

such filing or reply to such inquiries in writing: Provided, however, That surveys and completed schedules on specific risks may be required only upon specific complaint being registered by the policyholder or applicant for insurance with the Insurance Commissioner.

Upon failure or refusal of any individual, association, or bureau to make any such filing or to reply to such inquiries in writing, the Insurance Commissioner may, in his discretion, impose a penalty of not more than one thousand dollars (\$1,000) for each such neglect or refusal. From any such action of the Insurance Commissioner, the party aggrieved may appeal to the court of common pleas of Dauphin County.

When effective.

Section 2. This act shall become effective immediately upon its final enactment.

APPROVED—The 1st day of July, A. D. 1937.

GEORGE H. EARLE

No. 472

AN ACT

To further amend article VI of the act, approved the seventeenth day of May, one thousand nine hundred and twenty-one (Pamphlet Laws, six hundred eighty-two), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," by adding thereto a new subdivision (h), consisting of sections 685 (six hundred and eighty-five) to 696 (six hundred and ninety-six) inclusive; defining the specific powers and financial requirements of title insurance companies; providing for the regulation and supervision thereof; prohibiting the guaranteeing of mortgages by such companies; providing for reserves; and limiting the amount of liability permissible under policies of title insurance for a single transaction.

Insurance company law of 1921.

Article VI, act of May 17, 1921 (P. L. 682), amended.

Section 1. Be it enacted, &c., That article VI of the act, approved the seventeenth day of May, one thousand nine hundred and twenty-one (Pamphlet Laws, six hundred eighty-two), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations,

and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," is hereby amended, by adding thereto a subdivision (h), consisting of section 685 (six hundred and eighty-five) to section 696 (six hundred and ninety-six), to read as follows:

Addition of a subdivision (h), consisting of section 685 to section 696.

Section 685. Specific Powers and Financial Requirements of Title Insurance Companies.—A. Title insurance companies shall have the power to make insurance of every kind pertaining to or connected with titles to real estate; and to make, execute, and perfect such and so many contracts, agreements, policies, and other instruments as may be required therefor; such insurances to be made for the benefit of owners of real estate, mortgagees, and others interested in real estate, from loss by reason of defective titles, liens, and encumbrances.

Powers.

B. Title insurance companies shall have the power to take, receive, and hold any and all such pieces of real property as may have been, or may hereafter be, the subject of any insurance made by such companies under the powers hereinbefore recited, whether given by law or by charter, and the same to grant, lease, bargain, sell, convey, and dispose of in any manner as they see proper: Provided, That no title insurance company shall continue to hold such real estate for more than five years from the date of the acquisition thereof, unless it shall obtain the written approval of the Insurance Commissioner to hold such real estate for a longer period of time.

Proviso.

C. Title insurance companies shall have a paid-in capital of not less than two hundred fifty thousand dollars, and, in addition, a surplus, paid-in, at least equal to fifty per centum of the paid-in capital.

Capital.

Section 686. Power to Insure Titles to Real Estate; Loss of Power.—A. Every corporation which upon the effective date of this act shall lawfully possess, and which has within one year prior to such date exercised, the power to insure owners of real property, mortgagees, and others interested in real property, and others from loss by reason of defective titles, liens, and encumbrances, shall, subject to the conditions herein prescribed, continue to possess such power.

Status.

B. Every corporation which shall possess the power to insure owners of real property, mortgagees, and others interested in real property, from loss by reason of defective titles, liens, and encumbrances; but which does not hereafter exercise such power for any consecutive period of one year, shall be forever barred from the exercise of such power.

Forever barred by non-exercise of power for any consecutive period of one year.

Section 687. Power to Accept Deposits; Loss of Title Insurance Powers.—If any corporation, which shall possess the power to insure owners of real property,

Banking
business.

mortgagees, and others interested in real property, from loss by reason of defective titles, liens, and encumbrances, and also the further powers to receive deposits or otherwise to engage in a banking business, shall not have exercised within one year preceding the effective date of this act any of such further powers, then every such corporation, which shall again exercise such further powers to receive deposits or otherwise engage in a banking business, shall make no further contracts or policies of title insurance. If any such corporation shall not hereafter exercise any of such further powers for any consecutive period of one year, then each such corporation, which shall again exercise such further powers to receive deposits or otherwise engage in a banking business, shall make no further contracts or policies of title insurance.*

Fiduciaries, etc.

