority:

21 (1) For a named insured, the policy on which he is the
22 named insured.

23 (2) For an insured, the policy covering the insured.

24 (3) For the occupants of an insured motor vehicle, the
25 policy on that motor vehicle.

26 (4) For a person who is not the occupant of a motor
27 vehicle, the policy on any motor vehicle involved in the
28 accident. For the purpose of this paragraph, a parked and
29 unoccupied motor vehicle is not deemed to be involved in an
30 accident unless it was parked so as to cause unreasonable

1 risk of injury.

2 (b) Multiple sources of equal priority.--The insurer against
3 whom a claim is asserted first under the priorities set forth in
4 subsection (a) shall process and pay the claim as if wholly
5 responsible. The insurer may thereafter recover contribution pro
6 rata from any other insurer for the benefits paid and the costs
7 of processing the claim. If contribution is sought among
8 insurers responsible under subsection (a)(4), proration shall be
9 based on the number of involved motor vehicles.

10 § 6314. Ineligible claimants.

11 An owner of a currently registered motor vehicle who does not
12 have financial responsibility or an operator or occupant of a
13 recreational vehicle not intended for highway use, motorcycle,
14 motor-driven cycle, motorized pedalcycle or like type vehicle
15 required to be registered under Title 75 (relating to vehicles)
16 cannot recover first party benefits.

17 § 6315. Availability of adequate limits.

18 (a) General rule.--An insurer shall make available for
19 purchase first party benefits as follows:

20 (1) For medical benefits, up to at least \$100,000.

21 (2) For income loss benefits, up to at least \$2,500 per
22 month up to a maximum benefit of at least \$50,000.

23 (3) For accidental death benefits, up to at least
24 \$25,000.

25 (4) For funeral benefits, \$2,500.

26 (5) For combination of benefits enumerated in paragraphs
27 (1) through (4) and subject to a limit on the accidental
28 death benefit of up to \$25,000 and a limit on the funeral
29 benefit of \$2,500, up to at least \$277,500 of benefits in the
30 aggregate or benefits payable up to three years from the date

1 of the accident, whichever occurs first.

2 (b) Higher or lower limits and additional benefits.--
3 Insurers may make available higher or lower limits or benefits
4 in addition to those enumerated in subsection (a).

5 (c) Restriction on providing first party benefits.--An
6 insurer shall not issue or deliver a policy providing first
7 party benefits in accordance with this subchapter unless the
8 policy also contains coverage for liability in amounts at least
9 equal to the limits required for financial responsibility.

10 § 6316. Payment of benefits.

11 Benefits are overdue if not paid within 30 days after the
12 insurer receives reasonable proof of the amount of the benefits.
13 If reasonable proof is not supplied as to all benefits, the
14 portion supported by reasonable proof is overdue if not paid
15 within 30 days after the proof is received by the insurer.
16 Overdue benefits shall bear interest at the rate of 12% a year
17 from the date the benefits become due. If the insurer is found
18 to have acted in an unreasonable manner in refusing to pay the
19 benefits when due, the insurer shall pay, in addition to the
20 benefits owed and the interest thereon, a reasonable attorney
21 fee based upon actual time expended.

22 § 6317. Stacking of benefits.

23 First party benefits shall not be increased by stacking the
24 limits of coverage of:

25 (1) multiple motor vehicles covered under the same
26 policy of insurance; or

27 (2) multiple motor vehicle policies covering the
28 individual for the same loss.

29 § 6318. Exclusion from benefits.

30 (a) General rule.--An insurer shall exclude from benefits

1 any insured, or his personal representative, under a policy
2 described in section 6311 (relating to required benefits) or
3 6312 (relating to availability of benefits), when the conduct of
4 the insured contributed to the injury sustained by the insured
5 in any of the following ways:

6 (1) While intentionally injuring himself or another or
7 attempting to intentionally injure himself or another.

8 (2) While committing a felony.

9 (3) While seeking to elude lawful apprehension or arrest
10 by a law enforcement official.

11 (b) Conversion of vehicle.--A person who knowingly converts
12 a motor vehicle is ineligible to receive first party benefits
13 from any source other than a policy of insurance under which he
14 is an insured for any injury arising out of the maintenance or
15 use of the converted vehicle.

16 (c) Named driver exclusion.--An insurer may exclude any
17 insured or his personal representative from benefits under a
18 policy described in section 6311 or 6312 when the insured is
19 excluded from coverage while operating a motor vehicle in
20 accordance with Chapter 61 (relating to eligibility for motor
21 vehicle insurance).

22 § 6318.1. Certain nonexcludable conditions.

23 (a) General rule.--Insurance benefits may not be denied
24 solely because the driver of the insured motor vehicle is
25 determined to be under the influence of drugs or intoxicating
26 beverages at the time of the accident for which benefits are
27 sought.

28 (b) Contract exclusions.--Provisions of an insurance policy
29 which exclude insurance benefits if the insured causes a
30 vehicular accident while under the influence of drugs or

1 intoxicating beverages at the time of the accident are void.

2 § 6319. Coordination of benefits.

3 (a) General rule.--Except for workmen's compensation, a
4 policy of insurance issued or delivered pursuant to this
5 subchapter shall be primary. Any program, group contract or
6 other arrangement for payment of benefits such as described in
7 section 6311 (relating to required benefits), 6312(1) and (2)
8 (relating to availability of benefits) or 6315 (relating to
9 availability of adequate limits) shall be construed to contain a
10 provision that all benefits provided therein shall be in excess
11 of and not in duplication of any valid and collectible first
12 party benefits provided under section 6311, 6312 or 6315 or
13 workmen's compensation.

14 (b) Definition.--As used in this section the term "program,
15 group contract or other arrangement" includes, but is not
16 limited to, benefits payable by a hospital plan corporation or a
17 professional health service corporation subject to Chapter 75
18 (relating to hospital plan corporations) or 77 (relating to
19 professional health services plan corporations).

20 § 6320. Subrogation.

21 In actions arising out of the maintenance or use of a motor
22 vehicle, there shall be no right of subrogation or reimbursement
23 from a claimant's tort recovery with respect to workmen's
24 compensation benefits, benefits available under section 6311
25 (relating to required benefits), 6312 (relating to availability
26 of benefits) or 6315 (relating to availability of adequate
27 limits) or benefits in lieu thereof paid or payable under
28 section 6319 (relating to coordination of benefits).

29 § 6321. Statute of limitations.

30 (a) General rule.--If benefits have not been paid, an action

1 for first party benefits shall be commenced within four years
2 from the date of the accident giving rise to the claim. If first
3 party benefits have been paid, an action for further benefits
4 shall be commenced within four years from the date of the last
5 payment. The benefits claimed in the action may not include
6 expenses incurred more than four years before the date the
7 action is commenced.

8 (b) Minors.--For minors entitled to benefits described in
9 section 6311 (relating to required benefits) or 6312 (relating
10 to availability of benefits), an action for benefits shall be
11 commenced within four years from the date on which the injured
12 minor attains 18 years of age.

13 § 6322. Preclusion of recovering required benefits.

14 In any action for damages against a tortfeasor arising out of
15 the maintenance or use of a motor vehicle, a person who is
16 eligible to receive benefits under the coverages set forth in
17 section 6311 (relating to required benefits) may not plead,
18 introduce into evidence or recover the amount of benefits paid
19 or payable under section 6311.

20 § 6323. Reporting requirements.

21 Beginning December 31, 1986, and each year thereafter, each
22 insurance company writing automobile insurance in this
23 Commonwealth shall file with the department the number of its
24 insureds, the number of its insureds who have purchased first
25 party medical benefits in excess of the minimum required by
26 section 6311 (relating to required benefits) and the number of
27 insureds who have purchased first party medical benefits in the
28 amount of \$100,000. The department shall furnish this
29 information to the General Assembly annually.

30

SUBCHAPTER C

1 UNINSURED AND UNDERINSURED MOTORIST COVERAGE

2 Sec.

3 6331. Scope and amount of coverage.

4 6332. Limits of coverage.

5 6333. Priority of recovery.

6 6334. Request for lower or higher limits of coverage.

7 6335. Workmen's compensation benefits.

8 6336. Coverage in excess of required amounts.

9 § 6331. Scope and amount of coverage.

10 (a) General rule.--A motor vehicle liability insurance
11 policy shall not be delivered or issued for delivery in this
12 Commonwealth, with respect to any motor vehicle registered or
13 principally garaged in this Commonwealth, unless uninsured
14 motorist and underinsured motorist coverages are provided
15 therein or supplemental thereto in amounts equal to the bodily
16 injury liability coverage except as provided in section 6334
17 (relating to request for lower or higher limits of coverage).

18 (b) Uninsured motorist coverage.--Uninsured motorist
19 coverage shall provide protection for persons who suffer injury
20 arising out of the maintenance or use of a motor vehicle and are
21 legally entitled to recover damages therefor from owners or
22 operators of uninsured motor vehicles.

23 (c) Underinsured motorist coverage.--Underinsured motorist
24 coverage shall provide protection for persons who suffer injury
25 arising out of the maintenance or use of a motor vehicle and are
26 legally entitled to recover damages therefor from owners or
27 operators of underinsured motor vehicles.

28 (d) Limitation on recovery.--A person who recovers damages
29 under uninsured motorist coverage or coverages cannot recover
30 damages under underinsured motorist coverage or coverages for

1 the same accident.

2 § 6332. Limits of coverage.

3 Coverages offered under section 6331 (relating to scope and
4 amount of coverage) shall be written for the same limits. A
5 change shall not be made in the limits of one of these coverages
6 without an equal change in the limits of the other coverage.

7 § 6333. Priority of recovery.

8 Where multiple policies apply, payment shall be made in the
9 following order of priority:

10 (1) A policy covering a motor vehicle occupied by the
11 injured person at the time of the accident.

12 (2) A policy covering a motor vehicle not involved in
13 the accident with respect to which the injured person is an
14 insured.

15 § 6334. Request for lower or higher limits of coverage.

16 A named insured may request in writing the issuance of
17 coverages under section 6331 (relating to scope and amount of
18 coverage) in amounts less than the limits of liability for
19 bodily injury, but not less than the amounts required by this
20 chapter for bodily injury. If the named insured has selected
21 uninsured and underinsured motorist coverage in connection with
22 a policy previously issued to him by the same insurer under
23 section 6331, the coverages offered need not be provided in
24 excess of the limits of liability previously issued for
25 uninsured and underinsured motorist coverage unless the named
26 insured requests in writing higher limits of liability for those
27 coverages.

28 § 6335. Workmen's compensation benefits.

29 The coverages required by this subchapter shall not be made
30 subject to an exclusion or reduction in amount because of any

1 workmen's compensation benefits payable as a result of the same
2 injury.

3 § 6336. Coverage in excess of required amounts.

4 The coverages provided under this subchapter may be offered
5 by insurers in amounts higher than those required by this
6 chapter but may not be greater than the limits of liability
7 specified in the bodily injury liability provisions of the
8 insured's policy.

9 SUBCHAPTER D

10 ASSIGNED RISK PLAN

11 Sec.

12 6341. Establishment of assigned risk plan.

13 6342. Scope of assigned risk plan.

14 6343. Rates.

15 6344. Termination of policies.

16 § 6341. Establishment of assigned risk plan.

17 The department shall, after consultation with the insurers
18 licensed to write motor vehicle liability insurance in this
19 Commonwealth, adopt a reasonable assigned risk plan for the
20 equitable apportionment among those insurers of applicants for
21 motor vehicle liability insurance who are entitled to procure
22 insurance through ordinary methods, but are unable to do so.
23 When the plan has been adopted, all motor vehicle liability
24 insurers shall subscribe thereto and shall participate in the
25 plan. The plan may provide reasonable means for the transfer of
26 individuals insured thereunder into the ordinary market, at the
27 same or lower rates, pursuant to regulations established by the
28 department.

29 § 6342. Scope of assigned risk plan.

30 The assigned risk plan shall include rules for the

1 classification of risks and rates therefor and shall provide for
2 the installment payment of premiums subject to customary terms
3 and conditions.

4 § 6343. Rates.

5 All rates for the assigned risk plan shall be subject to the
6 provisions of Chapter 19 (relating to insurance rates) which are
7 applicable to the classes of insurance described in section
8 1902(a) (relating to scope of chapter) and shall not be
9 inadequate, excessive or unfairly discriminatory.

10 § 6344. Termination of policies.

11 Cancellation, refusal to renew and other termination of
12 policies issued under the assigned risk plan shall be in
13 accordance with the rules of the plan.

14 SUBCHAPTER E

15 ASSIGNED CLAIMS PLAN

16 Sec.

17 6351. Organization of assigned claims plan.

18 6352. Eligible claimants.

19 6353. Benefits available.

20 6354. Additional coverage.

21 6355. Coordination of benefits.

22 6356. Subrogation.

23 6357. Statute of limitations.

24 § 6351. Organization of assigned claims plan.

25 Insurers providing financial responsibility as required by
26 law shall organize and maintain an assigned claims plan, subject
27 to approval and regulation by the department, and adopt rules
28 for the operation and for the assessment of costs on a fair and
29 equitable basis.

30 § 6352. Eligible claimants.

1 (a) General rule.--A person may recover benefits from the
2 assigned claims plan if the person:

3 (1) is a resident of this Commonwealth;

4 (2) is injured as the result of a motor vehicle accident
5 occurring in this Commonwealth;

6 (3) is not an owner of a motor vehicle required to be
7 registered under 75 Pa.C.S. Ch. 13 (relating to registration
8 of vehicles);

9 (4) is not the operator or occupant of a motor vehicle
10 owned by the Federal Government;

11 (5) is not the operator or occupant of a motor vehicle
12 owned by a self-insurer or by an individual or entity who or
13 which is immune from liability or is not required to provide
14 benefits or uninsured and underinsured motorist coverage;

15 (6) is otherwise not entitled to receive any first party
16 benefits under section 6311 (relating to required benefits)
17 or 6312 (relating to availability of benefits) applicable to
18 the injury arising from the accident; and

19 (7) is not the operator or occupant of a recreational
20 vehicle not intended for highway use, motorcycle, motor-
21 driven cycle or motorized pedalcycle or other like type
22 vehicle required to be registered under Title 75 (relating to
23 vehicles) and involved in the accident.

24 (b) Grounds for ineligibility.--A person otherwise
25 qualifying as an eligible claimant under subsection (a) shall
26 nevertheless be ineligible to recover benefits from the assigned
27 claims plan if that person contributed to his own injury in any
28 of the following ways:

29 (1) While intentionally injuring himself or another or
30 attempting to intentionally injure himself or another.

1 (2) While committing a felony.

2 (3) While seeking to elude lawful apprehension or arrest
3 by a law enforcement official.

4 (4) While knowingly converting a motor vehicle.

5 § 6353. Benefits available.

6 An eligible claimant may recover medical benefits, as
7 described in section 6312(1) (relating to availability of
8 benefits), up to a maximum of \$5,000. An income loss benefit or
9 accidental death benefit shall not be payable under this
10 subchapter. Funeral expenses, as described in section 6312(4),
11 in the amount of \$1,500 shall be recoverable as an offset to the
12 maximum amount of medical benefits available under this section.

13 § 6354. Additional coverage.

14 An eligible claimant who has no other source of applicable
15 uninsured motorist coverage and is otherwise entitled to recover
16 in an action in tort against a party who has failed to comply
17 with this chapter may recover for losses or damages suffered as
18 a result of the injury up to \$15,000 subject to an aggregate
19 limit for all claims arising out of any one motor vehicle
20 accident of \$30,000. If a claimant recovers medical benefits
21 under section 6353 (relating to benefits available), the amount
22 of medical benefits recovered or recoverable up to \$5,000 shall
23 be set off against any amount recoverable under this section.

24 § 6355. Coordination of benefits.

25 (a) Workmen's compensation.--All benefits, less reasonably
26 incurred collection costs, that an eligible claimant receives or
27 is entitled to receive from workmen's compensation and from any
28 other like source under local, state or Federal law shall be
29 subtracted from any benefits available in section 6353 (relating
30 to benefits available) unless the law authorizing or providing

1 for those benefits makes them excess or secondary to the
2 benefits payable under this subchapter.

3 (b) Accident and health benefits.--All benefits an eligible
4 claimant receives or is entitled to receive as a result of
5 injury from any available source of accident and health benefits
6 shall be subtracted from those benefits available in section
7 6353.

8 § 6356. Subrogation.

9 The assigned claims plan or its assignee may, in accordance
10 with the tort liability law of this Commonwealth, recover
11 reimbursement for benefits or coverages paid, loss adjustment
12 costs and any other sums paid to an eligible claimant under this
13 subchapter.

14 § 6357. Statute of limitations.

15 (a) General rule.--An action by an eligible claimant to
16 recover benefits or coverages from the assigned claims plan
17 shall be commenced within four years from the date of the
18 accident.

19 (b) Minors.--For minors entitled to benefits under section
20 6353 (relating to benefits available) or 6354 (relating to
21 additional coverage), an action to recover these benefits or
22 coverages shall be commenced within four years from the date on
23 which the injured minor attains 18 years of age.

24 SUBCHAPTER F

25 (RESERVED)

26 SUBCHAPTER G

27 NONPAYMENT OF JUDGMENTS

28 Sec.

29 6371. Court reports on nonpayment of judgments.

30 6372. Suspension for nonpayment of judgments.

1 6373. Duration of suspension.

2 6374. Satisfaction of judgments.

3 6375. Installment payment of judgments.

4 § 6371. Court reports on nonpayment of judgments.

5 (a) General rule.--Whenever any person fails within 60 days
6 to satisfy any judgment arising from a motor vehicle accident,
7 the judgment creditor may forward to the Department of
8 Transportation a certified copy of the judgment.

9 (b) Notice to state of nonresident defendant.--If the
10 defendant named in any certified copy of a judgment reported to
11 the Department of Transportation is a nonresident, the
12 Department of Transportation shall transmit a certified copy of
13 the judgment to the official in charge of the issuance of
14 licenses and registration certificates of the state of which the
15 defendant is a resident.

16 § 6372. Suspension for nonpayment of judgments.

17 (a) General rule.--The Department of Transportation, upon
18 receipt of a certified copy of a judgment, shall suspend the
19 operating privilege of each person against whom the judgment was
20 rendered except as otherwise provided in this section and in
21 section 6375 (relating to installment payment of judgments).

22 (b) Nonsuspension with consent of judgment creditor.--If the
23 judgment creditor consents in writing, in such form as the
24 Department of Transportation may prescribe, that the judgment
25 debtor's operating privilege be retained or restored, the
26 Department of Transportation shall not suspend or shall restore
27 the operating privilege until the consent is revoked in writing,
28 notwithstanding default in the payment of the judgment or of any
29 installment thereof prescribed in section 6375, provided the
30 judgment debtor furnishes proof of financial responsibility.

1 (c) Financial responsibility in effect at time of
2 accident.--Any person whose operating privilege has been
3 suspended, or is about to be suspended or become subject to
4 suspension, under this chapter shall be relieved from the effect
5 of the judgment as prescribed in this chapter if the person
6 files evidence satisfactory to the Department of Transportation
7 that financial responsibility was in force at the time of the
8 accident resulting in the judgment and is or should be available
9 for the satisfaction of the judgment. If insurance already
10 obtained is not available because the insurance company has gone
11 into receivership or bankruptcy, the person shall only be
12 required to present to or file with the Department of
13 Transportation proper evidence that an insurance policy was in
14 force at the time of the accident.

15 § 6373. Duration of suspension.

16 A person's operating privilege shall remain suspended and
17 shall not be renewed in the name of that person until every
18 judgment is stayed or satisfied in full or to the extent
19 provided in this subchapter, and until the person furnishes
20 proof of financial responsibility as required.

21 § 6374. Satisfaction of judgments.

22 (a) General rule.--For the purpose of this chapter only,
23 judgments shall be deemed satisfied upon the occurrence of one
24 of the following:

25 (1) When \$15,000 has been credited upon any judgment or
26 judgments rendered in excess of that amount because of injury
27 to one person as the result of any one accident.

28 (2) When \$30,000 has been credited upon any judgment or
29 judgments rendered in excess of that amount because of injury
30 to two or more persons as the result of any one accident.

1 (3) When \$5,000 has been credited upon any judgment or
2 judgments rendered in excess of that amount because of damage
3 to property of others as the result of any one accident.

4 (b) Credit for payment under settlement.--Payments made in
5 settlement of any claims because of bodily injury or property
6 damage arising from a motor vehicle accident shall be credited
7 in reduction of the amounts provided for in this section.

8 (c) Escrow deposit by judgment debtor.--When the judgment
9 creditor cannot be found, the judgment debtor may deposit in
10 escrow with the prothonotary of the court where the judgment was
11 entered an amount equal to the amount of the judgment, subject
12 to the limits set forth in subsection (a), interest to date and
13 record costs, whereupon the prothonotary shall notify the
14 Department of Transportation and the judgment shall be deemed
15 satisfied. The amount deposited shall be retained by the
16 prothonotary for a period of five years from the date of the
17 deposit, after which, if it has not been claimed by the judgment
18 creditor, it shall be returned to the judgment debtor. When the
19 deposit is made, the prothonotary shall notify the judgment
20 creditor and his counsel, if any, by certified or registered
21 mail at his last known address. Interest shall not run on any
22 judgment with respect to the amount deposited with the
23 prothonotary under this subsection.

24 § 6375. Installment payment of judgments.

25 (a) Order authorizing installment payment.--A judgment
26 debtor, upon notice to the judgment creditor, may apply to the
27 court in which the judgment was rendered for the privilege of
28 paying the judgment in installments and the court, in its
29 discretion and without prejudice to any other remedies which the
30 judgment creditor may have, may so order and fix the amounts and

1 times of payment of the installments.

2 (b) Suspension prohibited during compliance with order.--The
3 Department of Transportation shall not suspend a driver's
4 operating privilege and shall restore any operating privilege
5 suspended following nonpayment of a judgment when the judgment
6 debtor obtains an order permitting payment of the judgment in
7 installments and while the payment of any installment is not in
8 default, if the judgment debtor furnishes proof of financial
9 responsibility.

10 (c) Suspension for default in payment.--If the judgment
11 debtor fails to pay any installment as specified by the order,
12 then, upon notice of the default, the Department of
13 Transportation shall suspend the operating privilege of the
14 judgment debtor until the judgment is satisfied as provided in
15 this chapter.

16 SUBCHAPTER H

17 PROOF OF FINANCIAL RESPONSIBILITY

18 Sec.

19 6381. Notice of sanction for not evidencing financial
20 responsibility.

21 6382. Manner of providing proof of financial responsibility.

22 6383. Proof of financial responsibility before restoring
23 operating privilege or registration.

24 6384. Proof of financial responsibility following violation.

25 6385. Proof of financial responsibility following accident.

26 6386. Self-certification of financial responsibility.

27 6387. Self-insurance.

28 § 6381. Notice of sanction for not evidencing financial
29 responsibility.

30 An applicant for registration of a vehicle shall acknowledge

1 on a form developed by the Department of Transportation that the
2 applicant knows he may lose his operating privilege or vehicle
3 registrations if he fails to evidence financial responsibility
4 for the purposes described in section 6372 (relating to
5 suspension for nonpayment of judgments), 6383 (relating to proof
6 of financial responsibility before restoring operating privilege
7 or registration), 6384 (relating to proof of financial
8 responsibility following violation) or 6385 (relating to proof
9 of financial responsibility following accident).

10 § 6382. Manner of providing proof of financial responsibility.

11 (a) General rule.--Proof of financial responsibility may be
12 furnished by filing evidence satisfactory to the Department of
13 Transportation that all motor vehicles registered in the
14 person's name are covered by motor vehicle liability insurance
15 or by a program of self-insurance as provided by section 6387
16 (relating to self-insurance) or other reliable financial
17 arrangements, deposits, resources or commitments acceptable to
18 the Department of Transportation.

19 (b) Nonresident.--The nonresident owner of a motor vehicle
20 not registered in this Commonwealth may give proof of financial
21 responsibility by filing with the Department of Transportation a
22 written certificate or certificates of an insurance company
23 authorized to transact business in the state in which the motor
24 vehicle or motor vehicles described in the certificate are
25 registered or, if the nonresident does not own a motor vehicle,
26 then evidence satisfactory to the Department of Transportation
27 that the person does not own a motor vehicle. The Department of
28 Transportation shall accept the certificate if the insurance
29 company complies with the following provisions with respect to
30 the policies so certified:

1 (1) The insurance company executes a power of attorney
2 authorizing the Department of Transportation to accept
3 service on its behalf or process in any action arising out of
4 a motor vehicle accident in this Commonwealth.

5 (2) The insurance company agrees in writing that the
6 policies shall be deemed to conform with the law of this
7 Commonwealth relating to the terms of motor vehicle liability
8 policies issued in this Commonwealth.

9 (c) Default by foreign insurance company.--If any insurance
10 company not authorized to transact business in this
11 Commonwealth, which has qualified to furnish proof of financial
12 responsibility, defaults in any undertakings or agreements, the
13 Department of Transportation shall not thereafter accept as
14 proof any certificate of the company whether theretofore filed
15 or thereafter tendered as proof as long as the default
16 continues.

17 § 6383. Proof of financial responsibility before restoring
18 operating privilege or registration.

19 Whenever the Department of Transportation suspends or revokes
20 the operating privilege of any person or the registration of any
21 vehicle under section 6372 (relating to suspension for
22 nonpayment of judgments), 6384 (relating to proof of financial
23 responsibility following violation) or 6385 (relating to proof
24 of financial responsibility following accident) or 75 Pa.C.S. §
25 1532 (relating to revocation or suspension of operating
26 privilege) or 1542 (relating to revocation of habitual
27 offender's license) or upon receiving the record of a conviction
28 or forfeiture of bail, the Department of Transportation shall
29 not restore the operating privilege or the applicable
30 registration until the person furnishes proof of financial

1 responsibility.

2 § 6384. Proof of financial responsibility following violation.

3 A defendant who is convicted of a traffic offense that
4 requires a court appearance, other than a parking offense, shall
5 be required to show proof of financial responsibility covering
6 the operation of the vehicle at the time of the offense. If the
7 defendant fails to show proof of financial responsibility, the
8 court shall notify the Department of Transportation of that
9 fact. Upon receipt of the notice, the Department of
10 Transportation shall revoke the registration of the vehicle. If
11 the defendant is the owner of the vehicle, the Department of
12 Transportation shall also suspend the operating privilege of the
13 defendant.

14 § 6385. Proof of financial responsibility following accident.

15 If the Department of Transportation determines that the owner
16 of a motor vehicle involved in an accident requiring notice to a
17 police department under 75 Pa.C.S. § 3746 (relating to immediate
18 notice of accident to police department) did not maintain
19 financial responsibility on the motor vehicle at the time of the
20 accident, the Department of Transportation shall suspend the
21 operating privilege of the owner, where applicable, and shall
22 revoke the registration of the vehicle.

23 § 6386. Self-certification of financial responsibility.

24 The Department of Transportation shall require that each
25 motor vehicle registrant certify that the registrant is
26 financially responsible at the time of registration or renewal
27 thereof. The Department of Transportation shall refuse to
28 register or renew the registration of a vehicle for failure to
29 comply with this requirement or falsification of self-
30 certification.

1 § 6387. Self-insurance.

2 (a) General rule.--Self-insurance is effected by filing with
3 the Department of Transportation, in satisfactory form, evidence
4 that reliable financial arrangements, deposits, resources or
5 commitments exist such as will satisfy the Department of
6 Transportation that the self-insurer will:

7 (1) Provide the benefits required by section 6311
8 (relating to required benefits), subject to Subchapter B
9 (relating to motor vehicle liability insurance first party
10 benefits), except the additional benefits and limits provided
11 in sections 6312 (relating to availability of benefits) and
12 6315 (relating to availability of adequate limits).

13 (2) Make payments sufficient to satisfy judgments as
14 required by section 6374 (relating to satisfaction of
15 judgments).

16 (3) Provide uninsured motorist coverage up to the limits
17 set forth in section 6374.

18 (b) Stacking limits prohibited.--Any recovery of uninsured
19 motorist benefits under this section only shall not be increased
20 by stacking the limits provided in section 6374, in
21 consideration of the ownership or operation of multiple vehicles
22 or otherwise.

