

authority, corporation, organization, association, or person in the furtherance of the execution of powers contained in subsection (a) of section 4.

Section 5. General Powers and Duties; Regulations.—(a) It shall be the duty of the department to administer this act through employes and officers of the department, as provided herein and in accordance with rules and regulations promulgated by the department and agreements consummated between the department and any private nonprofit corporation.

(b) The department shall submit to the Governor and to each House of the General Assembly an annual report covering the administration and operation of this act, and shall make such recommendations for amendments to this act as it deems proper. Such reports and recommendations shall be presented on or before the thirty-first day of December of each year.

(c) In order to effectuate and enforce the provisions of this act, the department is authorized to promulgate necessary rules and regulations and prescribe conditions and procedures in order to assure compliance in carrying out the purposes for which grants may be made hereunder.

Section 6. Appropriations.—The sum of six million dollars (\$6,000,000) is hereby specifically appropriated to the department to be used as authorized by this act.

Section 7. Separability.—Notwithstanding any other evidence of legislative intent it is hereby declared to be the controlling legislative intent that if any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 8. Effective Date.—This act shall take effect immediately.

APPROVED—The 31st day of July, A.D. 1968.

RAYMOND P. SHAFER.

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No. 233

AN ACT

HB 2708

Relating to establishment of an Industry Placement Facility to make available basic property insurance against fire and other perils for residential and business properties located in certain areas of the Commonwealth of Pennsylvania through the cooperative efforts of the Commonwealth and the private property insurance industry; providing for a sharing by the Commonwealth of insured losses resulting from riots and other civil disorders through the formation of the Pennsylvania Civil Disorder Authority; levy-

ing an assessment on all policies of basic property insurance written in the Commonwealth; and conferring powers and imposing duties upon the Insurance Commissioner and upon certain property insurers.

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

## ARTICLE I

### Title, Purpose and Definitions

Section 101. Short Title.—This act shall be known and may be cited as “The Pennsylvania Fair Plan Act.”

Section 102. Purposes.—The purposes of this act are:

(1) To encourage stability in the property insurance market for property located in urban areas of this Commonwealth;

(2) To encourage maximum use, in obtaining basic property insurance, as defined in this act, of the normal insurance market provided by the private property insurance industry;

(3) To encourage the improvement of the condition of properties located in urban areas of this Commonwealth and to further orderly community development generally;

(4) To provide for the formulation and administration by an Industry Placement Facility of a plan assuring fair access to insurance requirements (Fair Plan) in order that no property shall be denied basic property insurance through the normal insurance market provided by the private property insurance industry except after a physical inspection of such property and a fair evaluation of its individual underwriting characteristics;

(5) To publicize the <sup>1</sup> purposes and procedures of the Fair Plan to the end that no one may fail to seek its assistance through ignorance thereof;

(6) To provide for the formulation and administration by the Industry Placement Facility of a reinsurance arrangement whereby property insurers shall share equitably the responsibility for insuring insurable property for which basic property insurance cannot be obtained through the normal insurance market; and

(7) To provide a framework for participation by the Commonwealth in a sharing of insured losses resulting from riots and other civil disorders occurring in this Commonwealth through the formation of a Pennsylvania Civil Disorder Authority, in order that insurance companies doing business within this Commonwealth may qualify for Federal reinsurance of such losses if Federal legislation providing for such reinsurance is enacted.

Section 103. Definitions.—As used in this act, unless the context otherwise requires:

(1) “Commissioner” means the Insurance Commissioner of the Commonwealth of Pennsylvania;

(2) “Basic property insurance” means insurance against direct loss to real or tangible personal property at a fixed location caused

<sup>1</sup> “puposes” in original.

by perils defined and limited in the standard fire policy prescribed in section 506 of the act of May 17, 1921 (P. L. 682), known as "The Insurance Company Law of 1921," and in the extended coverage endorsement approved by the commissioner pursuant to section 354 of the act, and such vandalism, malicious mischief, burglary, theft, or such other classes of insurance as may be determined by the Industry Placement Facility with the approval of the commissioner, but shall not include insurance on motor vehicle, farm or such manufacturing risks as may be excluded by the commissioner;

(3) "Inspection bureau" means the organization or organizations designated by the Industry Placement Facility with the approval of the commissioner to inspect and to determine the condition of the properties for which basic property insurance is sought;