Section 688. Power to Act as a Fiduciary; Loss of Title Insurance Powers.—If any corporation, which shall possess the power to insure owners of real property, mortgagees, and others interested in real property, from loss by reason of defective titles, liens, and encumbrances, and also the further powers to act as trustee, guardian, executor, administrator, or in any other similar fiduciary capacity, shall not have exercised, within one year preceding the effective date of this act, any of such further powers, then every such corporation which shall again exercise any of such further powers shall make no further contracts or policies of title insurance. If any such corporation shall not hereafter exercise any of such further powers for any consecutive period of one year, then each such corporation which shall again exercise any of such further powers shall make no further contracts or policies of title insurance.*

Title insurance
companies pro-
hibited from
guaranteeing
payment of prin-
cipal or interest
of obligations
secured by
mortgages on
real property.

Section 689. Prohibition Upon Guaranteeing Mortgages.—A title insurance company shall not, in any manner whatsoever, guarantee the payment of the principal of the interest of bonds or other obligations secured by mortgages upon real property. This section shall not, however, be construed to affect contracts and policies guaranteeing the payment of the principal or the interest of bonds or other obligations, secured by mortgages upon real property, when such contracts and policies have been lawfully executed by a title insurance company, and are valid and outstanding upon the effective date of this act, or any continuation, extension, or renewal thereof.

Exception.

Section 690. Establishment and Maintenance of Reinsurance Reserve Fund.—Each company, which shall possess the power to insure owners of real property, mortgagees, and others interested in real property, from

* "than" in the original.

loss by reason of defective titles, liens, and encumbrances, shall establish and maintain a reinsurance reserve fund, by setting aside a sum equal to ten per centum of the premium (that is the sum charged for insurance over and above examination and settlement fee) paid on each policy which such company may hereafter issue, until the total amount set aside (including any reserve heretofore set up under any prior act of Assembly) shall equal the sum of two hundred fifty thousand dollars; and thereafter shall set aside a sum equal to five per centum of such premiums, until the total amount shall equal a sum not less than five hundred thousand dollars: *Provided*, That such premiums shall not be less than one-quarter of one per centum on the amount of insurance as issued, or, if less than one-quarter of one per centum, the amount set aside shall be equal to two and one-half per centum of said one-quarter of one per centum, provided that the total reserve fund or amounts in excess of that required by the foregoing provisions may be set aside at any time, or from time to time, out of such surplus or undivided profits as may be available for that purpose, in accordance with existing law or the regulations of the Department of Banking; and provided further, that any company, which at the time of the effective date of this act has set aside and is maintaining an insurance reserve fund as required by the act of April 26, 1929 (Pamphlet Laws, 834), is hereby empowered to use the same as part of the reserve required to be set up and maintained by this act. The reserve fund set up by any company shall be maintained as herein provided, so long as any policies shall be outstanding.

Reinsurance
reserve fund.

Proviso.

Further proviso.

Section 691. *Cancellation of Policy.*—Whenever any policy of title insurance, hereafter issued, is surrendered or cancelled by the holder, or liability thereon is completely discharged, the company which shall have issued such policy of title insurance, may withdraw the reserve of such policy or credit such reserve against any reserve that may be due.

Effect of policy
cancellations on
reserve.

Section 692. *Establishment and Maintenance of Reserve Fund for Unpaid Losses.*—Each company, which shall possess the power to insure owners of real property, mortgagees, and others interested in real property, from loss by reason of defective titles, liens, and encumbrances, shall at all times maintain reserve funds for unpaid losses, in addition to funds for other reserves and liabilities; and shall calculate said reserves by making a careful estimate, in each case, of the loss likely to be incurred by reason of every claim presented or that may be presented pursuant to notice from or on behalf of the insured, of the occurrence of an event that may result in a loss. The sum of the items so estimated,

Reserve funds.

shall be the total amount of the reserves for unpaid losses of said insurer.