23 (c) Assigned Risk and Assigned Claims Plans.--Self-insurers
24 shall not be required to accept assigned risks under Subchapter
25 D (relating to Assigned Risk Plan) or contribute to the Assigned
26 Claims Plan under Subchapter E (relating to Assigned Claims
27 Plan).

28 (d) (Reserved).

29 (e) Promulgation of regulations.--The Department of
30 Transportation may, jointly with the department, promulgate

1 regulations for reviewing and establishing the financial
2 eligibility of self-insurers.

3 SUBCHAPTER I

4 MISCELLANEOUS PROVISIONS

5 Sec.

6 6391. Notice of available benefits and limits.

7 6392. Availability of certain coverage.

8 6393. Premiums.

9 6394. Jurisdictional limit on judicial arbitration.

10 6395. Insurance fraud reporting immunity.

11 6396. Mental or physical examinations.

12 6397. Customary charges for treatment.

13 6398. Attorney fees and costs.

14 § 6391. Notice of available benefits and limits.

15 It shall be presumed that the insured has been advised of the
16 benefits and limits available under this chapter if the
17 following notice in bold print of at least ten-point type is
18 given to the applicant at the time of application for original
19 coverage or at the time of the first renewal after October 1,
20 1984:

21 IMPORTANT NOTICE

22 Insurance companies operating in the Commonwealth of
23 Pennsylvania are required by law to make available for
24 purchase the following benefits for you, your spouse or
25 other relatives or minors in your custody or in the
26 custody of your relatives, residing in your household,
27 occupants of your motor vehicle or persons struck by your
28 motor vehicle:

29 (1) Medical benefits, up to at least \$100,000.

30 (2) Income loss benefits, up to at least \$2,500 a

1 month up to a maximum benefit of at least \$50,000.

2 (3) Accidental death benefits, up to at least
3 \$25,000.

4 (4) Funeral benefits, \$2,500.

5 (5) As an alternative to paragraphs (1) through (4),
6 a combination benefit, up to at least \$277,500 of
7 benefits in the aggregate or benefits payable up to three
8 years from the date of the accident, whichever occurs
9 first, subject to a limit on accidental death benefit of
10 up to \$25,000 and a limit on funeral benefit of \$2,500.

11 (6) Uninsured, underinsured and bodily injury
12 liability coverage up to at least \$100,000 because of
13 injury to one person in any one accident and up to at
14 least \$300,000 because of injury to two or more persons
15 in any one accident or, at the option of the insurer, up
16 to at least \$300,000 in a single limit for these
17 coverages, except for policies issued under the Assigned
18 Risk Plan. Also, at least \$5,000 for damage to property
19 of others in any one accident.

20 Additionally, insurers may offer higher benefit levels
21 than those enumerated above as well as additional
22 benefits. However, an insured may elect to purchase lower
23 benefit levels than those enumerated above. Your
24 signature on this notice or your payment of any renewal
25 premium evidences your actual knowledge and understanding
26 of the availability of these benefits and limits as well
27 as the benefits and limits you have selected.

28 § 6392. Availability of certain coverage.

29 Except for policies issued under Subchapter D (relating to
30 Assigned Risk Plan), an insurer issuing a policy of bodily

1 injury liability coverage pursuant to this chapter shall make
2 available for purchase higher limits of uninsured, underinsured
3 and bodily injury liability coverages up to at least \$100,000
4 because of injury to one person in any one accident and up to at
5 least \$300,000 because of injury to two or more persons in any
6 one accident or, at the option of the insurer, up to at least
7 \$300,000 in a single limit for these coverages. Additionally, an
8 insurer shall make available for purchase at least \$5,000
9 because of damage to property of others in any one accident.
10 However, the exclusion of availability relating to the Assigned
11 Risk Plan shall not apply to damage to property of others in any
12 one accident.

13 § 6393. Premiums.

14 (a) Limitation on premium increases.--

15 (1) An insurer shall not increase the premium rate of an
16 owner of a policy of insurance subject to this chapter solely
17 because one or more of the insureds under the policy made a
18 claim under the policy and was paid thereon unless it is
19 determined that the insured was at fault in contributing to
20 the accident giving rise to the claim.

21 (2) An insurer shall not charge an insured who has been
22 convicted of a violation of an offense enumerated in 75
23 Pa.C.S. § 1535 (relating to schedule of convictions and
24 points) a higher rate for a policy of insurance solely on
25 account of the conviction. An insurer may charge an insured a
26 higher rate for a policy of insurance if a claim is made
27 under paragraph (1).

28 (b) Surcharge disclosure plan.--All insurers shall provide
29 to the insured a surcharge disclosure plan. The insurer
30 providing the surcharge disclosure plan shall detail the

1 provisions of the plan, including, but not limited to:

2 (1) A description of conditions that would assess a
3 premium surcharge to an insured along with the estimated
4 increase of the surcharge per policy period per policyholder.

5 (2) The number of years any surcharge will be in effect.
6 The surcharge disclosure plan shall be delivered to each insured
7 by the insurer at least once annually. Additionally, the
8 surcharge information plan shall be given to each prospective
9 insured at the time application is made for motor vehicle
10 insurance coverage.

11 (c) Return of premiums of canceled policies.--When an
12 insurer cancels a motor vehicle insurance policy which is
13 subject to section 6107(3) (relating to exclusions), the insurer
14 shall within 30 days of canceling the policy return to the
15 insured all premiums paid under the policy less any proration
16 for the period the policy was in effect. Premiums are overdue if
17 not paid to the insured within 30 days after canceling the
18 policy. Overdue return premiums shall bear interest at the rate
19 of 12% a year from the date the return premium became due.

20 (d) Rules and regulations.--The department shall promulgate
21 rules and regulations establishing guidelines and procedures for
22 determining fault of an insured for the purpose of subsection
23 (a) and guidelines for the content and format of the surcharge
24 disclosure plan.

25 § 6394. Jurisdictional limit on judicial arbitration.

26 Beginning January 1, 1987, the monetary limit under 42
27 Pa.C.S. § 7361(b)(2)(i) (relating to compulsory arbitration) for
28 the submission of matters to judicial arbitration in judicial
29 districts embracing first and second class counties shall be
30 \$25,000 for actions arising from the maintenance or use of a

1 motor vehicle.

2 § 6395. Insurance fraud reporting immunity.

3 (a) General rule.--An insurance company, and any agent,
4 servant or employee acting in the course and scope of his
5 employment, shall be immune from civil or criminal liability
6 arising from the supply or release of written or oral
7 information to any duly authorized Federal or state law
8 enforcement agency, including the department, if the following
9 conditions exist:

10 (1) The information is supplied to the agency in
11 connection with an allegation of fraudulent conduct on the
12 part of any person relating to the filing or maintenance of a
13 motor vehicle insurance claim for bodily injury or property
14 damage.

15 (2) The insurance company, agent, servant or employee
16 has probable cause to believe that the information supplied
17 is reasonably related to the allegation of fraud.

18 (b) Notice to policyholder.--The insurance company shall
19 send written notice to the policyholder or policyholders about
20 whom the information pertains unless the insurance company
21 receives notice that the authorized agency finds, based on
22 specific facts, that there is reason to believe that the
23 information will result in any of the following:

24 (1) Endangerment to the life or physical safety of any
25 person.

26 (2) Flight from prosecution.

27 (3) Destruction of or tampering with evidence.

28 (4) Intimidation of any potential witness or witnesses.

29 (5) Obstruction of or serious jeopardy to an
30 investigation.

1 The insurance company shall send written notice not sooner than
2 45 days nor more than 60 days from the time the information is
3 furnished to an authorized agency, except when the agency
4 specifies that a notice should not be sent in accordance with
5 the exceptions enumerated in this subsection, in which event the
6 insurance company shall send written notice to the policyholder
7 not sooner than 180 days nor more than 190 days following the
8 date the information is furnished.

9 (c) Immunity for sending notice.--An insurance company or
10 authorized agency and any person acting on behalf of an
11 insurance company or authorized agency complying with or
12 attempting in good faith to comply with subsection (b) shall be
13 immune from civil liability arising out of any acts or omissions
14 in so doing.

15 (d) Effect.--This section does not create any rights to
16 privacy or causes of action on behalf of policyholders that were
17 not in existence as of October 1, 1984.

18 § 6396. Mental or physical examinations.

19 (a) General rule.--Whenever the mental or physical condition
20 of a person is material to any claim for medical, income loss or
21 catastrophic loss benefits, a court of competent jurisdiction
22 may order the person to submit to a mental or physical
23 examination by a physician. The order may only be made upon
24 motion for good cause shown. The order shall give the person to
25 be examined adequate notice of the time and date of the
26 examination and shall state the manner, conditions and scope of
27 the examination and the physician by whom it is to be performed.
28 If a person fails to comply with an order to be examined, the
29 court or the administrator may order that the person be denied
30 benefits until compliance.

1 (b) Report of examination.--If requested by the person
2 examined, a party causing an examination to be made shall
3 promptly deliver to the person examined a copy of every written
4 report concerning the examination at least one of which shall
5 set forth the physician's findings and conclusions in detail.
6 Upon failure to promptly provide copies of these reports, the
7 court or the administrator shall prohibit the testimony of the
8 examining physician in any proceeding to recover benefits.

9 § 6397. Customary charges for treatment.

10 A person or institution providing treatment, accommodations,
11 products or services to an injured person for an injury covered
12 by medical or catastrophic loss benefits shall not make a charge
13 for the treatment, accommodations, products or services in
14 excess of the amount the person or institution customarily
15 charges for like treatment, accommodations, products and
16 services in cases involving no insurance.

17 § 6398. Attorney fees and costs.

18 (a) Basis for reasonable fee.--No attorney fee for
19 representing a claimant in connection with a claim for first
20 party benefits provided under Subchapter B (relating to motor
21 vehicle liability insurance first party benefits) shall be
22 calculated, determined or paid on a contingent fee basis, nor
23 shall any attorney fees be deducted from the benefits enumerated
24 in this subsection which are otherwise due such claimant. An
25 attorney may charge a claimant a reasonable fee based upon
26 actual time expended.

27 (b) Unreasonable refusal to pay benefits.--If an insurer is
28 found to have acted unreasonably in refusing to pay the benefits
29 enumerated in subsection (a) when due, the insurer shall pay, in
30 addition to the benefits owed and the interest thereon, a

1 reasonable attorney fee based upon actual time expended.

2 (c) (Reserved).

3 (d) Fraudulent or excessive claims.--If, in any action by a
4 claimant to recover benefits under this chapter, the court
5 determines that the claim, or a significant part thereof, is
6 fraudulent or unreasonably excessive, the court may award the
7 insurer's attorney a reasonable fee based upon actual time
8 expended. The court may direct that the fee shall be paid by the
9 claimant or that the fee may be treated in whole or in part as
10 an offset against any benefits due or to become due the
11 claimant.

12 CHAPTER 65

13 CREDIT INSURANCE

14 Sec.

15 6501. General provisions.

16 6502. Definitions.

17 6503. Forms.

18 6504. Amount of insurance.

19 6505. Term of insurance.

20 6506. Disclosure to debtors.

21 6507. Review of forms and premium rates.

22 6508. Premiums and refunds.

23 6509. Issuance of policies.

24 6510. Claims.

25 6511. Choice of insurer.

26 6512. Regulations and enforcement.

27 6513. Judicial review.

28 6514. Penalties.

29 § 6501. General provisions.

30 (a) Short title of chapter.--This chapter shall be known and

1 may be cited as the Model Act for the Regulation of Credit Life
2 Insurance and Credit Accident and Health Insurance.

3 (b) Purpose.--The purpose of this chapter is to promote the
4 public welfare by regulating credit life insurance and credit
5 accident and health insurance. This chapter is not intended to
6 prohibit or discourage reasonable competition.

7 (c) Construction.--The provisions of this chapter shall be
8 liberally construed.

9 (d) Scope of chapter.--All life insurance and all accident
10 and health insurance in connection with loans or other credit
11 transactions shall be subject to this chapter, except the
12 following types of health and accident insurance:

13 (1) Insurance in connection with a loan or other credit
14 transaction or more than 20 years' duration.

15 (2) Insurance in connection with a first real estate
16 mortgage, but if the mortgage is secured by a new or used
17 mobile home or dwelling trailer the insurance shall be
18 subject to the provisions of this chapter, regardless of the
19 duration of the underlying loan or other credit transaction.

20 (3) Insurance issued as an isolated transaction on the
21 part of the insurer not related to an agreement or a plan for
22 insuring debtors of the creditor.

23 § 6502. Definitions.

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

27 "Credit accident and health insurance." Insurance on a
28 debtor to provide indemnity for payments becoming due on a
29 specific loan or other credit transaction while the debtor is
30 disabled as defined in the policy.

1 "Credit insurance." Credit life insurance and credit
2 accident and health insurance.

3 "Credit life insurance." Insurance on the life of a debtor
4 pursuant to or in connection with a specific loan or other
5 credit transaction.

6 "Creditor." The lender of money or vendor or lessor of
7 goods, services, property rights or privileges for which payment
8 is arranged through a credit transaction or any successor to the
9 right, title or interest of any such lender, vendor or lessor
10 and an affiliate, associate or subsidiary of any of them.

11 "Debtor." A borrower of money or a purchaser or lessee of
12 goods, services, property rights or privileges for which payment
13 is arranged through a credit transaction.

14 "Dwelling trailer." Any portable dwelling structure or
15 movable dwelling unit designed, constructed and equipped for
16 human use with a chassis or undercarriage as an integral part
17 thereof, with or without independent motive power, capable of
18 being drawn or driven upon highways.

19 "Indebtedness." The total amount payable by a debtor to a
20 creditor in connection with a loan or other credit transaction.

21 "Mobile home." Any portable structure or movable unit
22 equipped to be drawn or travel on the highways that is used
23 either temporarily or permanently as a residence home, dwelling
24 unit, apartment or other housing accommodation or as an office.

25 § 6503. Forms.

26 Credit insurance shall be issued only in the following forms:

27 (1) Individual policies of life insurance to insure the
28 lives of debtors on the term plan.

29 (2) Individual policies of accident and health insurance
30 to insure debtors on a term plan or disability benefit

1 provisions in individual policies of credit life insurance.

2 (3) Group policies of life insurance issued for delivery
3 to creditors providing insurance upon the lives of debtors on
4 the term plan.

5 (4) Group policies of accident and health insurance
6 issued for delivery to creditors on a term plan insuring
7 debtors or disability benefit provisions in group credit life
8 insurance policies to provide such coverage.

9 § 6504. Amount of insurance.

10 (a) General rule.--The initial amount of credit life
11 insurance shall not exceed the total amount repayable under the
12 contract of indebtedness. Where an indebtedness repayable in
13 substantially equal installments is secured by an individual
14 policy of credit life insurance, the amount of insurance shall
15 not exceed the scheduled amount of indebtedness or the amount of
16 unpaid indebtedness, whichever is the greater, and where secured
17 by a group policy of credit life insurance shall not exceed the
18 amount of unpaid indebtedness.

19 (b) Exceptions.--Notwithstanding any other provisions of
20 this chapter, insurance on agricultural credit transaction
21 commitments not exceeding one year in duration may be written up
22 to the amount of the loan commitment on a nondecreasing or level
23 term plan. Notwithstanding any other provisions of this title,
24 insurance on educational credit transaction commitments may be
25 written for the amount of the portion of the commitment that has
26 not been advanced by the creditor.

27 (c) Periodic indemnity.--The total amount of periodic
28 indemnity payable by credit accident and health insurance in the
29 event of disability as defined in the policy shall not exceed
30 the aggregate of the periodic scheduled unpaid installments of

1 the indebtedness, and the amount of each periodic indemnity
2 payment shall not exceed the original indebtedness divided by
3 the number of periodic installments.

4 § 6505. Term of insurance.

5 The term of any credit insurance shall, subject to acceptance
6 by the insurer, commence on the date when the debtor becomes
7 obligated to the creditor or the date from which interest or
8 finance charges accrue if later, except that when a group policy
9 provides coverage with respect to existing obligations, the
10 insurance on a debtor with respect to the indebtedness shall
11 commence on the effective date of the policy. When evidence of
12 insurability is required and is furnished more than 30 days
13 after the date when the debtor becomes obligated to the
14 creditor, the term of the insurance may commence on the date on
15 which the insurance company determines the evidence to be
16 satisfactory and shall make an appropriate refund or adjustment
17 of any charge to the debtor for insurance. The term of credit
18 insurance shall not extend more than 15 days beyond the
19 scheduled maturity date of the indebtedness, except when
20 extended without additional cost to the debtor. If the
21 indebtedness is discharged due to renewal or refinancing prior
22 to the scheduled maturity date, the insurance in force shall be
23 terminated before any new insurance may be issued in connection
24 with the renewed or refinanced indebtedness. In all cases of
25 termination prior to scheduled maturity, a refund shall be paid
26 or credited as provided in section 6508 (relating to premiums
27 and refunds).

28 § 6506. Disclosure to debtors.

29 (a) Policies and certificates.--All credit insurance shall
30 be evidenced by an individual policy or in the case of group

1 insurance by a certificate of insurance, which policy or
2 certificate shall be delivered to the debtor within 30 days
3 after the date the indebtedness is incurred. Each individual
4 policy or group certificate of credit insurance shall, in
5 addition to other requirements of law, include:

6 (1) The name and home office address of the insurer.

7 (2) The name or names of the debtor or in the case of a
8 certificate under a group policy the identity by name or
9 otherwise of the debtor.

10 (3) The rate or amount of payment, if any, by the debtor
11 separately for credit life insurance and credit accident and
12 health insurance.

13 (4) A description of the amount, term and coverage,
14 including any exceptions, limitations or restrictions.

15 (5) A statement that the benefits shall be paid to the
16 creditor to reduce or extinguish the unpaid indebtedness and
17 that, if the amount of insurance exceeds the unpaid
18 indebtedness, the excess shall be payable to a beneficiary
19 other than the creditor named by the debtor or to his estate.

20 (b) Preliminary disclosures.--If a separate identifiable
21 charge is made to the debtor for the insurance and an individual
22 policy or group certificate of insurance is not delivered to the
23 debtor at the time the indebtedness is incurred, a copy of the
24 application for the policy or a notice of proposed insurance
25 shall be delivered to the debtor at that time, which shall
26 include the following:

27 (1) The identity by name or otherwise of the person or
28 persons insured.

29 (2) The rate or amount of payment by the debtor
30 separately for credit life insurance and credit accident and

1 health insurance.

2 (3) A statement that, subject to acceptance by the
3 insurer and within 30 days, there will be delivered to the
4 debtor a policy or certificate of insurance naming the
5 insurer and fully describing the insurance.

6 The copy of the application for or notice of proposed insurance
7 shall also refer exclusively to insurance coverage and shall be
8 separate and apart from the loan, sale or other credit statement
9 of account, instrument or agreement, unless the information
10 required by this subsection is prominently set forth therein.

11 The application or notice of proposed insurance shall state
12 that, upon acceptance by the insurer, the insurance shall become
13 effective as provided in section 6505 (relating to term of
14 insurance). Upon acceptance of the insurance by the insurer and
15 within 30 days of the date upon which the indebtedness is
16 incurred, the insurer shall deliver an individual policy or
17 group certificate of insurance under subsection (a).

18 (c) Refusal of risk.--If the named insurer does not accept
19 the risk, the debtor shall promptly receive a policy or
20 certificate of insurance setting forth the name and home office
21 address of the substituted insurer and the amount of the premium
22 to be charged and, if the amount of premium is less than that
23 set forth in the notice of proposed insurance, an appropriate
24 refund shall be made.

25 § 6507. Review of forms and premium rates.

26 (a) Review by department.--All policies, certificates of
27 insurance, notices of proposed insurance, applications for
28 insurance, endorsements and riders delivered or issued for
29 delivery in this Commonwealth, together with the premium rates
30 therefor, shall be filed with the department for approval. Forms

1 and rates so filed shall be deemed approved at the expiration of
2 30 days after filing unless earlier approved or disapproved by
3 the department. The department by written notice to the insurer
4 may, with the 30-day period, extend the period for approval or
5 disapproval for an additional 30 days. A form subject to this
6 section or premium rate shall not be issued or used until the
7 expiration of the time for the consideration by the department,
8 unless the department has given its written approval thereto.

9 (b) Disapproval.--The department shall disapprove any form
10 or premium rate if the table of premium rates appears by
11 reasonable assumptions to be excessive in relation to benefits,
12 or if the form contains provisions which are unfair, unjust,
13 misleading, deceptive or are contrary to law. In determining
14 whether to disapprove any such form or premium rates, the
15 department shall give due consideration to past and prospective
16 loss experience in and outside this Commonwealth, to
17 underwriting practice and judgment, to a reasonable margin for
18 underwriting profit and contingencies, to past and prospective
19 expenses in and outside this Commonwealth and to all other
20 relevant factors. If the form or premium rate is disapproved,
21 the insurer shall not issue or use the form or rates.

22 (c) Notice of disapproval.--The department shall promptly
23 give notice to the insurer of its disapproval of a form or
24 premium rate under subsection (b). In the notice, the department
25 shall specify the reason for its disapproval and state that a
26 hearing will be granted within 20 days after request in writing
27 by the insurer.

28 (d) Withdrawal of approval.--The department may, at any time
29 after a hearing held not less than 20 days after written notice
30 to the insurer, withdraw its approval of any such form or

1 premium rate on any ground set forth in subsection (b). The
2 written notice of the hearing shall state the reason for the
3 proposed withdrawal. The insurer shall not issue or use such
4 forms or rates after the effective date of the withdrawal.

5 (e) Judicial review.--Any order or final determination of
6 the department after a hearing under this section shall be
7 subject to judicial review.

8 (f) Group policies.--With regard to group policies of credit
9 insurance delivered in this Commonwealth before November 1,
10 1961, or delivered in another state at any time, the insurer
11 shall be required to file only the group certificate and notice
12 of proposed insurance, delivered or issued for delivery in this
13 Commonwealth as specified in section 6506 (relating to
14 disclosure to debtors). These forms shall be approved by the
15 department if they contain the information specified therein and
16 if the schedules of premium rates applicable to the insurance
17 evidenced by the certificate or notice are not in excess of the
18 insurer's schedules of premium rates on file with the
19 department.

20 § 6508. Premiums and refunds.

21 (a) Revision of rates.--Any insurer may revise its schedules
22 of premium rates from time to time and shall file such revised
23 schedules with the department. An insurer shall not issue any
24 credit insurance policy for which the premium rate exceeds that
25 determined by the schedules of the insurer as then on file with
26 the department.

27 (b) Refunds.--Each individual policy or group certificate
28 shall provide that, in the event of termination of the insurance
29 prior to the scheduled maturity date of the indebtedness, any
30 refund of an amount paid by the debtor for insurance shall be

1 paid or credited promptly to the person entitled thereto, except
2 that the department shall prescribe a minimum refund, and no
3 refund which would be less than such minimum need be made. The
4 formula to be used in computing the refund shall be filed with
5 and approved by the department.

6 (c) Payments required by creditor.--If a creditor requires a
7 debtor to make any payment for credit insurance and an
8 individual policy or group certificate of insurance is not
9 issued, the creditor shall immediately give written notice to
10 the debtor and shall promptly make an appropriate credit to the
11 account.

12 (d) Limitation on charges.--The amount charged to a debtor
13 for any credit insurance shall not exceed the aggregate of the
14 premiums to be charged by the insurer as computed at the time
15 the charge to the debtor is determined.

16 (e) Payments under other law.--This chapter does not
17 authorize any payments for credit insurance now prohibited under
18 any statute or regulation thereunder governing credit
19 transactions, except that when payment for credit insurance is
20 not prohibited under any statute or rule thereunder governing
21 credit transactions, the commissions, dividends or other returns
22 to the creditor therefrom shall not be deemed a violation of
23 law.

24 § 6509. Issuance of policies.

25 All policies of credit life insurance and credit accident and
26 health insurance shall be delivered or issued for delivery in
27 this Commonwealth only by an insurer authorized to do an
28 insurance business in this Commonwealth and shall be issued only
29 through holders of licenses or authorizations issued by the
30 department.

1 § 6510. Claims.

2 (a) Method of payment.--All claims shall be paid either by
3 draft drawn upon the insurer or by check of the insurer to the
4 order of the claimant to whom payment of the claim is due
5 pursuant to the policy provisions or upon direction of the
6 claimant to one specified.

7 (b) Authority to settle claims.--A plan or arrangement shall
8 not be used whereby any person, firm or corporation other than
9 the insurer or its designated claim representative are
10 authorized to settle or adjust claims. The creditor shall not be
11 designated as claim representative for the insurer in adjusting
12 claims, except that a group policyholder may, by arrangement
13 with the group insurer, draw drafts or checks in payment of
14 claims due to the group policyholder subject to audit and review
15 by the insurer.

16 § 6511. Choice of insurer.

17 When credit insurance is required as additional security for
18 any indebtedness, the debtor may, upon request to the creditor,
19 furnish the required amount of insurance through existing
20 policies of insurance owned or controlled by him or of procuring
21 and furnishing the required coverage through any insurer
22 authorized to transact an insurance business in this
23 Commonwealth.

24 § 6512. Regulations and enforcement.

25 The department may, after a public hearing, promulgate such
26 regulations as it finds to be appropriate and necessary for the
27 supervision of this chapter. Whenever the department finds that
28 there has been a violation of this chapter or any regulations
29 promulgated thereunder, after written notice thereof and hearing
30 given to the insurer or other person authorized or licensed by

1 the department, it shall set forth the details of its findings,
2 together with an order for compliance by a specified date. The
3 order shall be binding on the person so ordered on the date
4 specified unless the order is withdrawn by the department or a
5 stay is ordered by a court.

6 § 6513. Judicial review.

7 Any party to a proceeding affected by an order of the
8 department shall be entitled to judicial review.

9 § 6514. Penalties.

10 (a) Monetary penalties.--Any insurer or any person who
11 violates an order of the department after it has become final
12 and while the order is in effect shall, upon proof thereof to
13 the satisfaction of the court, pay to the Commonwealth a sum not
14 to exceed \$250 which may be recovered in a civil action. If the
15 violation is found to be willful, the penalty shall be a sum not
16 to exceed \$1,000.

17 (b) Licensure penalties.--The department may revoke or
18 suspend the license or certificate of authority of the insurer
19 or the person guilty of such a violation.

20 CHAPTER 67

21 TITLE INSURANCE

22 Subchapter

23 A. General Provisions

24 B. Business Operations

25 C. Investment and Reserves

26 D. Rate Regulation

27 E. Penalties and Procedures

28 SUBCHAPTER A

29 GENERAL PROVISIONS

30 Sec.

1 6701. Definitions.

2 6702. Applicability of chapter.

3 6703. Applicability of other provisions of title.

4 6704. Regulations.

5 § 6701. Definitions.

6 The following words and phrases when used in this chapter
7 shall the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Applicant for insurance." Includes approved attorneys, real
10 estate brokers, real estate salesmen, attorneys at law and all
11 others who from time to time apply to a title insurance company
12 or to an agent of a title insurance company, for title
13 insurance, and who at the time of the application are not agents
14 for a title insurance company.

15 "Approved attorney." An attorney at law in good standing
16 upon whose examination of title and report of title thereon a
17 title insurance company may issue a policy of title insurance.

18 "Business of title insurance."

19 (1) The making as insurer, guarantor or surety, or
20 proposing to make as insurer, guarantor or surety, of any
21 contract or policy of title insurance.

22 (2) The transacting, or proposing to transact, any phase
23 of title insurance, including solicitation, negotiation
24 preliminary to execution, execution of a contract of title
25 insurance, insuring and transacting matters subsequent to the
26 execution of the contract and arising out of it, including
27 reinsurance.

28 (3) The doing, or proposing to do, any business in
29 substance equivalent to any of the foregoing in a manner
30 designed to evade the provisions of this chapter.

1 "Fee." The premium, the examination and settlement or
2 closing fees, and every other charge, whether denominated
3 premium or otherwise, made by a title insurance company, agent
4 of a title insurance company or an approved attorney of a title
5 insurance company to an insured or to an applicant for
6 insurance, for any policy or contract for the issuance of, or an
7 application for title insurance. The term does not include any
8 charges paid by an insured or by an applicant for insurance for
9 any policy or contract, to an attorney at law acting as an
10 independent contractor and retained by such attorney at law,
11 whether or not he is acting as an agent of or an approved
12 attorney of a title insurance company, or any charges made for
13 special services not constituting title insurance, even though
14 performed in connection with a title insurance policy or
15 contract.