(4) "Urban area" means any municipality of the Commonwealth having a blighted, deteriorated or deteriorating area (i) which the Secretary of the Department of Housing and Urban Development of the United States has approved as eligible for an urban renewal project; or (ii) which has been designated as an urban area by the Industry Placement Facility with the approval of the commissioner;

(5) "Premiums written" means gross direct premiums charged on all policies of basic property insurance and the basic property insurance components of all multiple peril policies covering property in this Commonwealth less all premiums and dividends returned to policyholders and the unused or unabsorbed portions of premium deposits;

(6) "Government" means the Federal government and the government of the Commonwealth of Pennsylvania, or any agency or instrumentality, corporate or otherwise, of either of them;

(7) "Municipality" means any city, borough, incorporated town or township established in the Commonwealth of Pennsylvania;

(8) "Federal reinsurance facility" means any agency, or instrumentality thereof, or any body corporate, created by the Federal government for the purpose of providing reinsurance for losses resulting from riots and other civil disorders;

(9) "Insurer" means any insurance company or group of companies under common ownership which is authorized to engage in the insurance business under the laws of any State, and also includes any pool or association of insurance companies formed, associated or otherwise created for the purpose of sharing risks written in accordance with this act.

## ARTICLE II

### Industry Placement Facility

Section 201. Industry Placement Facility.—(a) Membership. Each insurer which is authorized to write and is engaged in writing within this Commonwealth, on a direct basis, basic property insurance or any component thereof contained in a multiple peril policy, including homeowners and commercial multiple peril policies, shall participate in the Industry Placement Facility, as hereinafter de-

scribed, as a condition of its authority to write such kinds of insurance within this Commonwealth. Other insurers may become members provided they are eligible unlicensed insurers under the act of January 24, 1966 (P. L. 1509).

(b) Purposes. The purposes of the facility shall be twofold, as more fully set forth in this article:

(1) To formulate and administer, subject to the approval of the commissioner, a plan assuring fair access to insurance requirements (Fair Plan) in order that no property in urban areas shall be denied basic property insurance through the normal insurance market provided by the private property insurance industry, except after a physical inspection of such property and a fair evaluation of its individual underwriting characteristics; and

(2) To formulate and administer, subject to the approval of the commissioner, a reinsurance arrangement whereby the members of the facility shall share equitably the responsibility for insuring property in urban areas which is insurable but for which basic property insurance cannot be obtained through the normal insurance market.

(c) Organization. Within forty-five days following the effective date of this act, the Industry Placement Facility shall submit to the commissioner for his review a proposed plan of operation of the facility, consistent with the provisions of this act and the purposes of the facility, which shall provide for the Fair Plan, the reinsurance arrangement, and the economical and efficient administration of the facility, including, but not limited to, management of the facility, preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities within this Commonwealth, assessment of members to defray losses and expenses, commission arrangements, reasonable underwriting standards and limits of liability, acceptance and cession of reinsurance, and procedures for determining amounts of insurance to be provided.

The plan of operation shall be subject to approval by the commissioner and shall take effect ten days after having been approved by him. If the commissioner disapproves the proposed plan of operation, the facility shall within fifteen days submit for review an appropriately revised plan of operation and, if the facility fails to do so, or if the revised plan so filed is unacceptable, the commissioner shall promulgate a plan of operation.

(d) Amendment of Plan of Operation of Facility. The facility shall, on its own initiative, subject to prior approval by the commissioner, or at the direction of the commissioner, amend the plan of operation.

(e) Administration. (1) The facility shall be governed by a board of seven directors, elected annually by the members of the facility. Each member of the facility shall be allotted votes bearing the same ratio to the total number of votes to be cast as its degree of participation in the facility bears to the total participation. Pending the de-

termination of the degree of participation of the members in the facility, each member of the facility shall be allotted votes bearing the same ratio to the total number of votes to be cast as each member's written premium on basic property insurance during calendar year 1967 bears to the statewide total written premium for basic property insurance during such year. The first board shall be elected at a meeting of the members or their authorized representatives.

(2) Any vacancy on the board shall be filled by a vote of the other directors.

(3) If at any time the members fail to elect the required number of directors or a vacancy remains unfilled for more than fifteen days, the commissioner may appoint the directors necessary to constitute a full board.

(f) Participation. All members of the facility shall participate in its expenses and in its profits and losses (or in such categories thereof as may be separately established by the facility) in the proportion that the premiums written (as herein defined, but excluding that portion, if any, of premiums which is attributable to the reinsurance arrangement maintained by the facility) by each such member during the second preceding calendar year bear to the aggregate premiums written in this Commonwealth by all members of the facility. Such participation by each member in the facility shall be determined annually by the facility on the basis of such premiums written during the second preceding calendar year as disclosed in the annual statements and other reports filed by the member with the commissioner.