Custody of
reserve funds.

Section 693. *Custody of Reserve Funds.*—A. The custody of funds, equal in amount to the sum of the re-insurance reserve liability and the reserve for unpaid losses, shall be retained by each company which shall possess the power to insure owners of real property, mortgagees, and others interested in real property, from loss by reason of defective titles, liens, and encumbrances; and the said funds shall be earmarked and kept separate and apart from other assets of the company, in the manner hereinafter provided. The supervision of said funds shall be under the Insurance Commissioner, whether the business of the company be confined exclusively to the title insurance business or whether the business of the company shall include, in addition to the title insurance business, a banking business or the business of acting in a fiduciary capacity.

Insurance Com-
missioner.

Investments.

B. Said reserve funds of each such company shall be invested by each such company, in those investments authorized by law for the investment of the reserve funds of life insurance companies.

Income.

C. The income from said reserve funds shall become a part of the general assets of the company.

Trust.

Section 694. *Trust Funds; Depletion of Reserve Funds.*—A. The principal of such reserve funds shall be a trust for the protection of the policyholders, and shall be applied only for the benefit of the holders of policies of title insurance.

B. If, by reason of losses, depreciation in the market price of any investments, or other cause, the reserve funds of any such company should on any date be less than the minimum amount herein required to be maintained in such reserve funds on such date, such company shall forthwith give written notice thereof to the Insurance Commissioner, and shall make no further contracts or policies of title insurance until the reserve funds have been restored, and until it shall have received a certificate from the Insurance Commissioner authorizing it to issue such policies.

Notice to In-
surance Com-
missioner.

Restriction.

Section 695. *Limit of Net Retention.*—No such company shall issue a policy of title insurance for a single transaction the liability under which shall exceed an amount which is ten times the capital and surplus of such company; but nothing herein contained shall prevent any one or more of such companies from assuming the liability on a single policy jointly with another such company or companies in excess of ten times its capital and surplus, provided that the total amount of such insurance shall not exceed ten times the total combined capital and surplus of all such companies liable under such insurance; and provided that each such company

Exception.

Proviso.

shall not assume more than its proportionate share of the total amount at risk.

Section 696. Additional Requirements.—Except for the requirements of this article, all of the laws, rules, and regulations pertaining to stock casualty insurance companies shall apply, and shall be applied to title insurance companies.

Laws.

APPROVED—The 1st day of July, A. D. 1937.

GEORGE H. EARLE

No. 473

AN ACT

Providing for the creation of a legal holiday on April eighth, one thousand nine hundred thirty-eight, to be known and observed as "Forefathers Day."

WHEREAS, The General Assembly by the act approved July twenty-eighth, one thousand nine hundred thirty-six (Pamphlet Laws, seventy-nine), authorized and directed the Pennsylvania Historical Commission of the Department of Public Instruction to act for, and on behalf of, the Commonwealth of Pennsylvania, in arranging a suitable commemoration of the Three Hundredth Anniversary of the coming of the Swedish ships Kalmar Nyckel and Fogel Grip to the Delaware River in March, one thousand six hundred thirty-eight, and the establishment of the colony of New Sweden, the forerunner of the Province of Pennsylvania and of the Commonwealth of Pennsylvania; and

Preamble.

WHEREAS, The first permanent civilized colonists landed from said two ships on March twenty-ninth, one thousand six hundred thirty-eight, Old Style, or April eighth, one thousand six hundred thirty-eight, computed by the present or New Style calendar, and on that date purchased the first land titles within this Commonwealth, and, shortly thereafter, established homes and trading posts up and down the Delaware River and on the Schuylkill River; and

WHEREAS, The General Assembly desire to impress upon our citizens the significance of the deeds of our forefathers in founding, three hundred years ago, our present goodly heritage of character and achievement; and in order that we may never forget our small but honorable beginnings.

Section 1. Be it enacted, &c., That Friday, April eighth, one thousand nine hundred thirty-eight, the Three Hundredth Anniversary of the date upon which the ships Kalmar Nyckel and Fogel Grip landed on the shores of the Delaware River, and on which the colonists

April 8, 1938, a legal holiday.