16 "Title insurance."

17 (1) Insuring, guaranteeing or indemnifying against loss
18 or damage suffered by owners of real property or by
19 mortgagees or others interested therein by reason of liens,
20 encumbrances upon, defects in or the unmarketability of the
21 title to the real property.

22 (2) Guaranteeing, warranting or otherwise insuring the
23 correctness of searches relating to the title to real
24 property, and doing any business in substance equivalent to
25 any of the foregoing in a manner designed to evade this
26 chapter.

27 "Title insurance company."

28 (1) A domestic company organized under the provisions of
29 this chapter for the purpose of insuring titles to real
30 estate.

1 (2) A title insurance company organized under the laws
2 of another state or a foreign government and licensed to
3 insure titles to real estate in this Commonwealth pursuant to
4 section 6719 (relating to licensure of foreign insurers).

5 (3) A domestic or foreign company, including any
6 domestic bank or trust company, which has the power and is
7 authorized to insure titles to real estate in this
8 Commonwealth as of September 1, 1963, and which is not
9 disqualified under section 6715 (relating to loss of power to
10 transact title insurance).

11 § 6702. Applicability of chapter.

12 This chapter applies to all title insurance companies, title
13 rating organizations, title insurance agents, applicants for
14 title insurance and policyholders and to all persons and
15 business entities engaged in the business of title insurance.

16 § 6703. Applicability of other provisions of title.

17 In addition to the provisions of this chapter, only the
18 following provisions of this title, except as they are
19 inconsistent with this chapter, shall apply to the business of
20 title insurance and to title insurance companies, which shall be
21 considered as within the class of insurance companies regulated
22 by those provisions solely for the purpose of being subject to
23 such provisions:

24 Chapter 1 (relating to general provisions).

25 Chapter 3 (relating to general provisions).

26 Chapter 5 (relating to Insurance Department).

27 Subchapter E of Chapter 7 (relating to title insurance).

28 Section 901 (relating to deposit of securities with
29 department).

30 Section 904 (relating to actions in equity regarding

1 deposits).

2 Sections 1102 (relating to certification of agents)
3 through 1107 (relating to penalty for soliciting for
4 nonexistent company).

5 Section 1142 (relating to theft offense).

6 Sections 1145 (relating to offering rebates and
7 inducements) through 1149 (relating to penalties imposed by
8 department).

9 Subchapter E of Chapter 11 (relating to managers and
10 exclusive general agents).

11 Chapter 15 (relating to unfair insurance practices).

12 Sections 1705 (relating to reports of financial
13 condition) and 1706 (relating to additional reports from
14 foreign or alien entities).

15 Sections 3101 (relating to scope of part) through 3104
16 (relating to power of General Assembly regarding charters).

17 Section 3106 (relating to judicial proceedings).

18 Sections 3303 (relating to articles of agreement) through
19 3305 (relating to capital stock).

20 Sections 3307 (relating to officers and directors) and
21 3308 (relating to subscriptions).

22 Subchapter C of Chapter 33 (relating to authorization).

23 Section 3351 (relating to valuation of securities).

24 Sections 3501 (relating to use of company name) through
25 3508 (relating to execution of insurance policies).

26 Sections 3510 (relating to incorporation of documents in
27 policy) through 3516 (relating to mortgage insurance).

28 Sections 3531 (relating to annual meetings) through 3533
29 (relating to election of directors and trustees).

30 Sections 3535 (relating to voting by stockholders and

1 members) through 3539 (relating to directors and trustees).

2 Subchapter C of Chapter 35 (relating to fundamental
3 changes).

4 Sections 3565 (relating to protection of competition)
5 through 3571 (relating to dissolution for failure to do
6 business).

7 Subchapter E of Chapter 35 (relating to foreign or alien
8 companies).

9 Section 3581 (relating to embezzlement by officers or
10 agents) through 3587 (relating to buying proxies).

11 Section 3589 (relating to fraud in obtaining licenses or
12 certificates).

13 Chapter 39 (relating to suspension of business and
14 dissolution).

15 Sections 5507 (relating to dividends), 5508 (relating to
16 reduction and withdrawal of capital stock) and 5510 (relating
17 to resident agents for foreign or alien insurance entities).

18 § 6704. Regulations.

19 The department shall enforce and carry out, by regulations,
20 orders or otherwise, this chapter. The department may make such
21 reasonable regulations, not inconsistent with this chapter, as
22 may be necessary or proper in the exercise of its powers or for
23 the performance of its duties under this chapter.

24 SUBCHAPTER B

25 BUSINESS OPERATIONS

26 Sec.

27 6711. Powers of title insurance companies.

28 6712. Corporate form.

29 6713. Title examination and records.

30 6714. Prohibition of guaranteeing mortgages.

- 1 6715. Loss of power to transact title insurance.
2 6716. Primary retained liability.
3 6717. Power to reinsure.
4 6718. Special reinsurance.
5 6719. Licensure of foreign or alien insurers.
6 6720. Resident agents for foreign or alien insurers.
7 6721. Regulation of agents.
8 6722. Commissions.
9 6723. Mergers and consolidations.
10 6724. Other corporate acquisitions.
11 6725. Change in corporate control.

12 § 6711. Powers of title insurance companies.

13 Only a title insurance company as defined in section 6701
14 (relating to definitions) may underwrite or issue a policy of
15 title insurance. A person shall not engage in the business of
16 title insurance in this Commonwealth unless authorized to
17 transact such a business by this chapter. A title insurance
18 company shall not transact, underwrite or issue any kind of
19 insurance other than title insurance.

20 § 6712. Corporate form.

21 A title insurance company shall be organized as a stock
22 corporation as provided in sections 3303 (relating to articles
23 of agreement), 3304 (relating to name of company), 3305
24 (relating to capital stock), 3307 (relating to officers and
25 directors) and 3308 (relating to subscriptions) and authorized
26 under Subchapter C of Chapter 33 (relating to authorization),
27 except as prescribed in this chapter, to do the kind of
28 insurance business, with incidental powers, specified in this
29 chapter.

30 § 6713. Title examination and records.

1 A policy of title insurance, excluding reinsurance, shall not
2 be written unless the title insurance company, through its own
3 employees, agents or approved attorneys, has conducted a
4 reasonable examination of the record title or has caused such an
5 examination to be conducted. The abstract of title or the report
6 of the examination thereof shall be in writing and shall be kept
7 on file by the title insurance company, its agent or an approved
8 attorney for a period of not less than 20 years after the policy
9 of title insurance has been issued. In lieu of retaining the
10 original copy, the title insurance company, its agent or the
11 approved attorney may record, copy or reproduce all or some of
12 these documents.

13 § 6714. Prohibition of guaranteeing mortgages.

14 A title insurance company shall not guarantee the payment of
15 the principal or the interest of bonds or other obligations
16 secured by mortgages upon real property.

17 § 6715. Loss of power to transact title insurance.

18 (a) Break in use of power.--Every title insurance company
19 which does not exercise for any period of 12 months the power to
20 insure owners of real property, mortgagees and others interested
21 in real property from loss by reason of defective titles, liens
22 and encumbrances, shall be forever barred from the exercise of
23 such power.

24 (b) Banking powers.--Any title insurance company which
25 possesses the further powers to receive deposits or otherwise to
26 engage in a banking business, and which does not exercise any of
27 these powers for any consecutive period of one year, upon
28 exercising either of these powers again, shall make no further
29 contracts or policies of title insurance.

30 (c) Fiduciary powers.--Any title insurance company which

1 possesses the further powers to act as trustee, guardian,
2 executor or administrator or in any similar fiduciary capacity,
3 and which does not exercise these powers for any consecutive
4 period of one year, upon exercising again any of such further
5 powers shall make no further contracts or policies of title
6 insurance.

7 § 6716. Primary retained liability.

8 (a) Limit of net primary retention.--A title insurance
9 company shall not issue a policy of title insurance for a single
10 transaction, the net primary retained liability under which
11 shall exceed an amount which is equal to its assets, not
12 including agency and escrow funds, less an amount equal to the
13 sum of the minimum capital required by this chapter for a title
14 insurance company, unearned premium reserve and the value of
15 title plant. One or more title insurance companies may assume
16 the liability on a single policy jointly with another title
17 insurance company or companies in excess of this amount if the
18 total amount of insurance does not exceed the aggregate maximum
19 net primary retentions of all companies liable under the
20 insurance, and if none of the companies exceeds the limit of its
21 net primary retention for a single transaction.

22 (b) Primary liability.--A title insurance company shall not
23 issue a policy of title insurance for a single transaction under
24 which its primary liability as coinsurer exceeds the limit of
25 net primary retention prescribed in subsection (a).

26 (c) Secondary liability.--A title insurance company shall
27 not issue a policy of title insurance for a single transaction
28 under which its secondary liability as reinsurer exceeds the
29 limit of net primary retention prescribed in subsection (a),
30 except that if the ceding company or companies retain primary

1 liability at least equal to 10% of the total amount at risk, a
2 title insurance company may issue a policy of reinsurance for a
3 single transaction under which its secondary liability exceeds
4 the limit of net primary retention prescribed in subsection (a).
5 The total amount of its secondary liability for a single
6 transaction shall not exceed an amount which is equal to its
7 assets, not including agency or escrow funds, less an amount
8 equal to the sum of the unearned premium reserve and the value
9 of title plant. One or more title insurance companies may assume
10 the liability on a single policy jointly with another title
11 insurance company or companies in excess of this amount, if the
12 total amount of insurance does not exceed the aggregate maximum
13 net retentions of all companies liable under the insurance and
14 if none of the companies exceeds the limit of its net retention
15 for a single transaction.

16 § 6717. Power to reinsure.

17 Any authorized title insurance company may reinsure all or
18 any part of its liability under one or more of its policy
19 contracts with any authorized title insurance company or
20 companies authorized to insure titles to real estate in any
21 state, if the reinsuring company at all times remains of the
22 same standard of solvency and complies with all other
23 requirements fixed by the law of this Commonwealth for
24 authorized title insurance companies. Any authorized title
25 insurance company shall pay to this Commonwealth taxes required
26 on all business taxable in this Commonwealth and reinsured under
27 this section with any foreign company not authorized to do
28 business in this Commonwealth.

29 § 6718. Special reinsurance.

30 If the risk of a single transaction involving a parcel of

1 real estate situated in this Commonwealth exceeds the total net
2 retention, both primary and secondary, permitted by this chapter
3 for all authorized title insurance companies, and the total
4 reinsurance available from companies authorized to reinsure
5 risks by section 6717 (relating to power to reinsure),
6 reinsurance may be obtained from companies not authorized to
7 reinsure risks in this Commonwealth with the prior approval in
8 writing of the department.

9 § 6719. Licensure of foreign or alien insurers.

10 Any foreign or alien insurance company shall be licensed to
11 transact the business of title insurance in this Commonwealth
12 only if the company is and remains of the same standard of
13 solvency and complies with other requirements under this title
14 for title insurance companies organized and authorized to
15 transact the business of title insurance pursuant to the laws of
16 this Commonwealth. The company shall not be licensed to transact
17 any business in this Commonwealth until it complies with the
18 requisites for doing business under section 3577 (relating to
19 conditions for authorization of foreign or alien companies).

20 § 6720. Resident agents for foreign or alien insurers.

21 A foreign or alien company licensed to do a title insurance
22 business in this Commonwealth shall transact such business only
23 through resident agents in the manner prescribed in section 5510
24 (relating to resident agents for foreign or alien insurance
25 entities).

26 § 6721. Regulation of agents.

27 (a) Disqualifications.--A mortgage service, mortgage
28 brokerage or mortgage guaranty company or any officer or
29 employee of any of the foregoing, may not act as an agent of a
30 title insurance company; nor shall any appointed attorney or

1 officer or salaried employee of any title insurance company act
2 as such an agent.

3 (b) Certification.--Every title insurance company shall
4 certify to the department as it shall direct the names of all
5 agents appointed by the company in this Commonwealth.

6 (c) Licensure.--Agents of a title insurance company shall be
7 licensed in the manner provided for agents of insurance
8 companies in section 1103 (relating to licenses of agents). If
9 an applicant for an agent's license is an agent of a title
10 insurer or a licensed insurance broker or an attorney at law,
11 the applicant shall not be required to take an examination to
12 qualify for such license. Licenses of title insurance agents
13 shall expire annually at midnight of June 30, unless sooner
14 terminated as the result of severance of business relations
15 between the company and the agent, or unless revoked by the
16 department for cause.

17 (d) Records.--Every agent of a title insurance company shall
18 keep his books, records, accounts and vouchers pertaining to the
19 business of title insurance in such manner that the department
20 may readily ascertain, from time to time, whether or not the
21 agent has complied with this title. Failure to comply with this
22 section shall be a ground for revocation of the agent's license.

23 (e) Replies to inquiries by department.--Every agent of a
24 title insurance company shall promptly reply in writing to any
25 inquiry of the department relative to the agent's conduct of the
26 business of title insurance, and failure to reply shall be a
27 ground for revocation of the agent's license.

28 (f) Prohibited names.--An agent of a title insurance company
29 shall not adopt a firm name containing the words "title," "title
30 company," "title insurance company," "guaranty," "guarantee,"

1 "guaranty company," "guarantee company" or similar combination
2 thereof.

3 (g) Definition.--As used in this section the term "agent"
4 means a person authorized in writing by a title insurance
5 company directly or indirectly:

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

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

9 § 6722. Commissions.

10 (a) Attorneys and brokers.--To the extent not in violation
11 of Federal law, a title insurance company or an agent of a title
12 insurance company may pay a cash commission to an attorney at
13 law in good standing, or a real estate broker licensed in this
14 Commonwealth, for procuring a title insurance for a client in a
15 real estate transaction. A commission may not be paid to an
16 attorney at law in any transaction in which he acts as an
17 approved attorney. An attorney at law or a licensed real estate
18 broker may credit his commission to the account of the client
19 for whom the policy of title insurance was obtained without
20 violating the rebate provisions of this chapter. The cash
21 commission paid by a title insurance company or an agent of a
22 title insurance company shall not exceed the amount set forth in
23 the schedule of commissions filed with the department by the
24 title insurance company.

25 (b) Applicants for title insurance.--A title insurance
26 company or agent or approved attorney of a title insurance
27 company shall not pay, give or award to an applicant for title
28 insurance any other compensation, consideration, benefit or
29 remuneration, directly or indirectly.

30 § 6723. Mergers and consolidations.

1 (a) General rule.--Subject to the provisions of this
2 section, a domestic title insurance company may merge or
3 consolidate with one or more domestic or foreign title insurance
4 companies authorized to transact title insurance in this
5 Commonwealth, by complying with 15 Pa.C.S. Ch. 19 Subchs. A
6 (relating to preliminary provisions) and C (relating to merger,
7 consolidation, share exchange and sale of assets). The
8 provisions of 15 Pa.C.S. Ch. 25 Subchs. A (relating to
9 preliminary provisions), E (relating to control transactions)
10 and F (relating to business combinations) apply to domestic
11 title insurance companies.

12 (b) Approval by department.--A merger or consolidation shall
13 not be effected unless in advance thereof the plan and agreement
14 therefor have been filed with the department. The department
15 shall examine the terms and conditions of the merger or
16 consolidation, and of any exchange of shares or securities
17 pursuant thereto, after holding a hearing at which all persons
18 to whom it is proposed to issue shares or securities in the
19 exchange may appear. After the hearing, the department shall
20 either approve or disapprove the terms and conditions of
21 exchange. The department shall approve within a reasonable time
22 after the filing unless it finds that the plan or agreement:

- 23 (1) is contrary to law;
- 24 (2) is inequitable to the stockholders of any title
25 insurance company; or
- 26 (3) would substantially reduce the security of and
27 services to be rendered to policyholders of the domestic
28 title insurance company in this Commonwealth or elsewhere.

29 (c) Disclosure of consideration.--A director, officer, agent
30 or employee of a title insurance company party to a merger or

1 consolidation shall not receive any fee, commission or other
2 valuable consideration for aiding, promoting or assisting
3 therein except as set forth in the plan or agreement.

4 (d) Notice of disapproval.--If the department does not
5 approve a plan or agreement, it shall notify the title insurance
6 company in writing, specifying its objections in detail.

7 § 6724. Other corporate acquisitions.

8 (a) General rule.--A domestic title insurance company may
9 issue stock in exchange for all or substantially all the assets
10 or stock of a domestic or foreign title insurance or abstract
11 company if a plan or agreement of acquisition has been filed
12 with the department.

13 (b) Approval by department.--The department shall examine
14 the terms and conditions of the plan or agreement and of any
15 exchange of shares or securities pursuant thereto, after holding
16 a hearing at which all persons to whom it is proposed to issue
17 shares or securities in the exchange may appear. After the
18 hearing, the department shall either approve or disapprove the
19 terms and conditions of exchange. The department shall approve
20 within a reasonable time after the filing unless it finds that
21 the plan or agreement:

22 (1) is contrary to law;

23 (2) is inequitable to the stockholders of any title
24 insurance or abstract company involved; or

25 (3) would substantially reduce the security of and
26 service to be rendered to policyholders of the domestic title
27 insurance company in this Commonwealth or elsewhere.

28 (c) Disclosure of consideration.--A director, officer, agent
29 or employee of a title insurance company or abstract company
30 party to an acquisition shall not receive any fee, commission or

1 other valuable consideration for aiding, promoting or assisting
2 therein except as set forth in the plan or agreement.

3 (d) Notice of disapproval.--If the department does not
4 approve a plan or agreement, it shall notify the title insurance
5 company in writing specifying its objections in detail.

6 § 6725. Change in corporate control.

7 (a) Approval by department.--If any person proposes to
8 acquire the controlling capital stock of any domestic title
9 insurance company and thereby change the control of the company,
10 he shall first apply to the department for approval of the
11 change of control. The change in control shall not be effective
12 unless so approved. The application shall contain the name and
13 address of the proposed new owners of the controlling stock.

14 (b) Criteria for approval.--The department shall approve the
15 proposed change of control only after it determines that the
16 proposed new owners of the controlling stock are qualified by
17 character, experience and financial responsibility to control
18 and operate the company in a lawful and proper manner and that
19 the interest of the company stockholders and policyholders and
20 the interest of the public generally will not be jeopardized by
21 the proposed change in ownership and management.

22 (c) Procedure.--If the department does not approve or
23 disapprove the proposed change within 30 days after the date the
24 application was filed with it, the proposed change shall be
25 deemed to be approved as of the expiration of the 30-day period.
26 If the department disapproves the proposed change in control, it
27 shall give written notice thereof to the persons so applying for
28 approval, setting forth its objections.

29

SUBCHAPTER C

30

INVESTMENT AND RESERVES

- 1 Sec.
- 2 6731. Financial requirements.
- 3 6732. Procedure when capital impaired.
- 4 6733. Unearned premium reserve.
- 5 6734. Amount of unearned premium reserve.
- 6 6735. Maintenance of unearned premium reserve.
- 7 6736. Use of unearned premium reserve.
- 8 6737. Reserves for unpaid losses and loss expenses.
- 9 6738. Investment of capital.
- 10 6739. Investment of surplus.
- 11 6740. Investment of unearned premium reserve.
- 12 6741. Other reserves.

13 § 6731. Financial requirements.

14 Every title insurance company shall have a minimum capital,
15 which shall be paid in and maintained, of not less than \$250,000
16 and, in addition, paid-in initial surplus at least equal to 50%
17 of its capital.

18 § 6732. Procedure when capital impaired.

19 If the capital of a title insurance company becomes impaired,
20 the title insurance company shall immediately give written
21 notice thereof to the department and shall make no further
22 policies or contracts or reinsurance agreements of title
23 insurance while the impairment exists. The title insurance
24 company shall immediately call upon its stockholders for such
25 amounts as will restore its capital to an amount prescribed by
26 the department. If any stockholder fails to pay the amount
27 called for, after notice personally given or by advertisement,
28 at the time and in the manner the department approves, the title
29 insurance company shall require the return of the original
30 certificates of stock held by the stockholder or issue new

1 certificates in the proportion, as determined by the department,
2 that the ascertained value of the assets bears to the capital
3 existing immediately prior to the impairment, the title
4 insurance company paying for any fractional parts of shares. The
5 directors of the title insurance company, with the prior consent
6 and approval of the department, may create new stock and issue
7 certificates therefor, and dispose of this stock at not less
8 than par for an amount sufficient to make up the original
9 capital, or the department may permit the company to reduce its
10 capital and the par value of its shares in proportion to the
11 extent of the impairment, but the capital shall at no time be
12 reduced to an amount less than that required by law for the
13 organization of the company. In fixing the reduced capital, not
14 more than 50% of the original capital shall be deducted from the
15 assets on hand to be retained as surplus funds, nor shall any
16 part of assets be distributed to stockholders. When the amount
17 of capital prescribed by the department has been restored, the
18 title insurance company shall notify the department which, upon
19 being satisfied that the impairment no longer exists and is not
20 likely to recur, shall authorize the title insurance company in
21 writing to again issue policies or contracts or reinsurance
22 agreements of title insurance.

23 § 6733. Unearned premium reserve.

24 (a) Establishment of reserve.--Every title insurance company
25 shall, in addition to other reserves, establish and maintain a
26 reserve to be known as the "unearned premium reserve" for title
27 insurance, which shall constitute the unearned portions of
28 premiums due or received and shall be charged as a reserve
29 liability of the title insurance company in determining its
30 financial condition.

1 (b) Purpose.--The unearned premium reserve shall be retained
2 by the title insurance company for the protection of the
3 policyholders' interest in policies which have not expired.

4 (c) Distribution.--Except as provided in section 6736
5 (relating to use of unearned premium reserve), assets equal to
6 the amount of the reserve shall not be subject to distribution
7 among depositors or other creditors or stockholders of the title
8 insurance company until all claims of its policyholders or
9 holders of its other title insurance contracts or agreements
10 have been paid in full and all liability on the policies or
11 other title insurance contracts or agreements, whether
12 contingent or actual, has been discharged or lawfully reinsured.
13 Income from the investment of the reserve shall be the
14 unrestricted property of the title insurance company.

15 § 6734. Amount of unearned premium reserve.

16 (a) General rule.--The unearned premium reserve of every
17 title insurance company shall consist of the amount of the
18 unearned premium reserve held as of September 1, 1963, plus all
19 additions required to be made to the reserve by this section,
20 less the withdrawals therefrom as permitted by this section.

21 (b) Additions.--Except as otherwise provided in this
22 subsection, a title insurance company shall add to its unearned
23 premium reserve, in respect to each policy or contract or
24 reinsurance agreement issued by it, a sum of money out of the
25 fees due or received for the title insurance made by it, equal
26 to \$1 for each policy or contract or agreement, plus 10¢ for
27 each \$1,000 face amount of net retained liability. The company
28 shall each year separately report the amounts so set aside in
29 respect to policies, contracts or agreements written in that
30 year. If substantially the entire outstanding liability of the

1 company is reinsured, the unearned premium reserve of the
2 reinsurer shall be equal in amount to the reserve of the ceding
3 title insurance company in respect to the outstanding liability
4 so reinsured.

5 (c) Relation to net profit.--The amounts set aside as
6 additions to the unearned premium reserve shall be deducted in
7 determining the net profit of any title insurance company.

8 (d) Date assumed.--For the purposes of determining the
9 amounts of the unearned premium reserve that may be withdrawn
10 and the interest of the policyholders therein under section 6736
11 (relating to use of unearned premium reserve), all policies,
12 contracts or reinsurance agreements of title insurance shall be
13 deemed as dated on July 1 in the year of issue.

14 (e) Withdrawals from reserve.--Additions to the unearned
15 premium reserve which have been held for a period of 20 years
16 shall be withdrawn from the unearned premium reserve and shall
17 constitute a part of net profit for the year in which the
18 withdrawal is made.

19 § 6735. Maintenance of unearned premium reserve.

20 If by reason of depreciation in the market value of
21 investments or other cause, the amount of the assets eligible
22 for investment of the unearned premium reserve is on any date
23 less than the amount required to be maintained by law in the
24 reserve, and the deficiency is not promptly cured, the title
25 insurance company shall immediately give written notice thereof
26 to the department. The company shall make no further policies,
27 contracts or reinsurance agreements of title insurance until the
28 amounts of the eligible investments have been restored and until
29 it has received written approval from the department authorizing
30 it to again issue such policies, contracts or agreements.

1 § 6736. Use of unearned premium reserve.

2 (a) General rule.--If a title insurance company becomes
3 insolvent, or is in the process of liquidation or dissolution,
4 or in the possession of the department, such amount of the
5 assets of the title insurance company, equal to the unearned
6 premium reserve as is necessary, shall be used with the written
7 approval of the department to pay for reinsurance of the
8 outstanding liability of the title insurance company upon all
9 policies, contracts or reinsurance agreements of title insurance
10 in force as to which claims for losses by the holders are not
11 then pending. The balance of the unearned premium reserve fund
12 shall be transferred to the general assets of the title
13 insurance company. The assets other than the unearned premium
14 reserve shall be available to pay claims for losses sustained by
15 holders of policies then pending or arising up to the time
16 reinsurance is affected. If claims for losses are in excess of
17 these assets, claims shall be paid out of the assets
18 attributable to the unearned premium reserve.

19 (b) Reinsurance.--The department may enter into a contract
20 with one or more title insurance companies to reinsure all the
21 obligations under outstanding policies of the title insurance
22 company subject to this section in accordance with their terms,
23 covenants and conditions, the cost of the reinsurance to be paid
24 out of the assets of that company.

25 (c) Reinsurance unavailable.--If reinsurance is unavailable,
26 the unearned premium reserve and assets constituting minimum
27 capital remaining after outstanding claims have been paid shall
28 constitute a trust fund, which shall be held by the department
29 for 20 years, out of which claims of policyholders shall be paid
30 as they arise. The balance of this fund shall, at the expiration

1 of 20 years, revert to the general assets of the title insurance
2 company, after reasonable charges for administration of the fund
3 have been charged against the balance by the department.

4 § 6737. Reserves for unpaid losses and loss expenses.

5 Each title insurance company shall establish and maintain, in
6 addition to other reserves, reserves against unpaid losses and
7 against loss expense. The company shall calculate these reserves
8 by making a careful estimate in each case of the loss and loss
9 expense likely to be incurred, by reason of every claim
10 presented or that may be presented, pursuant to notice from or
11 on behalf of the insured, of a title defect in or lien or
12 adverse claim against the title insured, that may result in a
13 loss or cause expense to be incurred for the proper disposition
14 of the claim. The amounts so estimated shall be revised as
15 circumstances warrant. The amounts set aside in these reserves
16 in any year shall be deducted in determining the net profit for
17 such year of the company.

18 § 6738. Investment of capital.

19 (a) General rule.--The capital of a title insurance company
20 shall be invested in the following classes of investment:

21 (1) Government obligations.--Bonds, notes or obligations
22 issued, assumed or guaranteed by the United States or the
23 Dominion of Canada or by any state.

24 (2) Governmental subdivision or public instrumentality
25 obligations.--Valid and legally authorized bonds, notes or
26 obligations issued, assumed or guaranteed by:

27 (i) Any municipality, school district, poor district
28 or water, sewer, drainage, road or other governmental
29 district or division located in the United States or any
30 state.

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

12 (iii) Any municipal authority created pursuant to
13 the laws of this Commonwealth if the obligations are not
14 in default as to principal or interest and if:

15 (A) the project for which the obligations were
16 issued is under lease to a school district or school
17 districts;

18 (B) the project for which the obligations were
19 issued is under lease to a municipality or
20 municipalities or subject to a service contract with
21 a municipality or municipalities, pursuant to which
22 the municipal authority will receive lease rentals or
23 service charges available for fixed charges on the
24 obligations, which will average not less than one and
25 one-fifth times the average annual fixed charges of
26 the obligations over the life thereof; or

27 (C) for the period of five fiscal years next
28 preceding the date of acquisition, the income of the
29 authority available for fixed charges has averaged
30 not less than one and one-fifth times the average

1 annual fixed charges of obligations over the life
2 thereof.

3 As used in this subparagraph the term "income available
4 for fixed charges" means income after deducting operating
5 and maintenance expenses, and, unless the obligations are
6 payable in serial, annual maturities, or are supported by
7 annual sinking fund payments, depreciation, but excluding
8 extraordinary nonrecurring items of income or expenses.