Section 202. Fair Plan. The Fair Plan shall contain provision that: (1) Any person having an insurable interest in real or tangible personal property at a fixed location in an urban area, his representative, an insurance agent or broker, or an insurer, may request the facility for an inspection of the property by representatives of the Inspection Bureau, such inspection to be without cost to the applicant for insurance. The request for such inspection need not be made in writing. No such risk shall be written at surcharged rates or be denied insurance coverage for basic property insurance by an insurer unless such an inspection has first been made.

(2) The plan of operation of the Inspection Bureau, the manner and scope of the inspection, and the form of the inspection report, which shall include, but need not be limited to, pertinent structural and occupancy features as well as the general condition of the building and surrounding structures, shall be prescribed by the Industry Placement Facility subject to the approval of the commissioner.

(3) Promptly after the request for inspection is received by the facility, if no policy has been issued, the inspection shall be made, a written inspection report prepared, and such report filed with the insurer or insurers, if any, designated by the applicant; a copy thereof shall be made available to the applicant or to his representative upon request. If no insurer has been designated by the applicant, the facility shall proceed as in clause (7) below.

(4) After the inspection report is received by an insurer, it shall promptly determine if the risk meets reasonable underwriting standards at the applicable premium rate, including approved surcharges for physical characteristics, and shall promptly return to the Industry Placement Facility the inspection report and provide an action report setting forth:

(i) the amount of coverage it agrees to write, and if the insurer agrees to write the coverage with an approved surcharge, the improvements necessary before it will provide coverage at an uncharged premium rate;

(ii) the amount of coverage it agrees to write if certain improvements to the property specified in the action report are made; or

(iii) the specific reasons for which it declines to write coverage. The inspection report and the action report shall be kept on file with the facility.

If the insurer declines the risk or agrees to write it on condition that the property be improved as specified, the insurer shall, at the time of returning the inspection and action reports to the facility, send a copy of both reports to the applicant for insurance. The insurer shall advise the applicant at the time of sending the reports to him of his right to appeal such determination to the commissioner and shall advise the applicant of the means by which to initiate such an appeal.

The Inspection Bureau shall submit to the commissioner periodic reports setting forth information by individual insurers including the number of risks inspected under the plan, the number of risks accepted, the number of risks conditionally accepted and reinspections made, the number of risks declined, and such other information as the commissioner may request.

(5) All policies written pursuant to the Fair Plan shall be promptly written after inspection or reinspection and shall be separately coded so that appropriate records may be compiled for purposes of rate-making, performing loss prevention and other studies of the operation of the Fair Plan.

(6) If any single insurer will underwrite only a portion of the full insurable value of the property, the Industry Placement Facility shall assist the owner and his agent or broker in obtaining the remaining coverage from other members of the facility, except to the extent that deductibles, percentage participation clauses, and other accepted underwriting devices are needed to meet special problems of insurability.

(7) If no insurer to which an inspection report has been forwarded pursuant to clause (3) above agrees promptly to provide basic property insurance for the property in question, or if no insurer has been designated by the applicant, the facility shall take appropriate action to ascertain whether any member of the facility will provide basic property insurance for the subject property at the applicable premium rate, including approved surcharges for physical characteristics.

(8) (i) No insurer shall direct any agent or broker or other pro-

ducer not to solicit business through the Fair Plan, and no agent, broker or other producer shall be penalized in any way by an insurer for submitting applications for insurance to it under the Fair Plan.

(ii) Records of insurance procured under the Fair Plan shall be maintained separate from other records of an agent's or broker's business conducted with an insurer.

(9) Written notice will be given to any policyholder at least twenty days prior to the cancellation or nonrenewal of any risk eligible under the Fair Plan (except in the case of nonpayment of premium or evidence of incendiarism), and the insurer shall, in the notice of cancellation or nonrenewal, explain to the policyholder the procedures for obtaining an inspection under the plan.

(10) No agent or broker shall be permitted to refuse an application for basic property insurance within an urban area if he is licensed to write and is actively engaged in writing such insurance.

(11) A cooperative and continuing public education program shall be undertaken by the Pennsylvania Insurance Department, the Industry Placement Facility, and the members of the facility to assure that the Fair Plan is given adequate publicity.