9 The term "fixed charges" includes principal, both
10 maturity and sinking fund, and interest on bonded debt.

11 In computing the income available for fixed charges for
12 the purpose of this subparagraph, the income so available
13 of any corporation acquired by any municipal authority
14 may be included, such income to be calculated as though
15 the corporation had been operated by a municipal
16 authority and an equivalent amount of bonded debt were
17 outstanding. The eligibility for investment purposes of
18 obligations of each project of a municipal authority
19 shall be separately considered.

20 (3) Public utility obligations.--Bonds, notes or
21 obligations issued, assumed or guaranteed by any solvent
22 public utility corporation or public utility business trust,
23 incorporated or existing under the laws of the United States
24 or of any state.

25 (4) Other corporate obligations.--Bonds, notes or
26 obligations issued, assumed or guaranteed by any other
27 corporation, including railroads, or business trust,
28 incorporated or existing under the Federal law or the law of
29 any state, whose income available for fixed charges for the
30 period of five fiscal years next preceding the date of

1 investment has averaged not less than one and one-half times
2 its average annual fixed charges applicable to that period.
3 As used in this paragraph the term "income available for
4 fixed charges" means income, after deducting operating and
5 maintenance expenses, depreciation and depletion, and taxes
6 other than Federal or state income taxes, excluding
7 extraordinary nonrecurring items of income or expense
8 appearing in the regular financial statements of the
9 corporation or business trust. The term "fixed charges"
10 includes interest on funded and unfunded debt and
11 amortization of debt discount and expense. If income is
12 determined in reliance upon consolidated income statements of
13 parent and subsidiary corporations or business trusts, the
14 income shall be determined after provision for Federal and
15 state income taxes of subsidiaries, and after proper
16 allowance for minority stock interest. The required coverage
17 of fixed charges shall be computed on a basis including fixed
18 charges and preferred dividends of subsidiaries, other than
19 those payable by subsidiaries to the parent corporation or
20 business trust, or to other subsidiaries. In applying an
21 income test to any issuing, assuming or guaranteeing
22 corporation or business trust, whether or not in legal
23 existence during the whole of the five-year period next
24 preceding the date of investment, which has at any time after
25 the beginning of the period acquired the assets or the
26 outstanding shares of capital stock of any other corporation
27 or business trust by purchase, merger, consolidation or
28 otherwise, substantially as an entirety, or has been
29 reorganized pursuant to the bankruptcy law, the income of the
30 other predecessor or constituent corporation or business

1 trust or of the corporation or business trust so reorganized,
2 available for interest and dividends for such portion of the
3 period as shall have preceded acquisition or reorganization,
4 may be included in the income of the issuing, assuming or
5 guaranteeing corporation or business trust for such portion
6 of the period as may be determined in accordance with
7 adjusted or pro forma consolidated income statements covering
8 that portion of the period, and giving effect to all stock or
9 shares outstanding and all fixed charges existing immediately
10 after acquisition or reorganization.

11 (5) Trustee, receiver or equipment trust obligations.--

12 (i) Certificates, notes or obligations issued by
13 trustees or receivers of any corporation or business
14 trust created or existing under Federal law or the law of
15 any state, if the corporation or trust, or its assets,
16 are being administered under the direction of any court,
17 and the obligation is adequately secured as to principal
18 and interest.

19 (ii) Equipment trust obligations or certificates,
20 which are adequately secured, or other adequately secured
21 instruments, evidencing an interest in transportation
22 equipment, located wholly or in part within the United
23 States, and a right to receive determined portions of
24 rental, purchase or other fixed obligatory payments for
25 the use or purchase of such transportation equipment.

26 (6) Acceptances and bills of exchange.--Bank and
27 bankers' acceptances and other bills of exchange of the kind
28 and maturities made eligible pursuant to law for purchase in
29 the open market by Federal Reserve Banks.

30 (7) Real estate loans.--Ground rents and bonds, notes or

1 other evidences of indebtedness, secured by mortgages or
2 trust deeds upon unencumbered real property located in any
3 state, and in investments in the equity of the seller under
4 contracts for deeds covering the entire balance due on bona
5 fide sales of such real property. A loan guaranteed or
6 insured in full by the Administrator of Veterans' Affairs
7 under the Servicemen's Readjustment Act (Public Law 85-857,
8 38 U.S.C. § 1801 et seq.) may be subject to a prior
9 encumbrance.

10 (i) Real property shall not be considered to be
11 encumbered within the meaning of this paragraph by reason
12 of the existence of:

13 (A) instruments reserving mineral, oil, water or
14 timber rights, rights-of-way, sewer rights, rights in
15 walls or driveways;

16 (B) liens inferior to the lien securing the loan
17 of the title insurance company or liens for taxes or
18 assessments not yet delinquent;

19 (C) building restrictions or other restrictive
20 covenants; or

21 (D) leases under which rents or profits are
22 reserved to the owner;

23 if the security for the loan is a first lien upon the
24 real property, and if there is no condition or right of
25 reentry or forfeiture under which the lien can be cut
26 off, subordinated or otherwise disturbed.

27 (ii) A mortgage or trust deed, loan or investment in
28 a seller's equity under a contract for deed made or
29 acquired by the title insurance company on any one
30 property shall not at the date of investment exceed two-

1 thirds of the value of the real property securing the
2 loan, or subject to the contract, but this limitation
3 does not apply to a loan which is:

4 (A) Insured by, or for which a commitment to
5 insure has been made by, the Federal Housing
6 Administrator or Commissioner, pursuant to the
7 provisions of the National Housing Act (48 Stat.
8 1247, 12 U.S.C. § 1707 et seq.).

9 (B) Guaranteed by the Administrator of Veterans'
10 Affairs under the Servicemen's Readjustment Act of
11 1944 (58 Stat. 284) or Public Law 85-857 (72 Stat.
12 1203, 38 U.S.C. § 1801 et seq) except that if only a
13 portion of a loan is so guaranteed, the limitation
14 shall apply to the portion not so guaranteed or
15 insured by the administrator under these statutes.

16 (C) Upon real estate under lease to a
17 corporation or business trust, incorporated or
18 existing under the law of the United States or any
19 state, whose income available for fixed charges for
20 the period of five fiscal years next preceding the
21 date of investment has averaged not less than one and
22 one-half times its average annual fixed charges
23 applicable to that period, if there is pledged and
24 assigned, as additional security for the loan and for
25 application thereon, sufficient of the rentals
26 payable under the lease to provide for repayment of
27 the loan within the unexpired term of the lease.

28 (D) Upon such terms that the principal thereof
29 will be amortized by repayments of principal at least
30 once in each year in amounts sufficient to repay the

1 loan within a period of not more than 30 years, and
2 the loan is upon improved real estate, and at the
3 date investment does not exceed three-quarters of the
4 value of the real estate securing the loan.

5 (8) Purchase money securities.--Purchase money mortgages
6 or similar securities received by it upon the sale or
7 exchange of real property acquired pursuant to paragraph
8 (20).

9 (9) Federal Housing Administrator's debentures.--
10 Debentures issued by the Federal Housing Administrator or
11 Commissioner in settlement of claims pursuant to the National
12 Housing Act (48 Stat. 1247, 12 U.S.C. § 1707 et seq.).

13 (10) National mortgage association securities.--
14 Securities of national mortgage associations or similar
15 national mortgage credit institutions organized under the
16 National Housing Act (48 Stat. 1247, 12 U.S.C. § 1707 et
17 seq.).

18 (11) Federal land bank, Federal intermediate credit bank
19 and bank for cooperative securities.--Bonds, debentures and
20 other obligations of Federal land banks, Federal intermediate
21 credit banks or banks for cooperatives issued under the
22 Federal Farm Loan Act (39 Stat. 360, 12 U.S.C. § 641 et seq.)
23 or under the Farm Credit Act of 1971 (Public Law 92-181, 12
24 U.S.C. § 2001 et seq.).

25 (12) Loans upon leaseholds.--Loans upon leasehold
26 estates or unencumbered real estate located in any state but
27 no such loan shall exceed two-thirds of the value of the
28 leasehold at the date of investment, unless:

29 (i) the loan is guaranteed or insured by, or
30 commitment to guarantee or insure the loan has been made

1 by, the Federal Housing Administrator or Commissioner
2 under the National Housing Act (48 Stat. 1247, 12 U.S.C.
3 § 1707 et seq.);

4 (ii) the leasehold is of improved real estate and
5 the loan provides for amortization by repayments of
6 principal at least once in each year in amounts
7 sufficient to repay the loan within a period of four-
8 fifths of the unexpired term of the leasehold, but within
9 a period of not more than 30 years, and does not exceed
10 three-fourths of the value of the leasehold at the date
11 of investment; or

12 (iii) the real estate is under lease to a
13 corporation or business trust, incorporated or existing
14 under the laws of the United States or any state, whose
15 income available for fixed charges for the period of five
16 fiscal years next preceding the date of investment has
17 averaged not less than one and one-half times its average
18 annual fixed charges applicable to the period, if there
19 is pledged and assigned as additional security for the
20 loan and for application thereon sufficient of the
21 rentals payable under the lease to provide for repayment
22 of the loan within the unexpired term of the lease.

23 The terms of any loan under this paragraph shall require
24 repayments of principal at least once in each year in amounts
25 sufficient to repay the loan within the term of the
26 leasehold, unexpired at the date of investment, unless a
27 shorter period is required under subparagraph (ii).

28 (13) Savings and loan shares.--Shares of any Federal
29 savings and loan association, or of any building and loan or
30 savings and loan association, to the extent that the

1 withdrawal or repurchasable value of the shares is insured by
2 the Federal Savings and Loan Insurance Corporation under the
3 National Housing Act (48 Stat. 1247, 12 U.S.C. § 1707 et
4 seq.).

5 (14) Federal Savings and Loan Insurance Corporation
6 Obligations.--Bonds, notes or obligations issued, assumed or
7 guaranteed by the Federal Savings and Loan Insurance
8 Corporation under the National Housing Act.

9 (15) Federal Home Loan Bank Obligations.--Bonds, notes
10 or obligations issued, assumed or guaranteed by the Federal
11 Home Loan Bank or the Federal Home Loan Bank Board under the
12 Federal Home Loan Bank Act (47 Stat. 725, 12 U.S.C. § 1421 et
13 seq.).

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

17 (17) Business development credit corporation shares.--
18 Shares of state and regional business development credit
19 corporations formed under the law of this Commonwealth.

20 (18) Pennsylvania Housing Finance Agency bonds and
21 notes.--Bonds and notes of the Pennsylvania Housing Finance
22 Agency created by the act of December 3, 1959 (P.L.1688,
23 No.621), known as the Housing Finance Agency Law.

24 (19) Inter-American Development Bank obligations.--
25 Bonds, notes or obligations issued, assumed or guaranteed by
26 the Inter-American Development Bank.

27 (20) Title plant.--A title plant if it keeps at least
28 \$250,000 invested in the classes of securities authorized for
29 the investment of capital other than title plant and real
30 estate. The title plant shall be considered an admitted asset

1 at the fair value thereof. In determining the fair value of a
2 title plant, no value shall be attributed to furniture and
3 fixtures, and the real estate in which the title plant is
4 housed shall be carried as real estate. The value of title
5 abstracts, title briefs, copies of conveyances or other
6 documents, indices and other records comprising the title
7 plant, shall be determined by considering the expenses
8 incurred in obtaining them, the age thereof, the cost of
9 replacements less depreciation and all other relevant
10 factors. Once the value of a title plant has been determined,
11 the value may be increased only by the acquisition of another
12 title plant by purchase, consolidation or merger. The value
13 of the title plant shall not be increased by additions made
14 thereto as part of the normal course of abstracting and
15 insuring titles to real estate. Subject to these limitations
16 and with the approval of the department, a title insurance
17 company may enter into agreements with one or more other
18 authorized title insurance companies whereby the companies
19 will participate in the ownership, management and control of
20 a title plant to service the needs of all the companies or
21 the companies may hold stock of a corporation owning and
22 operating a title plant for such purposes if each of the
23 companies participating in the ownership, management and
24 control of the jointly owned title plant keeps the sum of
25 \$250,000 invested as set forth in this paragraph.

26 (b) Real estate.--Any domestic title insurance company may
27 purchase, receive, hold and convey real estate or any interest
28 therein:

29 (1) required for its convenient accommodation in the
30 transaction of its business with reasonable regard to future

1 needs;

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

4 (3) acquired in satisfaction or on account of loans,
5 mortgages, liens, judgments or decrees, owed to it in the
6 course of its business;

7 (4) acquired in part payment of the consideration of the
8 sale of real property owned by it if the transaction results
9 in a net reduction in the company's investment in real
10 estate; or

11 (5) reasonably necessary for the purpose of maintaining
12 or enhancing the sale value of real property previously
13 acquired or held by it under subparagraph (i), (ii), (iii) or
14 (iv), but no title insurance company shall continue to hold
15 any real estate acquired by it under subparagraph (ii), (iii)
16 or (iv) for more than five years from the date of acquisition
17 thereof unless it obtains the written approval of the
18 department to hold the real estate for a longer period of
19 time.

20 § 6739. Investment of surplus.

21 Money over and above capital, other than the unearned premium
22 reserve, may be invested in the following classes of
23 investments:

24 (1) Investments authorized for capital.--Any of the
25 classes of investment authorized in section 6738 (relating to
26 investment of capital).

27 (2) Corporate stock or shares.--Stock or shares of any
28 solvent corporation, incorporated under the law of the United
29 States or any state or of the Dominion of Canada or any
30 province thereof, including the stock of another title

1 insurance company.

2 (3) Corporate obligations.--Bonds, notes or obligations
3 issued, assumed or guaranteed by any solvent corporation or
4 business trust, incorporated or existing under the law of the
5 United States or any state or of the Dominion of Canada or
6 any province thereof.

7 (4) Canadian governmental subdivision obligations.--
8 Valid and legally authorized bonds, notes or obligations
9 issued, assumed or guaranteed by any province or political
10 subdivision of the Dominion of Canada.

11 (5) Other Loans or investments.--Loans or investments
12 not qualifying or permitted under paragraphs (1) through (4)
13 to an amount not exceeding 5% of the company's admitted
14 assets.

15 § 6740. Investment of unearned premium reserve.

16 The unearned premium reserve of a title insurance company
17 shall be invested in the same classes of investments, other than
18 title plant and real estate, authorized in section 6738
19 (relating to investment of capital), except that one-fourth of
20 the reserve may be invested in preferred or guaranteed stocks or
21 shares of any solvent corporation or business trust,
22 incorporated or existing under the law of the United States or
23 of any state, whose net earnings available for its fixed
24 charges, during either of the two years preceding the date of
25 such investment have been, and during each of the five years
26 preceding such date have averaged, not less than one and one-
27 half times the sum of its average annual fixed charges, as
28 referred to in section 6738(4) and its average annual preferred
29 dividend requirements. For the purposes of this section, the
30 computation refers to the fiscal year immediately preceding the

1 date of acquisition of an investment by the insurer, and the
2 term "preferred dividend requirement" includes cumulative or
3 noncumulative dividends, whether paid, earned or not.

4 § 6741. Other reserves.

5 Reserves other than the unearned premium reserve may be
6 invested in any of the classes of investments authorized in
7 section 6739 (relating to investment of surplus).

8 SUBCHAPTER D

9 RATE REGULATION

10 Sec.

11 6751. Rate filing.

12 6752. Justification for rates.

13 6753. Making of rates.

14 6754. Disapproval of filings.

15 6755. Rating organizations.

16 6756. Deviations.

17 6757. Appeals by minority.

18 6758. Information to be furnished insureds.

19 6759. Hearings and appeals of insureds.

20 6760. Examination of rating organizations.

21 6761. Recording and reporting of loss and expense experience.

22 6762. False or misleading information.

23 § 6751. Rate filing.

24 (a) General rule.--Every title insurance company shall file
25 with the department every manual of classifications, rules,
26 plans, schedules of fees and commissions payable to applicants
27 for title insurance and every modification of any of the
28 foregoing relating to the rates which it proposes to use. Each
29 filing shall state the proposed effective date thereof and shall
30 indicate the character and extent of the coverage contemplated.

1 A title insurance company or agent of a title insurance company
2 shall not charge any fee for any policy or contract of title
3 insurance except in accordance with filings or rates which are
4 in effect for the company or agent of the company as provided in
5 this chapter.

6 (b) Rating organizations.--A title insurance company may
7 satisfy its obligations to make its filings by becoming a member
8 of, or a subscriber to, a licensed rating organization which
9 makes such filings and by authorizing the department to accept
10 such filings on its behalf.

11 (c) Review.--The department shall make such review of the
12 filings as may be necessary to carry out the provisions of this
13 chapter.

14 (d) Waiting period.--Subject to subsections (f) and (g),
15 each filing shall be on file for a period of 30 days before it
16 becomes effective. The department may, upon written notice given
17 within such period to the person making the filing, extend the
18 waiting period for an additional period, not to exceed 30 days,
19 to enable it to complete the review of the filing. Further
20 extensions of the waiting period may also be made with the
21 consent of the title insurance company or rating organization
22 making the filing. Upon written application by the company or
23 organization making the filing, the department may authorize a
24 filing or any part thereof which it has reviewed to become
25 effective before the expiration of the waiting period or
26 extension thereof.

27 (e) Effective filings.--Except in the case of rates filed
28 under subsections (f) and (g), a filing which has become
29 effective shall be deemed to meet the requirements of this
30 chapter.

1 (f) Special permission by department.--When the department
2 finds that any rate for a particular kind or class of risk
3 cannot practicably be filed before it is used, or any contract
4 or kind of title insurance, by reason of rarity or peculiar
5 circumstances, does not lend itself to advance determination and
6 filing of rates, the department may, under such regulations as
7 it may prescribe, permit the rates to be used without a previous
8 filing and waiting period.

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

14 § 6752. Justification for rates.

15 (a) Statement.--A rate filing shall be accompanied by a
16 statement of the title insurance company or rating organization
17 making the filing, setting forth the basis upon which the rate
18 was fixed and the fees are to be computed. Any filing may be
19 justified by:

20 (1) the experience or judgment of the company or
21 organization making the filing;

22 (2) the experience of other title insurance companies or
23 rating organizations; or

24 (3) any other factors which the company or organization
25 deems relevant.

26 (b) Public inspection.--The statement and justification
27 shall be open to public inspection after the rate to which it
28 applies becomes effective.

29 § 6753. Making of rates.

30 (a) General rule.--Rates shall not be inadequate or unfairly

1 discriminatory, nor shall rates be so excessive as to permit
2 title insurance companies to earn a greater profit, after
3 payment of all taxes upon all income, than is necessary to
4 enable them to earn sufficient amounts to pay their actual
5 expenses and losses arising in the conduct of their title
6 insurance business, plus a reasonable profit.

7 (b) Factors considered.--In making rates, due consideration
8 shall be given to past and prospective loss experience; exposure
9 to loss; underwriting practice and judgment; past and
10 prospective expenses, including commissions paid to agents and
11 applicants for title insurance; a reasonable margin for profit
12 and contingencies; and all other relevant factors both in and
13 outside this Commonwealth. The systems of expense provisions and
14 the amount of expense charged against each class of contract or
15 policy may vary between title insurance companies. Rates may, in
16 the discretion of any title insurance company, be less than the
17 cost of performing the work in the case of smaller risks, and
18 the excess may be charged against the larger risks without
19 rendering the rates unfairly discriminatory.

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

30 (1) The average rates of profit after payment of taxes

1 on all income earned by other industry generally.

2 (2) The desirability of stability of rate structure.

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

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

9 § 6754. Disapproval of filings.

10 (a) Standard of review.--A filing or modification thereof
11 shall not be disapproved if the rates in connection therewith
12 meet the requirements of this chapter.

13 (b) Hearing for insurer.--Upon the review at any time by the
14 department of a filing, it shall, before issuing an order of
15 disapproval, hold a hearing upon not less than ten days written
16 notice, specifying the matters to be considered at the hearing,
17 to every title insurance company and rating organization which
18 made the filing. A company or organization may at any time
19 withdraw a filing or a part thereof, subject to the provisions
20 of section 6756 (relating to deviations) in the case of a
21 deviation filing.

22 (c) Hearing for aggrieved parties.--Any person or
23 organization aggrieved with respect to any filing which is in
24 effect, except the company or organization which made the
25 filing, may make written application to the department for a
26 hearing thereon. The application shall specify the grounds to be
27 relied upon. If the department finds that the application may
28 justify relief, it shall, within 30 days after receipt of the
29 application, hold a hearing upon not less than ten days' written
30 notice to the applicant and to every company and organization

1 which made the filing.

2 (d) Decision of department.--If, after the hearing, the
3 department finds that the filing or a part thereof does not meet
4 the requirements of this chapter, it shall issue an order
5 specifying its objections. If the filing has become effective
6 under section 6751 (relating to rate filing) or otherwise, the
7 order shall state the time, within a reasonable period
8 thereafter, at which the filing or part thereof shall be deemed
9 no longer effective. Copies of the order shall be sent to the
10 applicant and to every title insurance company and rating
11 organization affected. The order shall not affect any contract
12 or policy made or issued prior to the expiration of the period
13 set forth in the order.

14 § 6755. Rating organizations.

15 (a) Licensure.--Any person located in or outside this
16 Commonwealth may apply to the department for a license as a
17 rating organization for title insurance companies. The
18 application shall include all of the following:

19 (1) A copy of its constitution, its articles of
20 agreement or association or its certificate of incorporation,
21 and of its bylaws, rules and regulations governing the
22 conduct of its business.

23 (2) A list of its members and subscribers.

24 (3) The name and address of a resident of this
25 Commonwealth upon whom notices or orders of the department or
26 process affecting the rating organization may be served.

27 (4) A statement of its qualifications as a rating
28 organization.

29 If the department finds that the applicant is competent,
30 trustworthy and otherwise qualified to act as a rating

1 organization, and that the documents submitted under paragraph
2 (1) conform to the requirements of law, it shall issue a license
3 authorizing the applicant to act as a rating organization for
4 title insurance. The application shall be granted or denied in
5 whole or in part by the department within 60 days of the date of
6 its filing with it. Licenses issued under this section shall
7 remain in effect for three years unless sooner suspended or
8 revoked by the department or withdrawn by the licensee. The fee
9 for the license shall be \$25. Licenses may be suspended or
10 revoked by the department, after hearing upon notice, if the
11 rating organization ceases to meet the requirements for
12 licensure under this section. Every rating organization shall
13 notify the department promptly of every change in the items
14 listed in paragraph (1), (2) or (3).

15 (b) Subscribers.--Subject to regulations approved by the
16 department, each rating organization shall permit any title
17 insurance company, not a member, to be a subscriber to its
18 rating services. Notices of proposed changes in its regulations
19 shall be given to subscribers. Each rating organization shall
20 furnish its rating services without discrimination to its
21 members and subscribers. The reasonableness of any regulation in
22 its application to subscribers or the refusal of any rating
23 organization to admit a title insurance company as a subscriber
24 shall, at the request of any subscriber or any such title
25 insurance company, be reviewed by the department at a hearing
26 held upon at least ten days' written notice to the rating
27 organization and to the subscriber or title insurance company.
28 If the department finds that the regulation is unreasonable in
29 its application to subscribers, it shall order that the
30 regulation shall not apply to subscribers. If the rating

1 organization fails to grant or reject an application of a title
2 insurance company for subscribership within 30 days after it is
3 made, the title insurance company may request a review by the
4 department as if the application had been rejected. If the
5 department finds that the title insurance company has been
6 refused admittance to the rating organization as a subscriber,
7 without justification, it shall order the rating organization to
8 admit the title insurance company as a subscriber; if the
9 department finds that the action of the rating organization was
10 justified, it shall make an order affirming its action.

11 (c) Cooperative activities.--Cooperation among rating
12 organizations, or among rating organizations and title insurance
13 companies, and concert of action among title insurance companies
14 under the same general management and control in rate making or
15 in other matters within the scope of this chapter is permitted,
16 but the filings resulting therefrom are subject to this chapter.
17 The department may review these activities and practices, and if
18 after a hearing it finds that any activity or practice is
19 unfair, unreasonable or otherwise inconsistent with this
20 chapter, it may issue a written order specifying its objections
21 and requiring the discontinuance of the activity or practice.

22 § 6756. Deviations.

23 (a) Deviation filings.--Every member of or subscriber to a
24 rating organization shall adhere to the filings made on its
25 behalf by such organization, except that a title insurance
26 company which is such a member or subscriber may file with the
27 department a uniform percentage of decrease or increase to be
28 applied to any or all elements of the fees produced by the
29 rating system so filed for a class of title insurance which is
30 found by the department to be a proper rating unit for the

1 application of such a uniform decrease or increase, or to be
2 applied to the rates for a particular area, or to be applied to
3 the amount of commissions to be paid.

4 (b) Contents of filings.--The deviation filing shall specify
5 the basis for the modification and shall be accompanied by the
6 data or historical pattern upon which the applicant relies. A
7 copy of the filing and data shall be sent simultaneously to the
8 rating organization.

9 (c) Waiting period.--Each deviation filing shall be on file
10 for 30 days before it becomes effective. The waiting period may
11 be extended in the same manner as under section 6751(d)
12 (relating to rate filing). Upon written application of the
13 person making the filing, the department may authorize a
14 deviation filing or any part thereof to become effective before
15 the expiration of the waiting period or any extension thereof.

16 (d) Effect.--Deviation filings shall be subject to section
17 6754 (relating to disapproval of filings). Each deviation shall
18 be effective for at least one year from the date the deviation
19 is filed unless terminated sooner with the approval of the
20 department or under section 6754.

21 § 6757. Appeals by minority.

22 (a) Right to appeal.--Any member of or subscriber to a
23 rating organization may appeal to the department from any
24 decision of the rating organization approving or rejecting any
25 proposed change in or addition to the filings of the rating
26 organization. The failure of a rating organization to make a
27 decision within 30 days after submission to it of a proposal
28 under this section shall be deemed a rejection of the proposal.

29 (b) Decision by department.--The department shall, after a
30 hearing held upon not less than ten days' written notice to the

1 appellant and to the rating organization, issue an order
2 approving the decision of the rating organization or directing
3 it to give further consideration to the proposal and to take
4 action upon it within 30 days. If the appeal is from a decision
5 of the rating organization rejecting a proposed addition to its
6 filings, the department may issue an order directing the rating
7 organization to make an addition to its filings on behalf of its
8 members and subscribers in a manner consistent with its
9 findings, within a reasonable time. If the appeal is from a
10 decision of the rating organization with regard to a rate or a
11 proposed change in or addition to its filings relating to the
12 character and extent of coverage, the department shall approve
13 the rate applied by the rating organization or the rate
14 suggested by the appellant, if either rate is in accordance with
15 this chapter. If the appeal is based upon the failure of the
16 rating organization to make a filing on behalf of the member or
17 subscriber which is based on a system of expense provisions
18 which differs, in accordance with section 6753(b) (relating to
19 making of rates), from the system of expense provisions included
20 in a filing made by the rating organization, the department
21 shall, if it grants the appeal, order the rating organization to
22 make the requested filing for use by the appellant. In deciding
23 the appeal, the department shall apply the standards set forth
24 in section 6753.

25 § 6758. Information to be furnished insureds.

26 Every rating organization and every title insurance company
27 which makes its own rates shall, within a reasonable time after
28 receiving written request therefor and upon payment of such
29 reasonable charge as it may make, furnish all pertinent
30 information as to the rate to any insured affected by a rate

1 made by it or to the authorized representative of such an
2 insured.

3 § 6759. Hearings and appeals of insureds.

4 Every rating organization and every title insurance company
5 which makes its own rates shall provide reasonable means whereby
6 any person aggrieved by the application of its rating system may
7 be heard, in person or by his authorized representative, on his
8 written request to review the manner in which the rating system
9 has been applied in connection with the insurance afforded him.
10 If the organization or company fails to grant or reject the
11 request within 30 days after it is made, the applicant may
12 proceed as if his application had been rejected. Any party
13 affected by the action of the organization or company on such a
14 request may, within 30 days after written notice of the action,
15 appeal to the department, which, after a hearing held upon not
16 less than ten days' written notice to the appellant and to the
17 organization or company, may affirm or reverse the action.

18 § 6760. Examination of rating organizations.

19 The department shall, at least once in five years, make an
20 examination of each rating organization licensed under this
21 chapter. The reasonable costs of any such examination shall be
22 paid by the organization examined upon presentation to it of a
23 detailed account of these costs. The officer, manager, agents
24 and employees of the organization may be examined at any time
25 under oath and shall exhibit all books, records, accounts,
26 documents or agreements governing its method of operation. The
27 department shall furnish two copies of the examination report to
28 the organization examined and shall notify it that it may,
29 within 20 days thereafter, request a hearing on the report or on
30 any facts or recommendations therein. Before filing a report for

1 public inspection, the department shall grant a hearing to the
2 organization examined. The report of any examination, when filed
3 for public inspection, shall be admissible in evidence in any
4 action or proceeding brought by the department against the
5 organization examined or its officers or agents, and shall be
6 prima facie evidence of the facts stated therein. The department
7 may withhold the report of any examination from public
8 inspection for such time as it deems proper. In lieu of an
9 examination, the department may accept the report of an
10 examination made by the insurance supervisory official of
11 another state pursuant to the law of that state.

12 § 6761. Recording and reporting of loss and expense experience.

13 The department shall promulgate reasonable regulations and
14 statistical plans, reasonably adapted to each of the rating
15 systems on file with it, which may be modified from time to
16 time, and which shall be used by each title insurance company in
17 the recording and reporting of the composition of its business,
18 its loss and countrywide expense experience and those of its
19 title insurance underwriters in order that the experience of all
20 companies may be made available at least annually in such form
21 and detail as necessary to aid the department in determining
22 whether rating systems comply with the standards set forth in
23 this chapter. These regulations and plans may also provide for
24 the recording and reporting of expense experience items which
25 are specially applicable to this Commonwealth and are not
26 susceptible of determination by a prorating of countrywide
27 expense experience. In promulgating the regulations and plans,
28 the department shall give due consideration to the rating
29 systems on file with it and, in order that the regulations and
30 plans may be as uniform as practicable among the several states,

1 to the regulations and the form of the plans used for rating
2 systems in other states. The regulations and plans shall be
3 drafted so as not to place an unreasonable burden of expense on
4 any company. A company shall not be required to record or report
5 its expense and loss experience on a classification basis that
6 is inconsistent with the rating system filed by it, nor shall
7 any company be required to report its experience to any agency
8 of which it is not a member or subscriber. The department may
9 designate one or more rating organizations or other agencies to
10 assist it in making compilations of experience information.
11 These compilations shall be made available, subject to
12 reasonable regulations promulgated by the department, to title
13 insurance companies and rating organizations. Reasonable rules
14 and plans may be promulgated by the department for the
15 interchange of data necessary for the application of rating
16 plans. In order to further uniform administration of rate
17 regulatory laws, the department and every title insurance
18 company and rating organization may exchange information and
19 experience data with insurance supervisory officials, title
20 insurance companies and rating organizations in other states and
21 may consult with them with respect to ratemaking and the
22 application of rating systems.

23 § 6762. False or misleading information.

24 A person or organization shall not willfully withhold
25 information from, or knowingly give false or misleading
26 information to, the department, any statistical agency
27 designated by the department rating organization, or title
28 insurance company, which will affect the rates or fees
29 chargeable under this chapter.

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SUBCHAPTER E

PENALTIES AND PROCEDURES

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Sec.

6771. Penalties.

6772. Hearing procedure.

§ 6771. Penalties.

(a) Fines.--The department may, if it finds that any person or organization has violated this chapter, impose a penalty of not more than \$50 for each violation, but if it finds the violation to be willful, it may impose a penalty of not more than \$500 for each violation. These penalties may be in addition to any other penalty provided by law.

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

(c) Procedure.--A penalty shall not be imposed or license suspended or revoked except upon a written order of the department, stating its findings, made after a hearing held upon not less than ten days' written notice to the person or organization, specifying the alleged violation.

1 § 6772. Hearing procedure.

2 (a) Right to hearing.--Any title insurance company, rating
3 organization or other person aggrieved by any action of the
4 department, except disapproval of a filing or a part thereof, or
5 by any regulation promulgated by the department, may file a
6 complaint with the department and have a hearing thereon before
7 it. Pending the hearing and the decision thereon, the department
8 may suspend or postpone the effective date of its previous
9 action, rule or regulation.

10 (b) Procedure.--All hearings provided for under this chapter
11 shall be conducted, and the decision of the department on the
12 issue or filing involved shall be rendered, pursuant to Title 2
13 (relating to administrative law and procedure).

14 CHAPTER 69

15 HEALTH AND ACCIDENT INSURANCE

16 Subchapter

17 A. Preliminary Provisions

18 B. General Requirements

19 C. Group, Blanket and Franchise Policies

20 D. Minimum Standards for Individual Policies

21 E. Medicare Supplement Insurance

22 SUBCHAPTER A

23 PRELIMINARY PROVISIONS

24 Sec.

25 6901. Construction of "insured."

26 6902. (Reserved).

27 6903. Applicability.

28 6904. Nonconforming policies.

29 6905. Penalties.

30 § 6901. Construction of "insured."

1 As used in any of the provisions listed in section 6903(f)
2 (relating to applicability), the term "insured" does not prevent
3 a person other than the insured with a proper insurable interest
4 from making application for and owning a policy covering the
5 insured or from being entitled under such a policy to any
6 indemnities, benefits and rights provided in the policy.

7 § 6902. (Reserved).

8 § 6903. Applicability.

9 (a) Workmen's compensation insurance.--The provisions listed
10 in subsection (f) do not apply to any policy of workmen's
11 compensation insurance.

12 (b) Group health and accident policies.--Policies of group
13 health and accident insurance, as defined in section 6931
14 (relating to definitions), are not subject to section 6904(b)
15 and (c) (relating to nonconforming policies), sections 6911
16 (relating to approval of policies by department) through 6915
17 (relating to relationship of policy provisions) or section
18 6922(b) and (c) (relating to applications for insurance).

19 However, no policy of group health and accident insurance shall
20 be issued or delivered in this Commonwealth unless the form of
21 the policy is filed with the department and approved by it in
22 accordance with section 6911.

23 (c) Life insurance.--The provisions listed in subsection (f)
24 do not apply to life insurance, endowment or annuity contracts,
25 or contracts supplemental thereto, which contain only such
26 provisions relating to health and accident insurance as:

27 (1) provide additional benefits in case of death by
28 accidental means; and

29 (2) operate to safeguard such contracts against lapse,
30 or to give a special surrender value or special benefit or an

1 annuity if the insured or annuitant becomes totally and
2 permanently disabled, as defined by the contract or
3 supplemental contract.

4 The department may make reasonable regulations concerning such
5 provisions.

6 (d) Liability insurance.--The provisions listed in
7 subsection (f) do not apply to any insurance of medical,
8 hospital, surgical and funeral expenses and disability and death
9 benefits issued with and supplemental to a liability insurance
10 policy as referred to in section 3302(c)(4) (relating to
11 authorized classes of insurance).

12 (e) Certain plans and programs.--Only the following
13 provisions of this chapter apply to an entity to the extent it
14 is subject to Chapter 45 (relating to fraternal benefit
15 societies), 73 (relating to health maintenance organizations),
16 75 (relating to hospital plan corporations) or 77 (relating to
17 professional health services plan corporations):

18 Section 6903 (relating to applicability).

19 Section 6916 (relating to coverage of certain services).

20 Section 6917 (relating to coverage of newborn children).

21 Section 6919 (relating to services of nurse midwives).

22 Section 6919.1 (relating to insurance payments to
23 registered nurses).

24 Subchapter D (relating to minimum standards for
25 individual policies).

26 Subchapter E (relating to Medicare supplement insurance).

27 However, Subchapter E does not apply to an entity to the
28 extent it is subject to Chapter 45 or 73.

29 Subchapter F (relating to benefits for alcohol abuse and
30 dependency).

1 (f) Applicability of certain provisions.--Sections 6901
2 (relating to construction of "insured") and 6905 (relating to
3 penalties) apply only to the following provisions:

4 Section 6904 (relating to nonconforming policies).

5 Section 6911 (relating to approval of policies by
6 department).

7 Section 6912 (relating to formal requirements).

8 Section 6913 (relating to mandatory policy provisions).

9 Section 6914 (relating to optional policy provisions).

10 Section 6915 (relating to relationship of policy
11 provisions).

12 Section 6920 (relating to age limits).

13 Section 6921 (relating to cost-of-living increases).

14 Section 6922 (relating to applications for insurance).

15 Section 6923 (relating to preservation of rights of
16 insurer).

17 Section 6924 (relating to discrimination).

18 Section 6925 (relating to preferred provider
19 organizations).

20 Subchapter C (relating to group, blanket and franchise
21 policies).

22 The provisions listed in this subsection apply as provided under
23 subsections (a), (c) and (d) and section 6904.

24 § 6904. Nonconforming policies.

25 (a) Requirements of other jurisdictions.--Any policy of a
26 foreign or alien insurer, when delivered or issued for delivery
27 to any person in this Commonwealth, may contain any provision
28 which is not less favorable to the insured or the beneficiary
29 than the policy provisions required under the provisions listed
30 in section 6903(f) (relating to applicability) and which is

1 required by the law of the state under which the insured is
2 organized. Any policy of a domestic insurer may, when issued for
3 delivery in any other state or country, contain any provision
4 permitted or required by the law of the other state or country.

5 (b) Certain policy provisions.--A policy provision which is
6 not subject to section 6913 (relating to mandatory policy
7 provisions) or 6914 (relating to optional policy provisions)
8 shall not make a policy, or any portion thereof, less favorable
9 in any respect to the insured or the beneficiary than the
10 provisions thereof which are subject to the provisions listed in
11 section 6903(f).

12 (c) Policy conflicting with chapter.--A policy delivered or
13 issued for delivery to any person in this Commonwealth in
14 violation of the provisions listed in section 6903(f) shall be
15 held valid but shall be construed as provided by the provisions
16 listed in section 6903(f). When any provision in a policy is in
17 conflict with the provisions listed in section 6903(f), the
18 rights and duties of the insurer, the insured and the
19 beneficiary shall be governed by the provisions listed in
20 section 6903(f) and the policy shall be deemed to contain all of
21 the required policy provisions.

22 § 6905. Penalties.

23 (a) Criminal.--Any insurer, or any officer or agent thereof,
24 which issues or delivers a policy to any person in this
25 Commonwealth or which alters any written application for
26 insurance, in violation of any of the provisions listed in
27 section 6903(f) (relating to applicability) commits a summary
28 offense.

29 (b) Civil.--The department may take any one or more of the
30 following courses of action:

1 (1) Revoke the license of any foreign or alien insurer,
2 or of any agent thereof, who violates any of the provisions
3 listed in section 6903(f).

4 (2) Impose a penalty of not more than \$1,000 for each
5 such violation.

6 Before the department takes any action under this section, it
7 shall give written notice to the person accused of the
8 violation, stating specifically the nature thereof and fixing a
9 time and place, at last ten days thereafter, when a hearing of
10 the matter shall be held. After the hearing or upon failure of
11 the accused to appear at the hearing, the department shall
12 impose the penalty.

13 SUBCHAPTER B

14 GENERAL REQUIREMENTS

15 Sec.

16 6911. Approval of policies by department.

17 6912. Formal requirements.

18 6913. Mandatory policy provisions.

19 6914. Optional policy provisions.

20 6915. Relationship of policy provisions.

21 6916. Coverage of certain services.

22 6917. Coverage of newborn children.

23 6918. Licensed medical treatment.

24 6919. Services of nurse midwives.

25 6919.1. Insurance payments to registered nurses.

26 6920. Age limits.

27 6921. Cost-of-living increases.

28 6922. Applications for insurance.

29 6923. Preservation of rights of insurer.

30 6924. Discrimination.

1 6925. Preferred provider organizations.

2 § 6911. Approval of policies by department.

3 An insurer shall not issue or deliver any policy to any
4 person in this Commonwealth unless a copy of the form thereof,
5 and of the classification of risks and the premium rates
6 pertaining thereto, has been filed with and formally approved by
7 the department. If the department notifies the insurer filing
8 the form that it does not comply with the requirements of law,
9 specifying its objections in writing, the insurer shall not
10 issue any policy in that form.

11 § 6912. Formal requirements.

12 (a) General rule.--A policy shall not be issued or delivered
13 to any person in this Commonwealth unless each of the following
14 requirements is complied with:

15 (1) The entire money and other considerations therefor
16 and the time when the insurance takes effect and terminates
17 shall be stated in the policy.

18 (2) The policy shall purport to insure only one person,
19 except that, upon the application of an adult head of a
20 family who shall be deemed the policyholder, a policy may
21 insure, originally or by amendment, any two or more eligible
22 members of that family, including husband, wife, dependent
23 children or any children under a specified age, which shall
24 not exceed 19 years, and any other person dependent upon the
25 policyholder.

26 (3) The style, arrangement and appearance of the policy
27 shall give no undue prominence to any portion of the text.
28 Unless every printed portion of the text of the policy and of
29 any endorsements or attached papers is plainly printed in
30 light-face type of a style in general use, the size of the

1 type throughout the form shall be uniform and not less than
2 ten-point with a lower-case unspaced alphabet length not less
3 than 120-point. For the purposes of this paragraph the term
4 "text" includes all printed matter except the name and
5 address of the insurer, name or title of the policy, a brief
6 description, if any, and captions and subcaptions.

7 (4) The exceptions and reductions of indemnity shall be
8 set forth in the policy. Except for the exceptions and
9 reductions set forth in sections 6913 (relating to mandatory
10 policy provisions) and 6914 (relating to optional policy
11 provisions), these may be printed, at the insurer's option,
12 either included with the benefit provision to which they
13 apply or under an appropriate caption, such as "exceptions"
14 or "exceptions and reductions". If an exception or reduction
15 specifically applies only to a particular benefit of the
16 policy, a statement of the exception or reduction shall be
17 included with the benefit provision to which it applies.

18 (5) Each form, including riders and endorsements, shall
19 be identified by a form number in the lower left-hand corner
20 of the first page.

21 (6) The policy shall contain no provision purporting to
22 make any portion of the charter, rules, constitution or
23 bylaws of the insurer a part of the policy unless the portion
24 is set forth in full in the policy, except for a statement of
25 rates or classification of risks, or short-rate table filed
26 with the department.

27 (7) If the policy is entitled or referred to as
28 "noncancelable," the policy shall be automatically renewable
29 until age 60 upon payment of the required premiums by the
30 insured.

1 (8) A policy delivered or issued for delivery after
2 January 1, 1968, under which coverage of a dependent of a
3 policyholder terminates at a specified age, with respect to
4 an unmarried child covered by the policy prior to the
5 attainment of 19 years of age, who is incapable of self-
6 sustaining employment by reason of mental retardation or
7 physical handicap, becomes so incapable prior to attainment
8 of 19 years of age and is chiefly dependent upon the
9 policyholder for support and maintenance, shall not so
10 terminate while the policy remains in force and the dependent
11 remains in such condition, if the policyholder has within 31
12 days of the dependent's attainment of the limiting age
13 submitted proof of the dependent's incapacity. This paragraph
14 does not require an insurer to insure a dependent who is a
15 mentally retarded or physically handicapped child if the
16 policy is underwritten on evidence of insurability based on
17 health factors set forth in the application or where the
18 dependent does not satisfy the conditions of the policy as to
19 any requirement for evidence of insurability or other
20 provisions of the policy, satisfaction of which is required
21 for coverage thereunder to take effect. In any such case the
22 terms of the policy shall apply with regard to the coverage
23 or exclusion from coverage of the dependent.

24 (9) Except for a single premium nonrenewable policy, the
25 policy form shall have prominently printed thereon a notice
26 that the policyholder shall be permitted to return the policy
27 within ten days of its delivery and to have the premium paid
28 refunded if after examination of the policy the policyholder
29 is not satisfied with it for any reason. If a policyholder,
30 pursuant to this notice, returns the policy to the insurer at

1 its home or branch office or to the agent through whom it was
2 purchased, it shall be deemed void from the beginning, and
3 the parties shall be in the same position as if no policy had
4 been issued.

5 (b) Policy on insured in other state.--If any policy is
6 issued by a domestic insurer for delivery to a person residing
7 in another state, and if the official having responsibility for
8 the administration of the insurance statutes of the other state
9 has advised the department that any such policy is not subject
10 to approval or disapproval by the official, the department may
11 by ruling require that the policy comply with subsection (a) and
12 sections 6913 (relating to mandatory policy provisions) through
13 6915 (relating to relationship of policy provisions).

14 § 6913. Mandatory policy provisions.

15 (a) General rule.--Except as provided in section 6915(a)
16 (relating to relationship of policy provisions), each such
17 policy delivered or issued for delivery to any person in this
18 Commonwealth shall contain the provisions specified in this
19 subsection in the words in which the provision appears in this
20 section, except that the insurer may, at its option, substitute
21 for one or more of these provisions corresponding provisions of
22 different wording approved by the department which are in each
23 instance not less favorable in any respect to the insured or the
24 beneficiary. These provisions shall be preceded individually by
25 the caption appearing in this subsection or, at the option of
26 the insurer, by such appropriate individual or group captions or
27 subcaptions as the department approves.

28 (b) Complete integration.--There shall be a provision as
29 follows:

30 Entire contract; changes: This policy, including the

1 endorsements and the attached papers, if any, constitutes
2 the entire contract of insurance. No change in this
3 policy shall be valid until approved by an executive
4 officer of the insurer and unless such approval be
5 endorsed hereon or attached hereto. No agent has
6 authority to change this policy or to waive any of its
7 provisions.

8 (c) Time limitation defenses.--

9 (1) There shall be a provision as follows:

10 Time Limit on Certain Defenses: After three years
11 from the date of issue of this policy no
12 misstatements, except fraudulent misstatements, made
13 by the applicant in the application for such policy
14 shall be used to void the policy or to deny a claim
15 for loss incurred or disability (as defined in the
16 policy) commencing after the expiration of such
17 three-year period.

18 (2) The policy provision set forth in paragraph (1)
19 shall not affect any legal requirement for avoidance of a
20 policy or denial of a claim during the initial three-year
21 period, nor shall it limit the application of section
22 6914(b), (c), (d) and (e) (relating to optional policy
23 provisions) in the event of misstatement with respect to age
24 or occupation or other insurance.

25 (3) In a policy where the premiums are payable weekly,
26 the words "if such application is made a part of the policy"
27 may be inserted in the policy provision set forth in
28 paragraph (1) between the word "policy" and the word "shall"
29 immediately following.

30 (4) A policy which the insured has the right to continue

1 in force subject to its terms by the timely payment of
2 premium until at least 50 years of age, or in the case of a
3 policy issued after 44 years of age, for at least five years
4 from its date of issue, may contain in lieu of the policy
5 provision set forth in paragraph (1) the following provision,
6 from which the clause in parentheses may be omitted at the
7 insurer's option:

8 Incontestable: After this policy has been in force
9 for a period of three years during the lifetime of
10 the insured (excluding any period during which the
11 insured is disabled), it shall become incontestable
12 as to the statements contained in the application.

13 (d) Prior condition.--

14 (1) There shall be a provision as follows:

15 Prior condition: No claim for loss incurred or
16 disability (as defined in the policy) commencing
17 after three years from the date of issue of this
18 policy shall be reduced or denied on the ground that
19 a disease or physical condition not excluded from
20 coverage by name or specific description effective on
21 the date of loss had existed prior to the effective
22 date of coverage of this policy.

23 (2) In policies whereon the premiums are payable weekly,
24 the words "or from the date of any reinstatement thereof" may
25 be inserted in the policy provision set forth in paragraph
26 (1) between the word "policy" and the word "shall"
27 immediately following.

28 (e) Grace period.--

29 (1) There shall be a provision as follows:

30 Grace Period: A grace period of (insert a number not

1 less than "7" for weekly premium policies, "10" for
2 monthly premium policies and "31" for all other
3 policies) days will be granted for the payment of
4 each premium falling due after the first premium,
5 during which grace period the policy shall continue
6 in force.

7 (2) A policy which contains a cancellation provision may
8 add at the end of the provision set forth in paragraph (1)
9 "subject to the right of the insurer to cancel in accordance
10 with the cancellation provision hereof."

11 (3) A policy in which the insurer reserves the right to
12 refuse any renewal shall have, at the beginning of the
13 provision set forth in paragraph (1): "Unless not less than
14 five days prior to the premium due date the insurer has
15 delivered to the insured or has mailed to his last address as
16 shown by the records of the insurer written notice of its
17 intention not to renew this policy beyond the period for
18 which the premium has been accepted, ..."

19 (f) Reinstatement.--

20 (1) There shall be a provision as follows:

21 Reinstatement: If any renewal premium be not paid
22 within the time granted the insured for payment, a
23 subsequent acceptance of premium by the insurer or by
24 any agent duly authorized by the insurer to accept
25 such premium, without requiring in connection
26 therewith an application for reinstatement, shall
27 reinstate the policy: Provided, however, That if the
28 insurer or such agent requires an application for
29 reinstatement and issues a conditional receipt for
30 the premium tendered, the policy will be reinstated

1 upon approval of such application by the insurer or,
2 lacking such approval, upon the 45th day following
3 the date of such conditional receipt unless the
4 insurer has previously notified the insured in
5 writing of its disapproval of such application. The
6 reinstated policy shall cover only loss resulting
7 from such accidental injury as may be sustained after
8 the date of reinstatement and loss due to such
9 sickness as may begin more than ten days after such
10 date. In all other respects the insured and insurer
11 shall have the same rights thereunder as they had
12 under the policy immediately before the due date of
13 the defaulted premium, subject to any provisions
14 endorsed hereon or attached hereto in connection with
15 the reinstatement. Any premium accepted in connection
16 with a reinstatement shall be applied to a period for
17 which premium has not been previously paid, but not
18 to any period more than 60 days prior to the date of
19 reinstatement.

20 (2) The last sentence of the provision set forth in
21 paragraph (1) may be omitted:

22 (i) from any policy which the insured has the right
23 to continue in force subject to its terms by the timely
24 payment of premiums:

25 (A) until at least 50 years of age; or

26 (B) in the case of a policy issued after 44
27 years of age, for at least five years from the date
28 of its issue; or

29 (ii) from any policy on which the premiums are
30 payable weekly.

1 (g) Notification of claim.--

2 (1) There shall be a provision as follows:

3 Notice of Claim: Written notice of claim must be
4 given to the insurer within 20 days after the
5 occurrence or commencement of any loss covered by the
6 policy, or as soon thereafter as is reasonably
7 possible. Notice given by or on behalf of the insured
8 or the beneficiary to the insurer at (insert the
9 location of such office as the insurer may designate
10 for the purpose), or to any authorized agent of the
11 insurer, with information sufficient to identify the
12 insured, shall be deemed notice to the insurer.

13 (2) In a policy whereon the premiums are payable weekly,
14 the first sentence of the policy provision set forth in
15 paragraph (1) may read:

16 Written notice of claim must be given to the insurer
17 within ten days of the commencement of any
18 nonhospital confining sickness covered by the policy
19 and within 20 days after the occurrence or
20 commencement of any other loss covered by the policy,
21 or as soon thereafter as is reasonably possible.

22 (3) In a policy providing a loss-of-time benefit which
23 may be payable for at least two years, an insurer may, at its
24 option, insert the following between the first and second
25 sentences of the policy provision set forth in paragraph (1):

26 Subject to the qualifications set forth below, if the
27 insured suffers loss of time on account of disability
28 for which indemnity may be payable for at least two
29 years, he shall, at least once in every six months
30 after having given notice of claim, give to the

1 insurer notice of continuance of said disability,
2 except in the event of legal incapacity.

3 (4) The period of six months following any filing of
4 proof by the insured or any payment by the insurer on account
5 of such claim or any denial of liability in whole or in part
6 by the insurer shall be excluded in applying the policy
7 provision set forth in paragraph (3). Delay in the giving of
8 such notice under that provision shall not impair the
9 insured's right to any indemnity which would otherwise have
10 accrued during the period of six months preceding the date on
11 which the notice is actually given.

12 (h) Claim forms.--There shall be a provision as follows:

13 Claim Forms: The insurer, upon receipt of a notice of
14 claim, will furnish to the claimant such forms as are
15 usually furnished by it for filing proofs of loss. If
16 such forms are not furnished within 15 days after the
17 giving of such notice, the claimant shall be deemed to
18 have complied with the requirements of this policy as to
19 proof of loss upon submitting, within the time fixed in
20 the policy for filing proofs of loss, written proof
21 covering the occurrence, the character and the extent of
22 the loss for which claim is made.

23 (i) Proofs of loss.--There shall be a provision as follows:

24 Proofs of Loss: Written proof of loss must be furnished
25 to the insurer at its said office in case of claim for
26 loss for which this policy provides any periodic payment
27 contingent upon continuing loss within 90 days after the
28 termination of the period for which the insurer is liable
29 and in case of claim for any other loss within 90 days
30 after the date of such loss. Failure to furnish such

1 proof within the time required shall not invalidate nor
2 reduce any claim if it was not reasonably possible to
3 give proof within such time, provided such proof is
4 furnished as soon as reasonably possible and in no event,
5 except in the absence of legal capacity, later than one
6 year from the time proof is otherwise required.

7 (j) Time of payment of claims.--There shall be a provision
8 as follows:

9 Time of Payment of Claims: Indemnities payable under this
10 policy for any loss other than loss for which this policy
11 provides any periodic payment will be paid immediately
12 upon receipt of due written proof of such loss. Subject
13 to due written proof of loss, all accrued indemnities for
14 loss for which this policy provides periodic payment will
15 be paid (insert period for payment, which
16 must not be less frequently than monthly) and any balance
17 remaining unpaid upon the termination of liability will
18 be paid immediately upon receipt of due written proof.

19 (k) Manner of payment of claims.--

20 (1) There shall be a provision as follows:

21 Payment of Claims: Indemnity for loss of life will be
22 payable in accordance with the beneficiary
23 designation and the provisions respecting such
24 payment which may be prescribed herein and effective
25 at the time of payment. If no such designation or
26 provision is then effective, such indemnity shall be
27 payable to the estate of the insured. Any other
28 accrued indemnities unpaid at the insured's death
29 may, at the option of the insurer, be paid either to
30 such beneficiary or to such estate. All other

1 indemnities will be payable to the insured.

2 (2) The policy provisions set forth in subparagraphs (i)
3 and (ii), or either of them, may be included with the policy
4 provision set forth in paragraph (1) at the option of the
5 insurer:

6 (i) If any indemnity of this policy shall be payable
7 to the estate of the insured, or to an insured or
8 beneficiary who is a minor or otherwise not competent to
9 give a valid release, the insurer may pay such indemnity,
10 up to an amount not exceeding \$ (insert an amount which
11 shall not exceed \$1,000), to any relative by blood or
12 connection by marriage of the insured or beneficiary who
13 is deemed by the insurer to be equitably entitled
14 thereto. Any payment made by the insurer in good faith
15 pursuant to this provision shall fully discharge the
16 insurer to the extent of such payment.

17 (ii) Subject to any written direction of the insured
18 in the application or otherwise, all or a portion of any
19 indemnities provided by this policy on account of
20 hospital, nursing, medical or surgical services may, at
21 the insurer's option and, unless the insured requests
22 otherwise in writing, not later than the time of filing
23 proofs of such loss, be paid directly to the hospital or
24 person rendering such services; but it is not required
25 that the service be rendered by a particular hospital or
26 person.

27 (1) Physical examinations.--There shall be a provision as
28 follows:

29 Physical Examinations and Autopsy: The insurer at its own
30 expense shall have the right and opportunity to examine

1 the person of the insured when and as often as it may
2 reasonably require during the pendency of a claim
3 hereunder and to make an autopsy in case of death where
4 it is not forbidden by law.

5 (m) Legal actions.--There shall be a provision as follows:

6 Legal Actions: No action at law or in equity shall be
7 brought to recover on this policy prior to the expiration
8 of 60 days after written proof of loss has been furnished
9 in accordance with the requirements of this policy. No
10 such action shall be brought after the expiration of
11 three years after the time written proof of loss is
12 required to be furnished.