Section 203. Distribution of Risks.—(a) The facility shall have the power, on behalf of its members—

(1) to direct one or more of its members to issue policies of basic property insurance to applicants;

(2) to assume reinsurance from its members; and

(3) to cede reinsurance.

(b) Any member the facility may cede to the facility basic property insurance covering property in urban areas, to the extent and on the terms and conditions set forth in the plan of operation of the facility.

(c) If the facility has been unable to obtain basic property insurance for any property through the voluntary action of its members pursuant to section 202 above, it shall promptly determine:

(1) whether the property is insurable (environmental hazard, being any hazardous condition that might give rise to loss under an insurance contract but which is beyond the control of the property owners, shall not be considered by the facility in determining insurable condition); and

(2) whether there is any unpaid premium due from the applicant for prior insurance on the property.

If the facility determines that the property is insurable and that no such unpaid premium is due, it shall promptly cause one or more of its members to issue a policy or policies of basic property insurance at the applicable premium rate, including approved surcharges for physical characteristics, in the full insurable value of the property, for a term of one year, subject to total reinsurance of such risk by the facility.

Section 204. Uninsurable Risks.—If the facility finds that the property is not insurable, it shall promptly supply to the applicant a written statement setting forth the features or conditions of the prop-

erty which prevent it from constituting an insurable risk and the measures, if any, which if taken would make the property an insurable risk.

Section 205. Rules; Regulations.—(a) The commissioner may promulgate rules and regulations to assure the successful operation of the facility, including the Fair Plan, and as may be necessary for the administration of this article.

(b) The operation of the Inspection Bureau and the Industry Placement Facility shall at all times be subject to the supervision and regulation of the commissioner. The commissioner, or any person designated by him, shall have the power of visitation of and examination into such operations at any time in the discretion of the commissioner. In connection therewith, the commissioner shall have the powers granted him by section 216 of the act of May 17, 1921 (P. L. 789), known as "The Insurance Department Act of one thousand nine hundred and twenty-one," and the expenses of such examination shall be borne and paid as therein provided.

Section 206. Annual and Other Statements.—The Inspection Bureau and the Industry Placement Facility shall each file with the commissioner annually on or before the first day of March a statement which shall contain information with respect to its transactions, condition, operations and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed by the commissioner and shall be in such form as is approved by him. The commissioner may at any time require each such organization to furnish him with additional information with respect to its transactions, condition, operations and affairs or any matter connected therewith which he considers to be material and which will assist him in evaluating the scope, operation and experience of such organization.

Section 207. Privileged Communications.—There shall be no liability on the part of, and no cause of action of any nature shall arise against insurers, the Inspection Bureau, the Industry Placement Facility, or their agents or employes, or the commissioner or his authorized representatives, for any statements made in good faith by them in any reports or communications concerning the property to be insured, or at the time of any hearings conducted in connection therewith, or in the findings required by the provisions of this article. The inspection reports and communications of the Inspection Bureau and the Industry Placement Facility shall not be considered public documents.

Section 208. Appeals; Judicial Review.—(a) Any applicant for insurance and any affected insurer may appeal to the commissioner within thirty days after any ruling, action or decision by or on behalf of the Inspection Bureau or Industry Placement Facility. After a hearing upon not less than ten days' written notice to the aggrieved person and the bureau or facility, the commissioner shall issue an order approving the action or decision appealed from, disapproving



such action or decision, or directing the bureau or facility to give further consideration to the matter.

(b) All hearings held by and all orders and decisions made by the commissioner pursuant to this article shall be subject to the provisions of the act of June 4, 1945 (P. L. 1388), known as the "Administrative Agency Law," including the provisions therein for judicial review.

### ARTICLE III

#### Pennsylvania Civil Disorder Authority

Section 301. Formation of Authority.—In order to make available to insurers which participate in the Industry Placement Facility the reinsurance afforded by the Federal reinsurance facility against losses resulting from riots and civil disorders, there is hereby created a separate and distinct body corporate and politic which shall be known as the "Pennsylvania Civil Disorder Authority." The authority is hereby constituted an instrumentality of the Commonwealth, and the exercise by the authority of the powers conferred by this article shall be deemed and held to be an essential governmental function of the Commonwealth.