13 (n) Change of beneficiary.--

14 (1) There shall be a provision as follows:

15 Change of Beneficiary: Unless the insured makes an
16 irrevocable designation of beneficiary, the right to
17 change of beneficiary is reserved to the insured and
18 the consent of the beneficiary or beneficiaries shall
19 not be requisite to surrender or assignment of this
20 policy or to any change of beneficiary or
21 beneficiaries, or to any other changes in this
22 policy.

23 (2) The first clause of the policy provision set forth
24 in paragraph (1), relating to the irrevocable designation of
25 beneficiary, may be omitted at the insurer's option.

26 (o) Common carriers.--The provisions contained in
27 subsections (b), (f), (j) and (l) may be omitted from ticket
28 policies sold only to passengers by common carriers.

29 § 6914. Optional policy provisions.

30 (a) General rule.--Except as provided in section 6915(a)

1 (relating to relationship of policy provisions), a policy issued
2 or delivered to any person in this Commonwealth shall not
3 contain provisions respecting the matters set forth in this
4 section unless the provisions are in the words appearing in this
5 section. However, the insurer may use in lieu of any such
6 provision a corresponding provision of different wording
7 approved by the department, which is not less favorable in any
8 respect to the insured or the beneficiary. Any such provision
9 contained in the policy shall be preceded individually by the
10 appropriate caption appearing in this subsection or, at the
11 option of the insurer, by such appropriate individual or group
12 captions or subcaptions as the department approves.

13 (b) Change of occupation.--The provision on change of
14 occupation shall be as follows:

15 Change of Occupation: If the insured be injured or
16 contract sickness after having changed his occupation to
17 one classified by the insurer as more hazardous than that
18 stated in this policy or while doing for compensation
19 anything pertaining to an occupation so classified, the
20 insurer will pay only such portion of the indemnities
21 provided in this policy as the premium paid would have
22 purchased at the rates and within the limits fixed by the
23 insurer for such more hazardous occupation. If the
24 insured changes his occupation to one classified by the
25 insurer as less hazardous than that stated in this
26 policy, the insurer, upon receipt of proof of such change
27 of occupation, will reduce the premium rate accordingly,
28 and will return the excess pro rata unearned premium from
29 the date of change of occupation or from the policy
30 anniversary date immediately preceding receipt of such

1 proof, whichever is the more recent. In applying this
2 provision, the classification of occupational risk and
3 the premium rates shall be such as have been last filed
4 by the insurer prior to the occurrence of the loss for
5 which the insurer is liable or prior to date of proof of
6 change in occupation with the state official having
7 supervision of insurance in the state where the insured
8 resided at the time this policy was issued; but if such
9 filing was not required, then the classification of
10 occupational risk and the premium rates shall be those
11 last made effective by the insurer in such state prior to
12 the occurrence of the loss or prior to the date of proof
13 of change in occupation.

14 (c) Misstatement of age.--The provision on misstatement of
15 age shall be as follows:

16 Misstatement of Age: If the age of the insured has been
17 misstated, all amounts payable under this policy shall be
18 such as the premium paid would have purchased at the
19 correct age.

20 (d) Other insurance in the same insurer.--The provision on
21 other insurance by the insured in the same insurer shall be as
22 follows:

23 Other Insurance in This Insurer: If an accident or
24 sickness or accident and sickness policy or policies
25 previously issued by the insurer to the insured be in
26 force concurrently herewith, making the aggregate
27 indemnity for (insert type of coverage or coverages) in
28 excess of \$ (insert maximum limit of indemnity or
29 indemnities), the excess insurance shall be void and all
30 premiums paid for such excess shall be returned to the

1 insured or to his estate or, in lieu thereof, insurance
2 effective at any one time on the insured under a like
3 policy or policies in this insurer is limited to the one
4 such policy elected by the insured, his beneficiary or
5 his estate, as the case may be, and the insurer will
6 return all premiums paid for all other such policies.

7 (e) Insurance with other insurers.--

8 (1) The provision on insurance by the insured with other
9 insurers shall be as follows, except as provided in paragraph
10 (3):

11 Insurance with Other Insurers: If there be other
12 valid coverage, not with this insurer, providing
13 benefits for the same loss on a provision of service
14 basis or on an expense incurred basis and of which
15 this insurer has not been given written notice prior
16 to the occurrence or commencement of loss, the only
17 liability under any expense incurred coverage of this
18 policy shall be for such proportion of the loss as
19 the amount which would otherwise have been payable
20 hereunder plus the total of the like amounts under
21 all such other valid coverages for the same loss of
22 which this insurer had notice bears to the total like
23 amounts under all valid coverages for such loss, and
24 for the return of such portion of the premiums paid
25 as shall exceed the pro rata portion for the amount
26 so determined. For the purpose of applying this
27 provision when other coverage is on a provision of
28 service basis, the "like amount" of such other
29 coverage shall be taken as the amount which the
30 services rendered would have cost in the absence of

1 such coverage.

2 (2) If the policy provision set forth in paragraph (1)
3 is included in a policy which also contains the policy
4 provision set forth in paragraph (3), there shall be added to
5 the caption of the policy provision set forth in paragraph
6 (1) the phrase "----- Expense Incurred Benefits".

7 (3) The following provision may appear in addition to or
8 in lieu of the provision set forth in paragraph (1):

9 Insurance with Other Insurers: If there be other
10 valid coverage, not with this insurer, providing
11 benefits for the same loss on other than an expense
12 incurred basis and of which this insurer has not been
13 given written notice prior to the occurrence or
14 commencement of loss, the only liability for such
15 benefits under this policy shall be for such
16 proportion of the indemnities otherwise provided
17 hereunder for such loss as the like indemnities of
18 which the insurer had notice (including the
19 indemnities under this policy) bear to the total
20 amount of all like indemnities for such loss, and for
21 the return of such portion of the premium paid as
22 shall exceed the pro rata portion for the indemnities
23 thus determined.

24 (4) If the policy provision set forth in paragraph (3)
25 is included in a policy which also contains the policy
26 provision set forth in paragraph (1), there shall be added to
27 the caption of the policy provision set forth in paragraph
28 (3) the phrase "----- Other Benefits".

29 (5) The insurer may include in the provisions set forth
30 in this subsection a definition of "other valid coverage",

1 approved as to form by the department, which definition shall
2 be limited in subject matter to coverage provided by
3 organizations subject to regulation by insurance law or by
4 insurance authorities of this or any other state or any
5 province of the Dominion of Canada, and to any other coverage
6 the inclusion of which is approved by the department. In the
7 absence of this definition, the term shall not include group
8 insurance, or benefits provided by union welfare plans or by
9 employer or employee benefit organizations. For the purpose
10 of applying the policy provisions set forth in this
11 subsection with respect to any insured, any amount of benefit
12 provided for the insured pursuant to any compulsory benefit
13 statute, including any workmen's compensation or employers'
14 liability statute, whether provided by a governmental agency
15 or otherwise, shall be deemed to be "other valid coverage" of
16 which the insurer has had notice. In applying these policy
17 provisions, third-party liability coverage shall not be
18 included as "other valid coverage".

19 (f) Relation of earnings to insurance.--

20 (1) The provision on relation of earnings to insurance
21 shall be as follows:

22 Relation of Earnings to Insurance: If the total
23 monthly amount of loss of time benefits promised for
24 the same loss under all valid loss of time coverage
25 upon the insured, whether payable on a weekly or
26 monthly basis, shall exceed the monthly earnings of
27 the insured at the time disability commenced or his
28 average monthly earnings for the period of two years
29 immediately preceding a disability for which claim is
30 made, whichever is the greater, the insurer will be

1 liable only for such proportionate amount of such
2 benefits under this policy as the amount of such
3 monthly earnings or such average monthly earnings of
4 the insured bears to the total amount of monthly
5 benefits for the same loss under all such coverage
6 upon the insured at the time such disability
7 commences and for the return of such part of the
8 premiums paid during such two years as shall exceed
9 the pro rata amount of the premiums for the benefits
10 actually paid hereunder; but this shall not operate
11 to reduce the total monthly amount of benefits
12 payable under all such coverage upon the insured
13 below the sum of \$200 or the sum of the monthly
14 benefits specified in such coverages, whichever is
15 less, nor shall it operate to reduce benefits other
16 than those payable for loss of time.

17 (2) The policy provision set forth in paragraph (1) may
18 be inserted only in a policy which the insured has the right
19 to continue in force subject to its terms by the timely
20 payment of premiums until at least 50 years of age or, in the
21 case of a policy issued after 44 years of age, for at least
22 five years from its date of issue.

23 (3) The insurer may include in the policy provision set
24 forth in paragraph (1) a definition of "valid loss of time
25 coverage", approved as to form by the department, which
26 definition shall be limited in subject matter to coverage
27 provided by governmental agencies or by organizations subject
28 to regulation by insurance law or by insurance authorities of
29 this or any other state or any province of the Dominion of
30 Canada, or to any other coverage the inclusion of which may

1 be approved by the department, or any combination of such
2 coverages. In the absence of this definition, the term shall
3 not include any coverage provided for such insured pursuant
4 to any compulsory benefit statute, including any workmen's
5 compensation or employers; liability statute, or benefits
6 provided by union welfare plans or by employer or employee
7 benefit organizations.

8 (g) Unpaid premium.--The provision on setoff of unpaid
9 premium shall be as follows:

10 Unpaid Premium: Upon the payment of a claim under this
11 policy, any premium then due and unpaid or covered by any
12 note or written order may be deducted therefrom.

13 (h) Cancellation.--The provision on cancellation of the
14 policy shall be as follows:

15 Cancellation: The insurer may cancel this policy at any
16 time by written notice delivered to the insured, or
17 mailed to his last address as shown by the records of the
18 insurer, stating when, not less than five days
19 thereafter, such cancellation shall be effective; and
20 after the policy has been continued beyond its original
21 term, the insured may cancel this policy at any time by
22 written notice delivered or mailed to the insurer,
23 effective upon receipt or on such later date as may be
24 specified in such notice. In the event of cancellation,
25 the insurer will return promptly the unearned portion of
26 any premium paid. If the insured cancels, the earned
27 premium shall be computed by the use of the short-rate
28 table last filed with the state official having
29 supervision of insurance in the state where the insured
30 resided when the policy was issued. If the insurer

1 cancels, the earned premium shall be computed pro rata.
2 Cancellation shall be without prejudice to any claim
3 originating prior to the effective date of cancellation.

4 (i) Conformity with state statutes.--The provision on
5 conformity of the policy with state statutes shall be as
6 follows:

7 Conformity with State Statutes: Any provision of this
8 policy which, on its effective date, is in conflict with
9 the statutes of the state in which the insured resides on
10 such date, is hereby amended to conform to the minimum
11 requirements of such statutes.

12 (j) Illegal activity.--The provision on denial of coverage
13 for claims arising from illegal activity shall be as follows:

14 Illegal Occupation: The insurer shall not be liable for
15 any loss to which a contributing cause was the insured's
16 commission of or attempt to commit a felony, or to which
17 a contributing cause was the insured's being engaged in
18 an illegal occupation.

19 (k) Intoxicants and narcotics.--

20 (1) The provision on denial of coverage for claims
21 arising from the use of intoxicants and narcotics shall
22 appear as follows:

23 Intoxicants and Narcotics: The insurer shall not be
24 liable for any loss sustained or contracted in
25 consequence of the insured's being intoxicated, or
26 under the influence of any narcotic unless
27 administered on the advice of a physician.

28 (2) Paragraph (1) does not permit any policy provisions
29 which would deny or purport to deny benefits for alcohol
30 abuse and dependency where such benefits are required under

1 Subchapter F (relating to benefits for alcohol abuse and
2 dependency).

3 § 6915. Relationship of policy provisions.

4 (a) Inapplicable or inconsistent provisions.--If any policy
5 provision referred to in section 6913 (relating to mandatory
6 policy provisions) or 6914 (relating to optional policy
7 provisions) is in whole or in part inapplicable to or
8 inconsistent with the coverage provided by a particular form of
9 policy, the insurer, with the approval of the department, shall
10 omit from the policy any inapplicable provision or part of a
11 provision, and shall modify any inconsistent provision or part
12 of the provision.

13 (b) Order of certain policy provisions.--The provisions
14 which are the subject of sections 6913 and 6914, or any
15 corresponding provisions which are used in lieu thereof under
16 those sections, may be printed in the consecutive order of the
17 provisions in those sections or, at the option of the insurer,
18 any such provision may appear as a unit in any part of the
19 policy, with other provisions to which it is logically related,
20 provided the resulting policy shall not be in whole or in part
21 unintelligible, ambiguous or likely to mislead a person to whom
22 the policy is offered, delivered or issued.

23 § 6916. Coverage of certain services.

24 (a) Psychological services.--This subsection applies to
25 every group or individual policy delivered or issued for
26 delivery in this Commonwealth. Whenever such a policy provides
27 for reimbursement for any psychologically necessary service
28 which is within those areas for which the psychologist is
29 licensed pursuant to the act of March 23, 1972 (P.L.136, No.52),
30 referred to as the Psychologists License Act, the insured or any

1 other person covered by the policy, contract or certificate
2 shall be entitled to reimbursement for such service whether the
3 service is performed by a physician or a psychologist operating
4 within those areas for which he is licensed. The department
5 shall promulgate such regulations as are deemed necessary for
6 the effective implementation and operation of this subsection.
7 Public hearings shall be held prior to the promulgation of any
8 substantial regulation under this section, or substantial change
9 thereof. The hearing shall be transcribed and cross-examination
10 of all witnesses shall be permitted in accordance with law.

11 (b) Optometric services.--Whenever any insurer, under any
12 policy or plan of insurance, or any self-insured health or
13 welfare plan, provides for a service or for the reimbursement of
14 a service to or on behalf of any of its individual or group
15 policyholders or subscribers or any other person or groups,
16 which service is within the lawful scope of practice of a
17 licensed optometrist, the person rendering such service or such
18 policyholder, subscriber or other person shall be entitled to
19 the same reimbursement for the service whether the service is
20 performed by a licensed physician or by a licensed optometrist.
21 Under any such contract, policy or plan which pays on the basis
22 of usual, customary and reasonable charges or on some similar
23 basis, only the method of determining the amount of
24 reimbursement shall be the same. Unless the policy provides
25 otherwise, there shall be no reimbursement for ophthalmic
26 materials, lenses, eyeglasses or appurtenances thereto.

27 § 6917. Coverage of newborn children.

28 (a) General rule.--All health insurance policies providing
29 coverage on an expense incurred basis and service or indemnity
30 type contracts issued by a nonprofit corporation subject to

1 Chapter 45 (relating to fraternal benefit societies), 75
2 (relating to hospital plan corporations) or 77 (relating to
3 professional health services plan corporations) and all health
4 services provided by plans operating under Chapter 73 (relating
5 to health maintenance organizations) shall also provide that the
6 health insurance benefits or health services applicable shall be
7 payable with respect to a newborn child of the insured or
8 subscriber from the moment of birth.

9 (b) Policy provisions.--The coverage for newborn children
10 shall consist of coverage of injury or sickness, including the
11 necessary care and treatment of medically diagnosed congenital
12 defects, birth abnormalities, prematurity and routine nursery
13 care, but need not include routine well-baby care, immunizations
14 and medical examinations or tests not necessary for the
15 treatment of a covered injury, illness, defect, deformity or
16 disease except to the extent that these coverages are provided
17 the insured or for dependent children under the same class of
18 coverage.

19 (c) Notice of birth.--If payment of a specific premium or
20 subscription fee is required to provide coverage for a child,
21 the policy or contract may require that notification of birth of
22 a newborn child and payment of the required premium or fees
23 shall be furnished to the insurer or nonprofit service or
24 indemnity corporation within 31 days after the date of birth in
25 order to have the coverage continue beyond that 31-day period.
26 § 6918. Licensed medical treatment.

27 Notwithstanding any provision of any policy of insurance or
28 self-insured health or welfare plan providing benefits whenever
29 the policy or plan provides for reimbursement for any service
30 which may be legally performed by a person licensed under the

1 law of this Commonwealth for the practice of medicine,
2 osteopathy, dentistry, chiropractic podiatry, physical therapy
3 or midwifery reimbursement under the policy or plan shall not be
4 denied when the service is rendered by a person so licensed.

5 § 6919. Services of nurse midwives.

6 (a) Applicability.--This section applies to all policies of
7 health and accident insurance and all private and public
8 programs for health services and facilities reimbursement,
9 including, but not limited to, any such reimbursement programs
10 operated by the Commonwealth.

11 (b) Reimbursement for services.--Whenever a policy or
12 program within subsection (a) provides for reimbursement for any
13 health care service which is within those areas of practice for
14 which a midwife may be licensed in this Commonwealth or in the
15 state where the service is delivered, or for the cost of
16 birthing facilities, the insured or any other person covered
17 thereby shall be entitled to reimbursement for the service or
18 use of the facilities whenever the service is performed by a
19 licensed nurse midwife or other person licensed to perform such
20 services. Whenever the service is performed by a licensed nurse
21 midwife and reimbursed by a professional health services
22 corporation, the licensed nurse midwife shall have such rights
23 of participation, plan admission and registration as are granted
24 by the professional health services plan corporation under
25 Chapter 77 (relating to professional health services plan
26 corporations) to a physician performing such service. When
27 payment is made for health care services performed by a licensed
28 nurse midwife, no payment or reimbursement shall be payable to a
29 physician for the service performed by the licensed nurse
30 midwife.

1 (c) Regulations.--The department may promulgate such
2 regulations as are deemed necessary for the effective
3 implementation and operation of this section.

4 § 6919.1. Insurance payments to registered nurses.

5 (a) Scope of coverage.--When a service is performed by a
6 certified registered nurse anesthetist, certified registered
7 nurse practitioner, certified enterostomal therapy nurse,
8 certified community health nurse, certified psychiatric mental
9 health nurse or certified clinical nurse specialist who is
10 certified by the State Board of Nursing or a national nursing
11 organization recognized by the State Board of Nursing and is
12 lawfully permitted to perform that service under the act of May
13 22, 1951 (P.L.317, No.69), known as The Professional Nursing
14 Law, and a policy, contract or certificate provides for
15 reimbursement for that service, the insured or any other person
16 covered shall be entitled to reimbursement either to the insured
17 or to the registered professional nurse providing that service.
18 This section does not apply to registered professional nurses
19 who are employees of health care facilities as the term "health
20 care facilities" is defined in the act of July 19, 1979
21 (P.L.130, No.48), known as the Health Care Facilities Act, or to
22 anesthesiology groups. This subsection does not apply to the
23 assignment of benefits and payment of claims process of a stock
24 insurance company or a mutual insurance company described in
25 subsection (c)(1).

26 (b) Nonduplication of payments.--Duplicate payments shall
27 not be made to both a nurse provider as set forth in subsection
28 (a) and another provider, or to the same provider, for the same
29 services provided in a single encounter.

30 (c) Applicability.--This section applies to every group

1 policy, contract or certificate issued thereunder of health and
2 accident insurance delivered or issued for delivery within this
3 Commonwealth, including, but not limited to, policies, contracts
4 or certificates issued by any person who sells or issues
5 contracts or certificates of insurance which meet the
6 requirements of this section. This subsection shall apply to
7 policies, contracts or certificates issued, renewed, modified,
8 altered, amended or reissued on or after March 19, 1987.

9 (d) Regulations.--The department shall promulgate the
10 regulations and forms necessary to carry out the provisions of
11 this section. Following publication of the initial set of
12 proposed regulations in the Pennsylvania Bulletin, but prior to
13 their formal adoption, the department shall hold public hearings
14 thereon.

15 (e) Construction.--This section does not affect or impair
16 The Professional Nursing Law nor confer upon any public or
17 private organization or agency the power to interpret or enforce
18 this section, except as may be provided for in this section.

19 § 6920. Age limits.

20 If any policy contains a provision establishing, as an age
21 limit or otherwise, a date after which the coverage provided by
22 the policy will not be effective, and if the date falls within a
23 period for which a premium is accepted by the insurer or if the
24 insurer accepts a premium after that date, the coverage provided
25 by the policy will continue in force subject to any right of
26 cancellation until the end of the period for which premium has
27 been accepted. If the age of the insured has been misstated and
28 if, according to the correct age of the insured, the coverage
29 provided by the policy would not have become effective, or would
30 have ceased prior to the acceptance of such premium or premiums,

1 then the liability of the insurer shall be limited to the
2 refund, upon request, of all premiums paid for the period not
3 covered by the policy.

4 § 6921. Cost-of-living increases.

5 A claim for benefits for loss of time from the insured
6 person's occupation, under a group or individual policy issued
7 or renewed in this Commonwealth, shall not be reduced by reason
8 of any cost-of-living increase, designated as such under the
9 Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), if
10 the cost-of-living increase occurs while the policy's benefits
11 are payable for that claim.

12 § 6922. Applications for insurance.

13 (a) False statements.--The falsity of any statement in the
14 application for any policy shall not bar the right to recover
15 thereunder, unless the false statement was made with intent to
16 deceive or unless the statement materially affected either the
17 acceptance of the risk or the hazard assumed by the insurer.

18 (b) Inclusion of representations in policy.--The insured
19 shall not be bound by any statement made in an application for a
20 policy unless a copy of the application is attached to or
21 endorsed on the policy when issued as a part thereof. If any
22 policy delivered or issued for delivery to any person in this
23 Commonwealth is reinstated or renewed, and the insured or the
24 beneficiary or assignee of the policy makes written request to
25 the insurer for a copy of the application for reinstatement or
26 renewal, the insurer shall, within 15 days after the receipt of
27 the request at its home office or any branch office of the
28 insurer, deliver or mail a copy of the application to the person
29 making the request. If the copy is not delivered or mailed, the
30 insurer shall not introduce the application as evidence in any

1 action or proceeding regarding the policy.

2 (c) Alterations.--An alteration of any written application
3 for any policy shall not be made by any person other than the
4 applicant without his written consent, except that insertions
5 may be made by the insurer, for administrative purposes only, in
6 such manner as to indicate clearly that the insertions are not
7 to be ascribed to the applicant.

8 § 6923. Preservation of rights of insurer.

9 The acknowledgment by any insurer of the receipt of notice
10 given under any policy, the furnishing of forms for filing
11 proofs of loss, the acceptance of such proofs or the
12 investigation of any claim thereunder shall not operate as a
13 waiver of any of the rights of the insurer in defense of any
14 claim arising under the policy.

15 § 6924. Discrimination.

16 Except as provided in section 6925 (relating to preferred
17 provider organizations), insurers shall not discriminate between
18 individuals of the same class in the amount of premiums or rates
19 charged for any policy, in the benefits payable thereon, in the
20 terms or conditions of the policy or in any other manner.

21 § 6925. Preferred provider organizations.

22 (a) General rule.--Upon compliance with the provisions of
23 this title and notwithstanding any other provision of law to the
24 contrary, any health care insurer or purchaser may do any of the
25 following:

26 (1) Enter into agreements with providers or physicians
27 relating to health care services which may be rendered to
28 persons for whom the insurer or purchaser is providing health
29 care coverage, including agreements relating to the amounts
30 to be charged by the provider or physician for services

1 rendered.

2 (2) Issue or administer policies or subscriber contracts
3 in this Commonwealth which include incentives for the covered
4 person to use the services of a provider who has entered into
5 an agreement with the insurer or purchaser.

6 (3) Issue or administer policies or subscriber contracts
7 in this Commonwealth that provide for reimbursement for
8 services only if the services have been rendered by a
9 provider or physician who has entered into an agreement with
10 the insurer or purchaser.

11 (b) Regulation by department.--The department shall
12 determine that:

13 (1) A preferred provider organization which assumes
14 financial risk is licensed as an insurer in this
15 Commonwealth, has adequate working capital and reserves, or
16 is governed and regulated under the provisions of the
17 Employee Retirement Income Security Act of 1974 (Public Law
18 93-406, 88 Stat. 829), referred to as ERISA, and has filed a
19 certificate to that effect with the department.

20 (2) Enrollee literature adequately discloses provisions,
21 limitations and conditions of benefits available or that the
22 preferred provider organization is governed and regulated
23 under the provisions of ERISA and has filed a certificate to
24 that effect with the department.

25 (c) Regulation by department and Department of Health.--The
26 department, in consultation with the Department of Health, shall
27 determine that arrangements and provisions for preferred
28 provider organizations which assume financial risk which may
29 lead to undertreatment or poor quality care are adequately
30 addressed by quality and utilization controls and by a formal

1 grievance system, unless the department makes a prior
2 determination that the preferred provider organization is
3 governed by and regulated under the provisions of the Employee
4 Retirement Income Security Act of 1974, and has filed a
5 certificate to that effect with the department.

6 (d) Requirements for commencement of operations.--No
7 preferred provider organization which assumes financial risk may
8 commence operations until it has reported to the department and
9 the Department of Health such information as the department and
10 the Department of Health require in accordance with the duties
11 required under this section. If, after 60 days, either the
12 department or the Department of Health has not informed the
13 preferred provider organization of deficiencies, the preferred
14 provider organization may commence operations unless and until
15 such time as the department or the Department of Health has
16 identified significant deficiencies and the deficiencies have
17 not subsequently been corrected within 60 days of notification.

18 (e) Appeal.--Any disapproval or order to cease operations
19 issued in accordance with this section shall be subject to
20 appeal in accordance with Title 2 (relating to administrative
21 law and procedure).

22 SUBCHAPTER C

23 GROUP, BLANKET AND FRANCHISE POLICIES

24 Sec.

25 6931. Definitions.

26 6932. Required provisions for group health and accident
27 policies.

28 6933. Provision for direct payment.

29 6934. Conversion privileges.

30 6935. Blanket health and accident insurance.

1 6936. Companies authorized to write policies.

2 § 6931. Definitions.

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

6 "Blanket health and accident insurance." That form of health
7 and accident insurance covering groups of persons under a policy
8 or contract issued:

9 (1) To any common carrier or to any operator, owner or
10 lessee of a means of transportation, which shall be deemed
11 the policyholder, covering all persons or all persons of a
12 class who may become passengers on the common carrier or
13 means of transportation.

14 (2) To an employer, which shall be deemed the
15 policyholder, covering all employees, dependents or guests
16 defined by reference to specified hazards incident to the
17 activities or operations of the employer or that class of
18 employees, dependents or guests.

19 (3) To a school or other institution of learning, camp
20 or sponsor thereof, or to the head or principal thereof, who
21 or which shall be deemed the policyholder, covering students
22 or campers and which may cover supervisors and employees.

23 (4) In the name of any religious, charitable,
24 recreational, educational or civic organization, which shall
25 be deemed the policyholder, covering participants in
26 activities sponsored by the organization.

27 (5) To a sports team or sponsors thereof, which shall be
28 deemed the policyholder, covering members, officials and
29 supervisors.

30 (6) To cover any other risk or class of risks, which in

1 the discretion of the department may be properly eligible for
2 blanket health and accident insurance. The discretion of the
3 department may be exercised on the basis of an individual
4 risk or class of risks, or both.

5 "Franchise health and accident insurance." That form of
6 health and accident insurance issued to:

7 (1) Five or more employees of any corporation,
8 partnership or individual employer or any governmental
9 corporation, agency or department thereof.

10 (2) Ten or more members, employees or employees of
11 members of any trade or professional association, labor union
12 or any other association having had an active existence for
13 at least two years, if the association or union has a
14 constitution or bylaws and is formed in good faith for
15 purposes other than that of obtaining insurance, and if the
16 persons, with or without their dependents, are issued the
17 same form of an individual policy, varying only as to amounts
18 and kinds of coverage applied for by such persons under an
19 arrangement whereby the premiums on such policies may be paid
20 to the insurer periodically by the employer, with or without
21 payroll deductions, or by the association for its members or
22 by some designated person acting on behalf of such employer
23 or association.

24 For the purposes of this definition the term "employees"
25 includes the officers, managers and employees of the employer
26 and the individual proprietor or partners, if the employer is an
27 individual proprietor or partnership.

28 "Group health and accident insurance." That form of health
29 and accident insurance covering groups of persons defined in
30 this section with or without one or more members of their

1 families or one or more of their dependents, or covering one or
2 more members of the families or one or more dependents of such
3 groups or persons and issued upon the following basis:

4 (1) Under a policy issued to an employer or trustees of
5 a fund established by an employer, who shall be deemed the
6 policyholder insuring at least ten employees of such employer
7 for the benefit of persons other than the employer. As used
8 in this paragraph the term "employees" means the officers,
9 managers and employees of the employer, the individual
10 proprietor or partner, if the employer is an individual
11 proprietor or partnership, the officers, managers and
12 employees of subsidiary or affiliated corporations, the
13 individual proprietors, partners and employees of individuals
14 and firms, if the business of the employer and the individual
15 or firm is under common control through stock ownership,
16 contract or otherwise, and the term may include retired
17 employees. A policy issued to insure employees of a public
18 body may provide that the term "employees" shall include
19 elected or appointed officials.