Section 302. Governing Body; Administration.—The powers of the authority shall be exercised by a governing body (herein called the "board") composed of the Attorney General of the Commonwealth, the Secretary of Revenue, and the Insurance Commissioner, who shall select from among themselves a chairman and a vice-chairman. The Treasurer of the Commonwealth shall be designated treasurer of the authority. The members of the board shall not be liable personally on the bonds or other obligations of the authority, and the rights of creditors shall be solely against the authority. The members of the board shall receive no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

The authority may employ a secretary, an executive director, its own counsel and legal staff, and such technical experts and other agents and employes, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation of such persons. The authority may delegate to one or more of its agents or employes such of its powers as it shall deem necessary to carry out the purposes of this act, subject always to the supervision and control of the authority.

Section 303. Powers of Authority.—The authority shall exercise public powers of the Commonwealth as an agency thereof, including the following powers in addition to those herein otherwise granted:

- (1) To cooperate with any government or municipality as herein defined;
- (2) To act as agent of any government agency for the public purposes set out in this act;
- (3) To borrow funds from private lenders or from the Com-

monwealth or the Federal government, as may be necessary for the operation and work of the authority, and to carry out the purposes and provisions of this act;

(4) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, in such investments as may be lawful for executors, administrators, guardians, trustees and other fiduciaries under the laws of this Commonwealth;

(5) To sue and be sued;

(6) To adopt a seal and to alter the same at pleasure;

(7) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority, and any contract or instrument when signed by the chairman or vice-chairman of the authority, or by an authorized use of their facsimile signatures, and by the secretary or assistant secretary or treasurer or assistant treasurer of the authority, or by an authorized use of their facsimile signatures, shall be held to have been properly executed for and on its behalf;

(8) To make, to amend, and to repeal bylaws, rules, regulations and resolutions;

(9) To do all acts and things necessary or convenient to carry out the powers granted to it by this article or any other acts: Provided, however, That the authority shall have no power, at any time or in any manner, to pledge the credit or taxing power of the Commonwealth, nor shall any of its obligations be deemed to be obligations of the Commonwealth.

Section 304. Civil Disorder Authority Fund.—(a) The authority shall establish a Civil Disorder Authority Fund (hereinafter called "the Fund") which shall be available without fiscal year limitation:

(1) To make such payments as may, from time to time, be required by the Federal reinsurance facility;

(2) To pay proper administrative expenses of the authority; and

(3) To repay such obligations of the authority, including interest thereon, as may be incurred by the authority pursuant to the provisions of this article.

(b) The fund shall be credited with:

(1) Such amounts as may be advanced to the fund from whatever source in order to maintain the fund in a solvent condition and able to satisfy its obligations;

(2) Interest which may be earned on investments of the fund;

(3) Moneys borrowed by the authority and deposited in the fund; and

(4) Receipts from any other source which may, from time to time, be credited to the fund.

(c) All moneys of the fund, from whatever source derived, shall be paid to the treasurer of the authority and deposited by him in one or more banks or trust companies, in one or more special accounts, and each of such special accounts shall be continuously secured by a pledge of direct obligations of the United States of America or of the Commonwealth of Pennsylvania, having an aggregate

market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer or be held by a trustee or agent satisfactory to the authority. All banks and trust companies are authorized to give such security for such deposits. The moneys in said accounts shall be paid out on the warrant or other order of the treasurer of the authority or of such other person or persons as it may authorize to execute such warrants or orders.

The Department of Revenue and the Auditor General of the Commonwealth and their legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority and any other matters relating to its finances, operations and affairs.

Section 305. Reimbursement Payments to Federal Reinsurance Facility; Necessity for Claim by Federal Reinsurance Facility; Limitation on Amount of Payments.—(a) Payments under section 304 (a) (1) hereof shall be made only upon direction of the Treasurer of the Commonwealth and after receipt by him of a claim from the Federal reinsurance facility. Prior to the making of such payment the authority shall make such investigation as it may deem appropriate in order to verify the correctness of the claim made by the Federal reinsurance facility.

(b) The total amount of any such payments made during any calendar year shall not exceed five per cent of the aggregate property insurance premiums earned in the Commonwealth during the preceding calendar year on those lines of insurance reinsured by the Federal reinsurance facility in the Commonwealth during the current year.

Section 306. Bonds of Authority.—(a) Within thirty days following receipt of a direction from the Treasurer of the Commonwealth to make payment of a claim to the Federal reinsurance facility, the authority shall offer to sell bonds, the aggregate principal amount of which shall be adequate to pay the total amount of the claim received from the Federal reinsurance facility, subject to the limitation contained in section 305 (b) above, plus the reasonable expenses of the sale, due consideration having been first given to the moneys at that time in the fund and available for payment of the claim of the Federal reinsurance facility.