20 (2) Under a policy issued to an association, including a
21 labor union, which has a constitution and bylaws and which
22 has been organized and is maintained in good faith for
23 purposes other than that of obtaining insurance insuring at
24 least 25 members, employees or employees of members of the
25 association for the benefit of persons other than the
26 association or its officers or trustees. For the purposes of
27 this paragraph, the term "employees" may include retired
28 employees.

29 (3) Under a policy issued to the trustees of a fund
30 established by two or more employers in the same industry or

1 by one or more labor unions or by one or more employers and
2 one or more labor unions or by an association as defined in
3 paragraph (2), which trustees shall be deemed the
4 policyholder to insure employees of the employers or members
5 of the unions or such association for the benefit of persons
6 other than the employers or the unions or such association.
7 As used in this paragraph the term "employees" includes the
8 officers, managers and employees of the employer and the
9 individual proprietor or partners, if the employer is an
10 individual proprietor or partnership, and the term may
11 include retired employees. The policy may provide that the
12 term "employees" shall include the trustees or their
13 employees, or both, if their duties are principally connected
14 with such trusteeship.

15 (4) Under a policy issued to any person or organization
16 to which a policy of group life insurance may be issued or
17 delivered in this Commonwealth to insure any class or classes
18 of individuals that could be insured under the group life
19 policy.

20 (5) Under a policy issued to cover any other
21 substantially similar group, which in the discretion of the
22 department may be subject to the issuance of a policy of
23 group health and accident insurance.

24 (6) A policy delivered or issued for delivery on or
25 after January 1, 1968, under which coverage of a dependent of
26 an employee or other member of the insured group terminates
27 at a specified age, with respect to an unmarried child
28 covered by the policy prior to the attainment of 19 years of
29 age who is incapable of self-sustaining employment by reason
30 of mental retardation or physical handicap, who becomes so

1 incapable prior to the attainment of 19 years of age and who
2 is chiefly dependent upon the employee or member for support
3 and maintenance, shall not so terminate while the insurance
4 of the employee or member remains in force and the dependent
5 remains in such condition, if the insured employee or member
6 has within 31 days of the dependent's attainment of the
7 termination age submitted proof of the dependent's
8 incapacity. This paragraph does not require an insurer to
9 insure such a dependent if the dependent does not satisfy the
10 conditions of the group policy as to any requirements for
11 evidence of insurability or other provisions as stated in the
12 group policy required for coverage thereunder to take effect;
13 in any such case the terms of the policy shall apply with
14 regard to the coverage or exclusion from coverage of the
15 dependent.

16 § 6932. Required provisions for group health and accident
17 policies.

18 Each group health and insurance policy shall contain in
19 substance the following provisions:

20 (1) A provision that, in the absence of fraud, all
21 statements made by any applicant, the policyholder or an
22 insured person shall be deemed representations and not
23 warranties and that no statement made for the purpose of
24 effecting insurance shall avoid the insurance or reduce
25 benefits, unless contained in a written instrument signed by
26 the policyholder or the insured person, a copy of which has
27 been furnished to the policyholder, to the insured person or
28 his beneficiary.

29 (2) A provision that the insurer will furnish to the
30 policyholder, for delivery to each employee or member of the

1 insured group, an individual certificate setting forth, in
2 summary form, a statement of the essential features of the
3 insurance coverage of the employee or member and to whom
4 benefits thereunder are payable. If dependents are included
5 in the coverage, only one certificate need be issued for each
6 family unit.

7 (3) A provision that to the group originally insured may
8 be added from time to time eligible new employees, members or
9 dependents, as the case may be, in accordance with the terms
10 of the policy.

11 § 6933. Provision for direct payment.

12 Any group health and accident insurance policy may provide
13 that all or any portion of any indemnities provided by the
14 policy, on account of hospital, nursing, medical or surgical
15 services, may at the insurer's option be paid directly to the
16 hospital or person rendering the services. Except as provided in
17 section 6925 (relating to preferred provider organizations), the
18 policy may not require that the service be rendered by a
19 particular hospital or person. Payment so made shall discharge
20 the insurer's obligation with respect to the amount of insurance
21 so paid.

22 § 6934. Conversion privileges.

23 (a) Right to conversion.--A group health and accident
24 insurance policy delivered or issued for delivery in this
25 Commonwealth which provides hospital, surgical or major medical
26 expense insurance, or any combination of these coverages, on an
27 expense incurred basis, unless it is a policy which provides
28 indemnity benefits or benefits for specific diseases or for
29 accidental injuries only, shall provide that an employee or
30 member whose insurance under the group policy has been

1 terminated for any reason, including discontinuance of the group
2 policy in its entirety or with respect to an insured class, and
3 who has been continuously insured under the group policy, and
4 under any group policy providing similar benefits which it
5 replaces, for at least three months immediately prior to
6 termination, shall be entitled to have issued to him by the
7 insurer a policy of health insurance, referred to in this
8 subchapter as the "converted policy." An employee or member
9 shall not be entitled to have a converted policy issued to him
10 if termination of his insurance under the group policy occurred
11 because he failed to pay any required contribution, or if any
12 discontinued group coverage was replaced by similar group
13 coverage within 31 days.

14 (b) Terms of converted policies.--The issuance of a
15 converted policy shall be subject to the following conditions:

16 (1) Written application for the converted policy shall
17 be made and the first premium paid to the insurer not later
18 than 31 days after the termination.

19 (2) The converted policy shall be issued without
20 evidence of insurability.

21 (3) The premium on the individual policy shall be at the
22 insurer's then customary rate applicable to the form and
23 amount of the individual policy, to the class of risk to
24 which the person then belongs and to the age he has attained
25 on the effective date of the individual policy.

26 (4) The effective date of the converted policy shall be
27 the day following the termination of insurance under the
28 group policy.

29 (5) The converted policy shall cover the employee or
30 member and his dependents who were covered by the group

1 policy on the date of termination of insurance. At the option
2 of the insurer, a separate converted policy may be issued to
3 cover any dependent.

4 (6) The insurer shall not be required to issue a
5 converted policy covering any person if the person is or
6 could be covered by Medicare under the Health Insurance for
7 the Aged Act, Title XVIII of the Social Security Act (Public
8 Law 89-97, 42 U.S.C. § 1395 et seq.). The insurer shall not
9 be required to issue a converted policy covering any person
10 if:

11 (i) (A) the person is covered for similar benefits
12 by another hospital, surgical, medical or major
13 medical expense insurance policy or hospital or
14 medical service subscriber contract or medical
15 practice or other prepayment plan or by any other
16 plan or program;

17 (B) the person is eligible for similar benefits,
18 whether or not covered therefor, under any
19 arrangement of coverage for individuals in a group,
20 whether on an insured or uninsured basis; or

21 (C) similar benefits are provided for or
22 available to the person under any state or Federal
23 law; and

24 (ii) the benefits provided under any of the sources
25 referred to in subparagraph (i) for the person, together
26 with the benefits provided by the converted policy, would
27 result in overinsurance according to the insurer's
28 standards.

29 The insurer's standards must bear some reasonable
30 relationship to actual health care costs in the area in which

1 the insured lives at the time of conversion and must be filed
2 with the department prior to their use in denying coverage.

3 (7) A converted policy may include a provision whereby
4 the insurer may request information in advance of any premium
5 due date of the policy of any person covered thereunder as to
6 whether similar benefits are available to the person through
7 a source referred to in paragraph (6)(i).

8 (8) The converted policy may provide that the insurer
9 may refuse to renew the policy or the coverage of any person
10 insured thereunder for the following reasons only:

11 (i) Overinsurance as described in paragraph (6)(ii)
12 would result or the converted policyholder fails to
13 provide the requested information with respect to
14 possible overinsurance.

15 (ii) Fraud or material misrepresentation in applying
16 for any benefits under the converted policy.

17 (iii) Eligibility of the insured person for Medicare
18 coverage under the Health Insurance for the Aged Act,
19 Title XVIII of the Social Security Act (Public Law 89-97,
20 42 U.S.C. § 1395 et seq.) or under any other Federal or
21 state law providing for benefits similar to those
22 provided by the converted policy.

23 (iv) Other reasons approved by the department.

24 (9) An insurer shall not be required to issue a
25 converted policy which provides benefits in excess of those
26 provided under the group policy from which conversion is
27 made.

28 (10) The converted policy shall not exclude a
29 preexisting condition not excluded by the group policy.

30 However, the converted policy may provide that any hospital,

1 surgical or medical benefits payable thereunder may be
2 reduced by the amount of any such benefits payable under the
3 group policy after the termination of the individual's
4 insurance thereunder. The converted policy may also provide
5 that during the first policy year the benefits payable under
6 the converted policy, together with the benefits payable
7 under the group policy, shall not exceed those that would
8 have been payable had the individual insurance under the
9 group policy remained in force.

10 (11) Subject to the provisions and conditions of this
11 title, if the group insurance policy from which conversion is
12 made insures the employee or member for basic hospital or
13 surgical expense insurance, the employee or member shall be
14 entitled to obtain a converted policy providing, at his
15 option, coverage on an expense incurred basis under Plan A, B
16 or C meeting the following requirements:

17 (i) Plan A:

18 (A) Hospital room and board daily expense
19 benefits in a maximum dollar amount approximating the
20 average semiprivate rate charged in metropolitan
21 areas of this Commonwealth, for a maximum duration of
22 70 days.

23 (B) Miscellaneous hospital expense benefits of a
24 maximum amount of ten times the hospital room and
25 board daily expense benefits.

26 (C) Surgical operation expense benefits
27 according to a surgical schedule consistent with
28 those customarily offered by the insurer under group
29 or individual health insurance policies and providing
30 a maximum benefit of \$800.

1 (ii) Plan B:

2 (A) Hospital room and board daily expense
3 benefits in a maximum dollar amount equal to 75% of
4 the maximum dollar amount determined for Plan A, for
5 a maximum duration of 70 days.

6 (B) Miscellaneous hospital expense benefits of a
7 maximum amount of ten times the hospital room and
8 board daily expense benefits.

9 (C) Surgical operation expense benefits
10 according to a surgical schedule consistent with
11 those customarily offered by the insurer under group
12 or individual health insurance policies and providing
13 a maximum benefit of \$600.

14 (iii) Plan C:

15 (A) Hospital room and board daily expense
16 benefits in a maximum dollar amount equal to 50% of
17 the maximum dollar amount determined for Plan A, for
18 a maximum duration of 70 days.

19 (B) Miscellaneous hospital benefits of a maximum
20 amount of ten times the hospital room and board daily
21 expense benefits.

22 (C) Surgical operation expense benefits
23 according to a surgical schedule consistent with
24 those customarily offered by the insurer under group
25 or individual health insurance policies and providing
26 a maximum benefit of \$400.

27 (iv) The maximum dollar amounts in Plan A shall be
28 determined by the department and may be redetermined by
29 it, from time to time, as to converted policies issued
30 subsequent to the redetermination. A redetermination

1 shall not be made more often than once in three years.
2 The maximum dollar amounts in Plans A, B and C shall be
3 rounded to the nearest multiple of \$10.

4 (v) If the benefit levels otherwise required under
5 this paragraph exceed the benefit levels provided under
6 the group policy, the conversion policy may offer
7 benefits which are substantially similar to those
8 provided under the group policy in lieu of those
9 otherwise required under this paragraph.

10 (12) Subject to the provisions and conditions of this
11 title, if the group insurance policy from which conversion is
12 made insures the employee or member for major medical expense
13 insurance, the employee or member shall be entitled to obtain
14 a converted policy providing catastrophic or major medical
15 coverage under a plan meeting the following requirements:

16 (i) A maximum benefit at least equal to either, at
17 the option of the insurer the benefit described in clause
18 (A) or (B):

19 (A) The smaller of the following amounts: the
20 maximum benefit provided under the group policy or a
21 maximum payment of \$250,000 per covered person for
22 all covered medical expenses incurred during the
23 covered person's lifetime.

24 (B) The smaller of the following amounts: the
25 maximum benefit provided under the group policy or a
26 maximum payment of \$250,000 for each unrelated injury
27 or sickness.

28 (ii) Payment of benefits at the rate of 80% of
29 covered medical expenses which are in excess of the
30 deductible, until 20% of such expenses in a benefit

1 period reaches \$1,000, after which benefits will be paid
2 at the rate of 100% during the remainder of the benefit
3 period. Payment of benefits for outpatient treatment of
4 mental illness, if provided in the converted policy, may
5 be at a lesser rate but not less than 50%.

6 (iii) A deductible for each benefit period which, at
7 the option of the insurer, shall be:

8 (A) the sum of the benefits deductible and \$100;

9 (B) a cash deductible, not to exceed \$1,000;

10 (C) the greater of the benefits deductible or
11 \$500; or

12 (D) the corresponding deductible in the group
13 policy.

14 As used in this subparagraph the term "benefits
15 deductible" means the value of any benefits provided on
16 an expense incurred basis which are provided with respect
17 to covered medical expenses by any other hospital,
18 surgical or medical insurance policy or hospital or
19 medical service subscriber contract or medical practice
20 or other prepayment plan, or any other plan or program
21 whether on an insured or uninsured basis, or in
22 accordance with the requirements of any Federal or state
23 law and, if pursuant to paragraph (13), the converted
24 policy provides both basic hospital or surgical coverage
25 and major medical coverage, the value of such basic
26 benefits. If the maximum benefit is determined by
27 subparagraph (i)(B), the insurer may require that the
28 deductible be satisfied during a period of not less than
29 three months if the deductible is \$100 or less, and not
30 less than six months if the deductible exceeds \$100.

1 (iv) The benefit period shall be each calendar year
2 when the maximum benefit is determined by subparagraph
3 (i)(A) or 24 months when the maximum benefit is
4 determined by subparagraph (i)(B).

5 (v) For the purposes of this paragraph, the term
6 "covered medical expenses" includes at least, in the case
7 of hospital room and board charges, the lesser of the
8 dollar amount in Plan A and the average semiprivate room
9 and board rate for the hospital in which the individual
10 is confined and twice that amount for charges in an
11 intensive care unit. Any surgical schedule shall be
12 consistent with those customarily offered by the insurer
13 under group or individual health insurance policies and
14 shall provide at least a \$1,200 maximum benefit.

15 (13) The conversion privilege required by this section
16 shall, if the group insurance policy insures the employee or
17 member for both basic hospital or surgical expense insurance
18 and medical expense insurance, make available the plans of
19 benefits set forth in paragraphs (11) and (12). At the option
20 of the insurer, these plans of benefits may be provided under
21 one policy.

22 (14) The insurer may also, in lieu of the plans of
23 benefits set forth in paragraphs (11) and (12), provide a
24 policy of comprehensive medical expense benefits without
25 first dollar coverage. This policy shall conform to the
26 requirements of paragraph (12), except that an insurer
27 electing to provide such a policy shall make available a low
28 deductible option not to exceed \$100, a high deductible
29 option between \$500 and \$1,000 and a third deductible option
30 midway between the high and low deductible options.

1 (15) The insurer may offer alternative plans for group
2 health conversion in addition to those required by this
3 section. The insurer may provide group insurance coverage in
4 lieu of the issuance of a converted individual policy.

5 (16) If coverage would be continued under the group
6 policy on an employee following his retirement prior to the
7 time he is or could be covered by Medicare, he may elect, in
8 lieu of continuation of group insurance, to have the same
9 conversion rights as would apply had his insurance terminated
10 at retirement by reason of termination of employment or
11 membership.

12 (17) The converted policy may provide for reduction of
13 coverage on any person upon his eligibility for Medicare
14 coverage under the Health Insurance for the Aged Act, Title
15 XVII of the Social Security Act or under any other Federal or
16 state law providing for benefits similar to those provided by
17 the converted policy.

18 (18) The conversion privilege shall also be available:

19 (i) to the surviving spouse, if any, at the death of
20 the employee or member, with respect to the spouse and
21 the children whose coverage under the group policy
22 terminates by reason of the death, otherwise to each
23 surviving child whose coverage under the group policy
24 terminates by reason of the death, or, if the group
25 policy provides for continuation of dependents coverage
26 following the employee's or member's death, at the end of
27 such continuation;

28 (ii) to the spouse of the employee or member upon
29 termination of coverage of the spouse, while the employee
30 or member remains insured under the group policy, by

1 reason of ceasing to be a qualified family member under
2 the group policy, with respect to the spouse and those
3 children whose coverage under the group policy terminates
4 at the same time; or

5 (iii) to a child solely with respect to himself upon
6 termination of his coverage by reason of his ceasing to
7 be a qualified family member under the group policy, if a
8 conversion privilege is not otherwise provided in this
9 paragraph with respect to the termination.

10 (19) Each certificate holder in the insured group shall
11 be given written notice of the conversion privilege and its
12 duration within 15 days before or after the date of
13 termination of group coverage which notice shall be included
14 in his certificate of coverage. If the notice is given more
15 than 15 days but less than 90 days after the date of
16 termination of group coverage, the time allowed for the
17 exercise of the privilege of conversion shall be extended for
18 15 days after the giving of the notice. If the notice is not
19 given within 90 days after the date of termination of group
20 coverage, the time allowed for the exercise of the conversion
21 privilege shall expire at the end of the 90 days. Written
22 notice by the contract holder given to the certificate holder
23 or mailed to the certificate holder at his last known
24 address, or written notice by the insurer mailed to the
25 certificate holder at the last address furnished to the
26 insurer by the contract holder, shall be deemed full
27 compliance with the notification provisions of this
28 paragraph. A group contract issued by an insurer may provide
29 that notice of the conversion privilege and its duration
30 shall be given by the contract holder to each certificate

1 holder upon termination of his group coverage.

2 (20) If the contract holder is the employer of the
3 certificate holder, the insurer shall also give written
4 notice of termination of the group contract to any
5 organization representing the certificate holder for the
6 purpose of collective bargaining. The employer shall provide
7 to the insurer a written list of such organizations within
8 ten days after the date the policy is issued and thereafter
9 within ten days of the beginning or termination of
10 representation by the organization of any certificate holder
11 or holders by the organization, including the collective
12 bargaining unit and the group insurance contract to which the
13 request relates. There shall be no liability on the part of
14 any labor organization representing the employees of a
15 contract holder for the purposes of collective bargaining due
16 to any action it takes or fails to take as to the written
17 notice required to be given by the insurer under this
18 paragraph unless done in bad faith by the organization.
19 Compliance or noncompliance with this paragraph shall not
20 affect the rights or duties of the contract holder, insurer
21 or certificate holder as otherwise set forth in this title.

22 (21) A converted policy which is delivered outside this
23 Commonwealth may be on a form which could be delivered in the
24 other jurisdiction as a converted policy had the group policy
25 been issued in that jurisdiction.

26 § 6935. Blanket health and accident insurance.

27 (a) Required provisions.--Every blanket health and accident
28 insurance policy shall contain provisions which, in the opinion
29 of the department, are at least as favorable to the policyholder
30 and the individual insured as the following:

1 (1) A provision that the policy and the application
2 shall constitute the entire contract between the parties;
3 that all statements made by the policyholder shall, in the
4 absence of fraud, be deemed representations and not
5 warranties; and that no such statements shall be used in
6 defense to a claim under the policy, unless it is contained
7 in a written application.

8 (2) A provision that written notice of sickness or of
9 injury must be given to the insurer within 20 days after the
10 date when the sickness or injury occurred. Failure to give
11 notice within such time shall not invalidate nor reduce any
12 claim, if it is be shown not to have been reasonably possible
13 to give the notice, and that notice was given as soon as was
14 reasonably possible.

15 (3) A provision that the insurer will furnish to the
16 policyholder such forms as are usually furnished by it for
17 filing proof of loss. If such forms are not furnished before
18 the expiration of 15 days after the giving of such notice,
19 the claimant shall be deemed to have complied with the
20 requirements of the policy as to proof of loss upon
21 submitting, within the time fixed in the policy for filing
22 proof of loss, written proof covering the occurrence,
23 character and extent of the loss for which claim is made.

24 (4) A provision that in the case of claim for loss of
25 time for disability, written proof of the loss shall be
26 furnished to the insurer within 30 days after the
27 commencement of the period for which the insurer is liable;
28 that subsequent written proofs of the continuance of the
29 disability shall be furnished to the insurer at such
30 intervals as the insurer may reasonably require; and that in

1 the case of claim for any other loss written proof of loss
2 shall be furnished to the insurer within 90 days after the
3 date of the loss. Failure to furnish proof within the time
4 required shall not invalidate nor reduce any claim if it is
5 shown not to have been reasonably possible to furnish the
6 proof and that the proof was furnished as soon as was
7 reasonably possible.

8 (5) A provision that all benefits payable under the
9 policy, other than benefits for loss of time, will be payable
10 immediately upon receipt of due written proof of loss; that
11 subject to due proof of loss all accrued benefits payable
12 under the policy for loss of time will be paid not later than
13 at the expiration of each period of 30 days during the
14 continuance of the period for which the insurer is liable;
15 and that any balance remaining unpaid at the termination of
16 the period shall be paid immediately upon receipt of such
17 proof.

18 (6) A provision that the insurer, at its own expense,
19 may examine the person of the insured when and so often as it
20 may reasonably require during the pendency of claim under the
21 policy and may make an autopsy if not prohibited by law.

22 (7) A provision that no action at law or in equity shall
23 be commenced to recover under the policy prior to the
24 expiration of 60 days after written proof of loss has been
25 furnished in accordance with the requirements of the policy
26 and that no such action shall be brought after the expiration
27 of three years after the time written proof of loss is
28 required to be furnished.

29 (b) Application and certificates.--An individual application
30 shall not be required from a person covered under a blanket

1 accident or health policy or contract, nor shall it be necessary
2 for the insurer to furnish each person a certificate.

3 (c) Payment of benefits.--Except as otherwise provided in
4 this section, all benefits under any blanket health and accident
5 policy shall be payable to the person insured or his designated
6 beneficiaries or his estate. If the person insured is a minor or
7 mental incompetent, the benefits may be made payable to his
8 parent, guardian or other person actually supporting him. If the
9 entire cost of the insurance has been borne by the employer, the
10 benefits may be made payable to the employer. The policy may
11 provide that all or any portion of the indemnities provided by
12 the policy on account of hospital, nursing, medical or surgical
13 services may, at the insurer's option, be paid directly to the
14 hospital or person rendering the services; payment so made shall
15 discharge the insurer's obligation with respect to the amount of
16 insurance so paid. The policy may not require that the service
17 be rendered by a particular hospital or person.

18 § 6936. Companies authorized to write policies.

19 Any insurance company authorized to write health and accident
20 insurance in this Commonwealth may issue group, blanket or
21 franchise health and accident insurance but no such policy may
22 be issued or delivered in this Commonwealth unless a copy of the
23 form thereof has been filed in accordance with section 3515
24 (relating to approval of contracts by department).

25 SUBCHAPTER D

26 MINIMUM STANDARDS FOR INDIVIDUAL POLICIES

27 Sec.

28 6941. Short title of subchapter.

29 6941.1. Definitions.

30 6942. Standards for policy provisions.

1 6943. Minimum standards for benefits.

2 6944. Outline of coverage.

3 6945. Preexisting conditions.

4 6946. Procedure regarding regulations.

5 § 6941. Short title of subchapter.

6 This subchapter shall be known and may be cited as the
7 Individual Accident and Health Insurance Minimum Standards Act.

8 § 6941.1. Definitions.

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

12 "Accident and health insurance." Insurance written under
13 section 3302(a)(1) or (2) or (c)(2) (relating to authorized
14 classes of insurance) or Subchapter E of Chapter 45 (relating to
15 accident, health and disability insurance contracts). The term
16 does not include life insurance, annuities or insurance subject
17 to Chapter 65 (relating to credit insurance).

18 "Forms." Policies, contracts, riders, endorsements and
19 applications relating to accident and health insurance subject
20 to approval by the department under section 3515 (relating to
21 approval of contracts by department), 7324 (relating to filing
22 of rates and contract forms), 7524 (relating to rates and
23 contracts) or 7729 (relating to rates and contracts).

24 "Policy." A contract issued by any person providing accident
25 and health insurance, including such a subscriber contract
26 issued by a health plan corporation or nonprofit health service
27 plan or such a certificate issued by a fraternal benefit society
28 and including any riders or endorsements and the application, if
29 attached.

30 § 6942. Standards for policy provisions.

1 The department shall issue regulations to establish specific
2 standards, including standards of full and fair disclosure, that
3 set forth the manner, content and required disclosures for their
4 sale for individual policies of accident and health insurance
5 and required disclosures for their sale. These regulations shall
6 be in addition to other applicable laws and may cover, but need
7 not be limited to:

8 (1) Terms of renewability.

9 (2) Initial and subsequent conditions of eligibility.

10 (3) Nonduplication of coverage provisions.

11 (4) Coverage of dependents.

12 (5) Preexisting conditions.

13 (6) Termination of insurance.

14 (7) Probationary periods.

15 (8) Limitations.

16 (9) Exceptions.

17 (10) Reductions.

18 (11) Elimination periods.

19 (12) Requirements for replacement.

20 (13) Recurrent conditions.

21 (14) Definitions of terms, including, but not limited

22 to, the following: "hospital," "accident," "sickness,"

23 "injury," "physician," "accidental means," "total

24 disability," "partial disability," "nervous disorder,"

25 "guaranteed renewable" and "noncancelable".

26 (15) Prohibited policy provisions not otherwise

27 specifically prohibited by statute which in the opinion of

28 the department are unjust, unfair or unfairly discriminatory

29 to the policyholder, subscriber, any insured or beneficiary.

30 § 6943. Minimum standards for benefits.

1 (a) Scope of regulations.--The department shall issue
2 regulations to establish minimum standards for benefits under
3 each of the following categories of coverage in individual
4 policies:

5 (1) Basic hospital expense coverage.

6 (2) Basic medical-surgical expense coverage.

7 (3) Hospital confinement indemnity coverage.

8 (4) Major medical expense coverage.

9 (5) Disability income protection coverage.

10 (6) Accident only coverage.

11 (7) Specified disease or specified accident coverage.

12 (b) Permitted coverage.--Supplemental coverage shall be
13 permitted for all the categories of coverages listed in
14 subsection (a), except for specified disease or specified
15 accident coverage. This section does not preclude the issuance
16 of any policy or contract which combines two or more of the
17 categories of coverage listed in subsection (a).

18 (c) Compliance with regulations.--A policy shall not be
19 delivered or issued for delivery in this Commonwealth which does
20 not meet the prescribed minimum standards for those categories
21 of coverage listed in subsection (a) or supplemental coverage
22 under subsection (b), which are contained within the policy,
23 unless the department finds that the policy will not be unjust,
24 unfair or unfairly discriminatory to the policyholder,
25 subscriber, any insured or beneficiary. Changes to a policy
26 required by regulations promulgated pursuant to this subchapter,
27 including changes to premium rates applicable thereto, shall be
28 permitted by endorsement or rider unless the department
29 determines that the changes substantially alter the policy.

30 (d) Special approval of policies.--Notwithstanding any other

1 provision of this subchapter or regulations promulgated
2 thereunder, any policy submitted for approval which does not
3 meet the prescribed minimum standards for those categories of
4 coverage listed in subsection (a) or supplemental coverage under
5 subsection (b), which are contained within the policy may be
6 approved if, in the opinion of the department, the policy is not
7 unjust, unfair, or unfairly discriminatory to the policyholder,
8 subscriber or any insured or beneficiary.

9 (e) Regulations.--The department shall promulgate
10 regulations prescribing the method of identification of policies
11 based upon coverages provided.

12 § 6944. Outline of coverage.

13 (a) Requirement.--In order to provide for full and fair
14 disclosure in the sale of individual policies except for
15 supplemental policies sold on the debit plan, and except for
16 riders or amendments to policies, a policy shall not be
17 delivered or issued for delivery in this Commonwealth unless an
18 outline of coverage either accompanies the policy or is
19 delivered to the applicant at the time application is made.

20 (b) Regulation of form and contents.--The department shall
21 issue regulations prescribing the format and contents of the
22 outline of coverage. The outline of coverage shall include all
23 of the following, in a form understandable to a person of
24 average intelligence and education:

25 (1) A statement identifying the applicable category or
26 categories of coverage provided by the policy as prescribed
27 in section 6943 (relating to minimum standards for benefits).

28 (2) A description of the principal benefits and coverage
29 provided in the policy.

30 (3) A statement of the exceptions, reductions and

1 limitations contained in the policy.

2 (4) A statement of the renewal provisions including any
3 reservation by the insurer of a right to change premiums.

4 (5) A statement that the outline is a summary of the
5 policy issued or applied for and that the policy should be
6 consulted to determine the governing contractual provisions.

7 (c) Definition.--As used in this section, the term "format"
8 means style, arrangement and overall appearance, including such
9 items as the size, color and prominence of type and the
10 arrangement of text and captions.

11 § 6945. Preexisting conditions.

12 Notwithstanding section 6913(c) (relating to mandatory policy
13 provisions), if an insurer elects to use a simplified
14 application form, with or without a question as to the
15 applicant's health at the time of application, but without any
16 questions concerning the insured's health history or medical
17 treatment history, the policy shall cover any loss occurring
18 after 12 months from any preexisting condition not specifically
19 excluded from coverage by terms of the policy. Except as so
20 provided, the policy shall not include any provision that would
21 permit a defense based upon preexisting conditions. Changes to
22 policies required under this section, including changes to
23 premium rates applicable thereto, shall be permitted by
24 endorsement or rider.

25 § 6946. Procedure regarding regulations.

26 All regulations promulgated under this subchapter, including
27 those under section 6943(c) (relating to minimum standards for
28 benefits), shall specify an effective date applicable to
29 policies or benefit riders delivered or issued for delivery in
30 this Commonwealth on or after the effective date, which shall

1 not be less than 365 days after their adoption or promulgation.
2 Public hearings shall be held prior to the promulgation of any
3 substantial regulation under this section or substantial change
4 thereof. The hearing shall be transcribed verbatim, and cross-
5 examination of all witnesses shall be permitted. The order
6 promulgating any such regulation shall contain findings and the
7 reasons for the regulation and copies of the order shall be
8 mailed to those appearing of record at the hearing. This section
9 does not create or permit any right of action at law or equity
10 not otherwise authorized or permitted under the law.

11 SUBCHAPTER E

12 MEDICARE SUPPLEMENT INSURANCE

13 Sec.

14 6951. Short title of subchapter.

15 6952. Definitions.

16 6953. Definitions in Medicare supplement policies.

17 6954. Prohibited policy provisions.

18 6955. Minimum benefit standards.

19 6956. Loss ratio standards.

20 6957. Required disclosures.

21 6958. Requirements for replacement.

22 6959. Regulations.

23 6960. Applicability of mandated coverages.

24 6961. Applicability of subchapter.

25 § 6951. Short title of subchapter.

26 This subchapter shall be known and may be cited as the
27 Medicare Supplement Insurance Act.

28 § 6952. Definitions.

29 The following words and phrases when used in this subchapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Applicant." The proposed certificate holder under a group
3 Medicare supplement policy or subscriber contract.

4 "Certificate." A certificate issued under a group Medicare
5 supplement policy, which policy has been delivered or issued for
6 delivery in this Commonwealth.

7 "Medicare." The Health Insurance for the Aged Act, Title
8 XVIII of the Social Security Act (Public Law 89-97, 42 U.S.C. §
9 1395 et seq.).

10 "Medicare supplement policy." A group policy of accident and
11 health insurance or group subscriber contract of health plan
12 corporations and nonprofit health service plans delivered or
13 issued for delivery in this Commonwealth which is advertised,
14 marketed or designed primarily to supplement coverage for the
15 hospital, medical or surgical expenses of persons eligible for
16 Medicare by reason of age. This term does not include:

17 (1) A policy or contract of one or more employers or
18 labor organizations, or of the trustees of a fund established
19 by one or more employers or labor organizations, or
20 combination thereof, for employees or former employees, or
21 combination thereof, or for members or former members, or
22 combination thereof, of the labor organizations.

23 (2) A policy or contract of any professional, trade or
24 occupational association for its members or former or retired
25 members, or combination thereof, if the association:

26 (i) is composed of individuals all of whom are
27 actively engaged in the same profession, trade or
28 occupation;

29 (ii) has been maintained in good faith for purposes
30 other than obtaining insurance; and

1 (iii) has been in existence for at least two years
2 prior to the date of its initial offering of such policy
3 or plan to its members.

4 § 6953. Definitions in Medicare supplement policies.

5 As used in any Medicare supplement policy issued under this
6 subchapter:

7 (1) "Accident," "accidental injury" and "accidental
8 means" shall be defined using "result" language and shall not
9 include words which establish an accidental means test or use
10 words such as "external, violent, visible wounds" or similar
11 words of description or characterization. The definition
12 shall not be more restrictive than the following: injury or
13 injuries, for which benefits are provided, means accidental
14 bodily injury sustained by the insured person which is the
15 direct result of an accident, independent of disease or
16 bodily infirmity or any other cause and occurrence while the
17 insurance is in force. The definition may provide that
18 injuries shall not include injuries for which benefits are
19 provided under any workmen's compensation, employers'
20 liability or similar law, or pursuant to Chapter 63 (relating
21 to motor vehicle financial responsibility) or similar law,
22 unless prohibited by law, or injuries occurring while the
23 insured person is engaged in any activity pertaining to any
24 trade, business, employment or occupation for wage or profit.

25 (2) "Convalescent nursing home," "extended care
26 facility" or "skilled nursing facility" shall be defined in
27 relation to its status, facilities and available services;
28 and:

29 (i) The definition shall not be more restrictive
30 than one requiring that it:

- 1 (A) be operated pursuant to law;
- 2 (B) be primarily engaged in providing, in
3 addition to room and board accommodations, skilled
4 nursing care under the supervision of a duly licensed
5 physician;
- 6 (C) provide continuous 24-hour a day nursing
7 service by or under the supervision of a registered
8 graduate professional nurse; and
- 9 (D) maintain a daily medical record of each
10 patient.

11 (ii) The definition may provide that the term does
12 not include:

13 (A) any home, facility or part thereof used
14 primarily for rest;

15 (B) a home or facility for the aged or for the
16 care of drug addicts or alcoholics; or

17 (C) a home or facility primarily used for the
18 care and treatment of mental diseases or disorders or
19 custodial or educational care.

20 (3) "Hospital" may be defined in relation to its status,
21 facilities and available services or to reflect its
22 accreditation by the Joint Commission on Accreditation of
23 Hospitals or the American Osteopathic Association.

24 (i) The definition shall not otherwise be more
25 restrictive than one requiring that the hospital:

26 (A) be an institution operated pursuant to law;

27 (B) be primarily and continuously engaged in
28 providing the medical care and treatment of sick or
29 injured persons on an inpatient basis for which a
30 charge is made; and

1 (C) provide 24-hour nursing service by or under
2 the supervision of registered graduate professional
3 nurses.

4 (ii) The definition may state that the term does not
5 include:

6 (A) convalescent homes or convalescent, rest or
7 nursing facilities;

8 (B) facilities primarily affording custodial or
9 educational care;

10 (C) facilities for the aged, drug addicts or
11 alcoholics; or

12 (D) any military or veterans hospital or
13 soldiers home or any hospital contracted for or
14 operated by any national government or agency thereof
15 for the treatment of members or ex-members of the
16 armed forces, except for services rendered on an
17 emergency basis where a legal liability exists for
18 charges made to the individual for such services.

19 (4) "Mental or nervous disorders" shall not be defined
20 more restrictively than a definition including neurosis,
21 psychoneurosis, psychopathy, psychosis or mental or emotional
22 disease or disorder of any kind.

23 (5) "Nurses" may be defined so that the description of
24 nurse is restricted to a type of nurse, such as a registered
25 graduate professional nurse, a licensed practical nurse or a
26 licensed vocational nurse. If the words "nurse," "trained
27 nurse" or "registered nurse" are used without specific
28 instruction, then the use of those terms requires the insurer
29 to recognize the services of any individual who qualified
30 under such terminology in accordance with the law regarding

1 licensing of those professionals.

2 (6) "Physician" may be defined by including words such
3 as "duly qualified physician" or "duly licensed physician."
4 The use of such terms requires an insurer to recognize and to
5 accept, to the extent of its obligation under the contract,
6 all providers of medical care and treatment when such
7 services are within the scope of the provider's licensed
8 authority and are provided under applicable law.

9 (7) "Sickness" shall not be defined to be more
10 restrictive than the following: sickness means sickness or
11 disease of an insured person which is diagnosed or treated
12 after the effective date of insurance and while the insurance
13 is in force. The definition may exclude sickness or disease
14 for which benefits are provided under any workmen's
15 compensation, occupational disease, employers' liability or
16 similar law.

17 § 6954. Prohibited policy provisions.

18 A Medicare supplement policy shall not limit or exclude
19 coverage by type of illness, accident, treatment or medical
20 condition except to the extent they are excluded or limited by
21 Medicare. Such policies may exclude coverage for any expense to
22 the extent of any benefit available to the insured under
23 Medicare.

24 § 6955. Minimum benefit standards.

25 A policy shall not be filed with the department as a Medicare
26 supplement policy unless the policy meets or exceeds, either in
27 a single policy or, in the case of health plan corporations and
28 nonprofit health service plans, in one or more policies issued
29 in conjunction with one another, the requirements of the NAIC
30 Model Regulation to Implement the Individual Accident and

1 Sickness Insurance Minimum Standards Act, as adopted by the
2 National Association of Insurance Commissioners on June 6, 1979,
3 as it applies to Medicare supplement policies. At least the
4 following provisions and benefits shall be provided in the
5 policy:

6 (1) A Medicare supplement policy may not exclude losses
7 incurred more than six months from the effective date of
8 coverage for a preexisting condition. The policy may not
9 define a preexisting condition more restrictively than a
10 condition for which medical advice was given or treatment was
11 recommended by or received from a physician within six months
12 prior to the effective date of coverage.

13 (2) The term "Medicare benefit period" shall mean the
14 unit of time used in the Medicare program to measure use of
15 services and availability of benefits under Part A, medical
16 hospital insurance.

17 (3) The term "Medicare eligible expenses" shall mean
18 health care expenses of the kinds covered by Medicare to the
19 extent recognized as reasonable by Medicare. Payment of
20 benefits by insurers for Medicare eligible expenses may be
21 conditioned upon the same or less restrictive payment
22 conditions, including determinations of medical necessity as
23 are applicable to Medicare claims.

24 (4) Coverage shall not indemnify against losses
25 resulting from sickness on a different basis than losses
26 resulting from accidents. Coverage shall provide that
27 benefits designed to cover cost-sharing amounts under
28 Medicare shall be changed automatically to coincide with any
29 changes in the applicable Medicare deductible amount and
30 copayment percentage factors; premiums may be changed to

1 correspond with such changes.

2 (5) The Medicare supplement policy shall include all of
3 the following:

4 (i) Coverage of Part A Medicare eligible expenses
5 for hospitalization to the extent not covered by Medicare
6 from the 61st day through the 90th day in any Medicare
7 benefit period.

8 (ii) Coverage of Part A Medicare eligible expenses
9 incurred as daily hospital charges during use of
10 Medicare's lifetime hospital inpatient reserve days.

11 (iii) Upon exhaustion of all Medicare hospital
12 inpatient coverage including the lifetime reserve days,
13 coverage of 90% of all Medicare Part A eligible expenses
14 for hospitalization not covered by Medicare subject to a
15 lifetime maximum benefit of an additional 365 days.

16 (iv) Coverage of 20% of the amount of Medicare
17 eligible expenses under Part B regardless of hospital
18 confinement, subject to a maximum calendar year out-of-
19 pocket deductible of \$200 of such expenses and to a
20 maximum benefit of at least \$5,000 per calendar year.

21 (6) Insurers which make available in this Commonwealth
22 any Medicare supplement policy shall also simultaneously
23 offer to the prospective insureds an additional benefit plan
24 Medicare supplement coverage which both conforms to the terms
25 and conditions of section 6954 (relating to prohibited policy
26 provisions) and which also provides at least the following
27 coverages:

28 (i) The initial Part A deductible.

29 (ii) Skilled nursing home charges incurred in
30 addition to those covered by Medicare.

1 (iii) Coverage of 20% of eligible expenses incurred
2 under Part B of Medicare in excess of the deductible
3 amount applied to such expenses by Medicare.

4 This offer shall be given prominence in any solicitation of
5 the Medicare supplement policy benefits described in this
6 section and shall provide the prospective insured the
7 opportunity to simultaneously enroll or apply for the
8 additional benefit plan Medicare supplement coverage. The
9 description of the additional benefit plan Medicare
10 supplement coverage shall include a statement of the
11 coverages, the premium charges and any additional applicable
12 exclusions and limitations permitted for the additional
13 benefit plan Medicare supplement coverage. The additional
14 benefit plan coverage, if elected by the prospective insured
15 person, shall take effect no later than 15 days following the
16 effective date which applies to the rest of the Medicare
17 supplement coverage.

18 § 6956. Loss ratio standards.

19 The terms and premiums of Medicare supplement policies shall
20 be prepared so as to return to policyholders in the form of
21 aggregate benefits under the policy, as estimated for the entire
22 period for which rates are computed to provide coverage, on the
23 basis of incurred claims experience and earned premiums for such
24 period, and in accordance with accepted actuarial principles and
25 practices:

26 (1) at least 75% of the aggregate amount of premiums
27 collected; or

28 (2) in the case of certificates issued as a result of
29 solicitations of individuals through the mail or mass media
30 advertising, including both print and broadcast advertising,

1 at least 60% of the aggregate amount of premiums collected.

2 § 6957. Required disclosures.

3 (a) Renewal provisions.--Each Medicare supplement policy
4 shall include a renewal, continuation or nonrenewal provision.
5 The terms of this provision shall be consistent with the type of
6 contract to be issued. The provision shall be appropriately
7 captioned, shall appear on the first page of the certificate and
8 shall clearly state the duration, where limited, of renewability
9 and the duration of the term of coverage for which the policy is
10 issued and for which it may be renewed.

11 (b) Standards for payment.--A Medicare supplement policy
12 which provides for the payment of benefits based on standards
13 described as "usual and customary," "reasonable and customary"
14 or words of similar import shall include a definition of the
15 terms and an explanation of the terms in its accompanying
16 outline of coverage.

17 (c) Preexisting condition provisions.--If a Medicare
18 supplement policy contains any limitations with respect to
19 preexisting conditions, these limitations shall appear as a
20 separate paragraph of the certificate and be labeled as
21 "Preexisting Condition Limitations."

22 (d) Right of return.--Certificates, other than those issued
23 pursuant to direct response solicitation, shall have a notice
24 prominently printed on the first page of the certificate or
25 attached thereto stating in substance that the certificate
26 holder shall have the right to return the certificate within ten
27 days of its delivery and to have the premium refunded if, after
28 examination of the certificate, the insured person is not
29 satisfied for any reason. Medicare supplement certificates
30 issued pursuant to a direct response solicitation to persons

1 eligible for Medicare by reason of age shall have a notice
2 prominently printed on the first page, or attached thereto,
3 stating in substance that the certificate holder shall have the
4 right to return the certificate within 30 days of its delivery
5 and to have the premium refunded if after examination the
6 insured person is not satisfied for any reason.

7 (e) Buyer's guide.--Insurers issuing accident and health
8 certificates under group policies delivered or issued for
9 delivery in this Commonwealth which provide hospital or medical
10 expense coverage on an expense incurred or indemnity basis,
11 other than incidentally, to a person eligible for Medicare by
12 reason of age, shall provide to the certificate holder a
13 Medicare supplement buyer's guide in the form consistent with
14 the then current edition of the model jointly developed by the
15 National Association of Insurance Commissioners and the Health
16 Care Financing Administration of the United States Department of
17 Health and Human Services. Delivery of the buyer's guide shall
18 be made whether or not the group policy qualifies as a Medicare
19 supplement policy. Except in the case of direct response
20 insurers, delivery of the buyer's guide shall be made at the
21 time of application, and acknowledgment of receipt of
22 certification of delivery of the buyer's guide shall be provided
23 to the insurer. Direct response insurers issuing Medicare
24 supplement policies shall deliver the buyer's guide upon
25 request, but not later than at the time the certificate is
26 delivered.

27 (f) Description of coverage.--The terms "Medicare
28 supplement," "medigap" and words of similar import shall not be
29 used unless the policy is issued in compliance with section 6955
30 (relating to minimum benefit standards).

1 (g) Outline of coverage.--Insurers issuing Medicare
2 supplement policies shall deliver an outline of coverage to the
3 applicant at the time application is made. Except in the case of
4 a direct response policy, an acknowledgment of receipt or
5 certification of delivery of the outline of coverage shall be
6 provided to the insurer. If an outline of coverage was delivered
7 at the time of application and the certificate is issued on a
8 basis which would require revision of the outline, a substitute
9 outline of coverage properly describing the certificate shall
10 accompany the certificate when it is delivered and shall contain
11 the following statement, in no less than 12-point type,
12 immediately above the company name:

13 "NOTICE: Read this outline of coverage carefully. It is
14 not identical to the outline of coverage provided upon
15 application and the coverage originally applied for has
16 not been issued."

17 The outline of coverage shall be in a form consistent with the
18 then current model adopted by the National Association of
19 Insurance Commissioners and amended to reflect changes in the
20 Medicare program.

21 § 6958. Requirements for replacement.

22 (a) Question to applicant.--Application or enrollment forms
23 shall include a question designed to elicit information as to
24 whether a certificate to be issued under a Medicare supplement
25 policy is intended to replace any other health and accident
26 insurance presently in force. A supplementary application or
27 other form to be signed by the applicant containing such a
28 question may be used.

29 (b) Notice.--Upon determining that a sale will involve
30 replacement, an insurer, other than a direct response insurer,

1 or its agent, shall furnish the applicant, prior to issuance or
2 delivery of the certificate, a notice designed to inform the
3 applicant of the essential differences in coverage on a form
4 consistent with the then current model notification form adopted
5 by the National Association of Insurance Commissioners. One copy
6 of the notice shall be retained by the applicant, and an
7 additional copy signed by the applicant shall be retained by the
8 insurer. A direct response insurer shall deliver the notice to
9 the applicant upon issuance of the certificate.

10 § 6959. Regulations.

11 (a) General rule.--Public hearings shall be held prior to
12 the promulgating of any regulations promulgated under this
13 subchapter unless the regulation is insubstantial. The order
14 promulgating the regulation shall contain findings and reasons
15 for the regulation. This section does not create or permit any
16 right or action at law or in equity not otherwise authorized by
17 law.

18 (b) Modifications required by Medicare statute.--The
19 department may promulgate regulations changing the requirements
20 of this subchapter, other than sections 6960 (relating to
21 applicability of mandated coverages) and 6961 (relating to
22 applicability of subchapter), to the extent necessary to comply
23 with changes made by Congress as to the requirements contained
24 in section 1882 of the Social Security Act (Public Law 96-26, 42
25 U.S.C. § 1395ss), as these requirements were in effect on July
26 1, 1983. These regulations shall take effect within 60 days
27 after their promulgation.

28 § 6960. Applicability of mandated coverages.

29 Coverage which is required to be included in any group or
30 blanket health and accident policy by any statute enacted on or

1 after July 1, 1983, shall not be required to be included in any
2 Medicare supplement policy, unless inclusion thereof is
3 specifically required by the statute.

4 § 6961. Applicability of subchapter.

5 This subchapter shall apply to all group health and accident
6 policies issued or renewed.

7 SUBCHAPTER F

8 BENEFITS FOR ALCOHOL ABUSE AND DEPENDENCY

9 Sec.

10 6971. Definitions.

11 6972. Mandated policy coverage and options.

12 6973. Inpatient detoxification.

13 6974. Nonhospital residential alcohol services.

14 6975. Outpatient alcohol services.

15 6976. Deductibles, copayment plans and prospective pay.

16 6977. Regulations.

17 6978. Preservation of certain benefits.

18 6979. Applicability and expiration of subchapter.

19 § 6971. Definitions.

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

23 "Alcohol abuse." Any use of alcohol which produces a pattern
24 of pathological use causing impairment in social or occupational
25 functioning or which produces physiological dependency evidenced
26 by physical tolerance or withdrawal.

27 "Detoxification." The process whereby an alcohol-intoxicated
28 or alcohol-dependent person is assisted, in a facility licensed
29 by the Department of Health, through the period of time
30 necessary to eliminate, by metabolic or other means, the

1 intoxicating alcohol, alcohol dependency factors or alcohol in
2 combination with drugs as determined by a licensed physician,
3 while keeping the physiological risk to the patient at a
4 minimum.

5 "Hospital." A facility licensed as a hospital by the
6 Department of Health or the Department of Public Welfare or
7 operated by the Commonwealth and conducting an alcoholism
8 treatment program licensed by the Department of Health.

9 "Inpatient care." The provision of medical, nursing,
10 counseling or therapeutic services 24 hours a day in a hospital
11 or nonhospital facility, according to individualized treatment
12 plans.

13 "Nonhospital facility." A facility, licensed by the
14 Department of Health, for the care or treatment of alcohol-
15 dependent persons, except for transitional living facilities.

16 "Nonhospital residential care." The provision of medical,
17 nursing, counseling or therapeutic services to patients
18 suffering from alcohol abuse or dependency in a residential
19 environment, according to individualized treatment plans.

20 "Outpatient care." The provision of medical, nursing,
21 counseling or therapeutic services in a hospital or nonhospital
22 facility on a regular and predetermined schedule, according to
23 individualized treatment plans.

24 "Partial hospitalization." The provision of medical,
25 nursing, counseling or therapeutic services on a planned and
26 regularly scheduled basis in a hospital or nonhospital facility
27 licensed as an alcoholism treatment program by the Department of
28 Health, designed for a patient or client who would benefit from
29 more intensive services than are offered in outpatient treatment
30 but who does not require inpatient care.

1 § 6972. Mandated policy coverage and options.

2 (a) General rule.--All group health or sickness or accident
3 insurance policies providing hospital or medical-surgical
4 coverage and all group subscriber contracts or certificates
5 issued by any entity of any nature subject to this chapter or
6 Chapter 45 (relating to fraternal benefit societies), 73
7 (relating to health maintenance organizations), 75 (relating to
8 hospital plan corporations) or 77 (relating to professional
9 health services plan corporations) and providing hospital or
10 medical-surgical coverage shall, in addition to other provisions
11 required by this chapter, include within the coverage those
12 benefits for alcohol abuse and dependency as provided in
13 sections 6973 (relating to inpatient detoxification), 6974
14 (relating to nonhospital residential alcohol services) and 6975
15 (relating to outpatient alcohol services).

16 (b) Combinations of policies.--The benefits specified in
17 subsection (a) may be provided through a combination of such
18 policies.

19 (c) Prospective payment plans.--The benefits specified in
20 subsection (a) may be provided through prospective payment
21 plans.

22 (d) Applicability.--Subsection (a) does not apply to
23 Medicare or Medicaid supplemental contracts or limited coverage
24 accident and sickness policies, including, but not limited to,
25 cancer insurance, polio insurance, dental care and similar
26 policies identified as exempt from this section by the
27 department.

28 § 6973. Inpatient detoxification.

29 (a) Eligible providers.--Inpatient detoxification as a
30 covered benefit under this subchapter shall be provided either

1 in a hospital or in an inpatient nonhospital facility which:

2 (1) has a written affiliation agreement with a hospital
3 for emergency, medical and psychiatric or psychological
4 support services;

5 (2) meets minimum standards for client-to-staff ratios
6 and staff qualifications which shall be established by the
7 Department of Health; and

8 (3) is licensed as an alcoholism treatment program.

9 (b) Covered services.--The following services shall be
10 covered under inpatient detoxification:

11 (1) Lodging and dietary services.

12 (2) Physician, psychologist, nurse, certified addictions
13 counselor and trained staff services.

14 (3) Diagnostic X-ray.

15 (4) Psychiatric, psychological and medical laboratory
16 testing.

17 (5) Drugs, medicines, equipment use and supplies.

18 (c) Limitations of coverage.--Treatment under this section
19 may be subject to a lifetime limit, for a covered individual, of
20 four admissions for detoxification, and reimbursement per
21 admission may be limited to seven days of treatment or an
22 equivalent amount.

23 § 6974. Nonhospital residential alcohol services.

24 (a) Requirements for coverage.--Minimal additional treatment
25 as a covered benefit under this subchapter shall be provided in
26 a facility which:

27 (1) meets minimum standards for client-to-staff ratios
28 and staff qualifications, which shall be established by the
29 Office of Drug and Alcohol Programs; and

30 (2) is appropriately licensed by the Department of

1 Health as an alcoholism treatment program.

2 An insured shall not qualify to receive benefits under this
3 section unless a licensed physician or licensed psychologist
4 certifies the insured as a person suffering from alcohol abuse
5 or dependency and refers the insured for the appropriate
6 treatment.

7 (b) Covered services.--The following services shall be
8 covered under this section:

9 (1) Lodging and dietary services.

10 (2) Physician, psychologist, nurse, certified addictions
11 counselor and trained staff services.

12 (3) Rehabilitation therapy and counseling.

13 (4) Family counseling and intervention.

14 (5) Psychiatric, psychological and medical laboratory
15 tests.

16 (6) Drugs, medicines, equipment use and supplies.

17 (c) Time of coverage.--The treatment under this section
18 shall be covered, as required by this subchapter, for a minimum
19 of 30 days per year for residential care. Additional days shall
20 be available as provided in section 6975(d) (relating to
21 outpatient alcohol services). Treatment may be subject to a
22 lifetime limit, for any covered individual, of 90 days.

23 § 6975. Outpatient alcohol services.

24 (a) Requirements for coverage.--Minimal additional treatment
25 as a covered benefit under this subchapter shall be provided in
26 a facility appropriately licensed by the Department of Health as
27 an alcoholism treatment program. An insured may not qualify to
28 receive benefits under this section unless a licensed physician
29 or licensed psychologist certifies the insured as a person
30 suffering from alcohol abuse or dependency and refers the

1 insured for the appropriate treatment.

2 (b) Covered services.--The following services shall be
3 covered under this section:

4 (1) Physician, psychologist, nurse, certified addictions
5 counselor and trained staff services.

6 (2) Rehabilitation therapy and counseling.

7 (3) Family counseling and intervention.

8 (4) Psychiatric, psychological and medical laboratory
9 tests.

10 (5) Drugs, medicines, equipment use and supplies.

11 (c) Time of coverage.--Treatment under this section shall be
12 covered as required by this subchapter for a minimum of 30
13 outpatient, full-session visits or equivalent partial visits per
14 year. Treatment may be subject to a lifetime limit, for any
15 covered individual, of 120 outpatient, full-session visits or
16 equivalent partial visits.

17 (d) Additional coverage.--In addition, treatment under this
18 section shall be covered as required by this subchapter for a
19 minimum of 30 separate sessions of outpatient or partial
20 hospitalization services per year, which may be exchanged on a
21 two-to-one basis to secure up to 15 additional nonhospital,
22 residential alcohol treatment days.

23 § 6976. Deductibles, copayment plans and prospective pay.

24 Reasonable deductible or copayment plans, or both, after
25 approval by the department, may be applied to benefits paid to
26 or on behalf of patients during the course of alcohol abuse or
27 dependency treatment. In the first instance or course of
28 treatment, under a prospective payment plan or otherwise, no
29 deductible or copayment shall be less favorable than those
30 applied to similar classes or categories of treatment for

1 physical illness generally in each policy.

2 § 6977. Regulations.

3 The department and the Department of Health shall jointly
4 promulgate those regulations deemed necessary for the effective
5 implementation and operation of this subchapter.

6 § 6978. Preservation of certain benefits.

7 This subchapter does not diminish the benefits of any insured
8 or subscriber existing on December 8, 1986, nor prevent the
9 offering or acceptance of benefits which exceed the minimum
10 benefits required by this subchapter.

11 § 6979. Applicability and expiration of subchapter.

12 (a) Applicability.--This subchapter shall apply only to
13 contracts of insurance issued or renewed after June 11, 1986.

14 (b) Expiration.--This subchapter shall expire December 31,
15 1989.