(b) The proceeds of the sale of such bonds shall be paid into the fund and shall be used to satisfy the claim of the Federal reinsurance facility which occasioned the sale of such bonds; any amount remaining after satisfaction of such claim shall be held in the fund and may be used for any of the purposes set forth in section 304.

(c) The bonds of the authority shall be authorized by resolution of the board or by and pursuant to an indenture of trust and shall be of such series, bear such date or dates, be stated to mature at such time or times, not exceeding thirty years from their respective dates, be issued as serial or term bonds, or as part serial and part term bonds, or any combination thereof, or as a single bond payable in installments, bear interest payable annually, semi-annually or

quarterly, be in such denominations, be in such form, either as negotiable commercial paper, or as investment securities in bearer or registered form, carry such registration, exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption at such prices not exceeding one hundred six per cent of the principal amount thereof, and be entitled to such priorities in the revenues or receipts of the authority as such resolution or indenture may provide. The bonds shall be signed manually or by facsimile by such officers as the authority shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority, all as may be prescribed in such resolution or indenture. No bond shall be issued or delivered without at least one manual signature, which may be that of an officer of the fiscal agent or of the trustee under the relevant resolution or indenture. Any such bonds may be issued and delivered notwithstanding that one or more of the officers signing such bonds, or the treasurer whose facsimile signature shall be upon the coupons or any thereof, shall have ceased to be such officer or officers at the time when such bonds shall actually be delivered.

(d) Such bonds shall be sold to the highest responsible bidder or bidders proposing the lowest net interest cost to the authority, determined by computing the interest on the bonds to their stated maturity dates and adding thereto the discount or subtracting therefrom the premium specified in such bid, after public notice, by two advertisements in not less than three nor more than five newspapers of large general circulation in different parts of the Commonwealth, the first advertisement to be published not less than twenty days and the second not less than five days before the day fixed for the opening of bids. No bonds shall be sold if the net interest cost, computed to stated maturity dates of the bonds, of the money received for any issue of such bonds shall exceed six per cent a year. The advertisement of sale shall contain a general description of the bonds, the manner, place and time of the sale, or the time limit for the receipt of proposals, the name of the officer to whom, or to whose designee, bids or proposals shall be delivered, and a statement of the terms and conditions of sale: Provided, however, That any of said bonds may be sold to the State Employees' Retirement Board, <sup>1</sup> School Employees' Retirement Board, or to any other custodial board or fund, or to State Employees' Retirement Fund, or by private placement with a group of not more than twenty-five ultimate investors who purchase for investment and not with a view to distribution, without advertisement or competitive bidding. Pending the preparation of the definitive bonds, interim receipts or temporary bonds may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

<sup>1</sup> "School Employees' Retirement Board" not in original.

(e) Any resolution or indenture authorizing any bonds may contain provisions which shall be part of the contract with the holders thereof as to:

(1) Pledging the full faith and credit of the authority (but not of the Commonwealth or any political subdivision thereof) for such bonds or restricting the same to all or any of the revenues or receipts of the authority;

(2) The terms and provisions of the bonds;

(3) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(4) Any terms and provisions for the security of the bonds or under which the same may be issued;

(5) Any other or additional agreements with the holders of the bonds.

(f) The authority may enter into any indentures of trust, or other agreements with any bank or trust company or other person or persons in the United States having power to enter into the same, or may designate any such as fiscal agent under a bond resolution, in order to provide for the security for such bonds, and may assign and pledge all or any of the revenues or receipts of the authority thereunder. Such indenture, resolution, or other agreement may contain such provisions as may be customary in such instruments or as the authority may authorize, including provisions as to:

(1) The application of funds and the safeguarding of funds on hand, invested or on deposit;

(2) The rights and remedies of said trustees or fiscal agent and the holders of the bonds (which may include restrictions upon the individual right of action of such bondholders); and

(3) The terms and provisions of the bonds or the resolutions or indentures authorizing the issuance of the same.

Section 307. Remedies of Bondholders.—The rights and the remedies herein conferred upon or granted to the bondholders shall be in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or indenture providing for the issuance of bond. If the authority shall default in the payment of the interest on any of the bonds after the same shall become due, and such default shall continue for a period of thirty days, or if the authority shall default in the payment of principal after the same shall become due whether at maturity or upon any unrevoked call for redemption, or if the authority shall fail or refuse to comply with the provisions of this act or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per cent in aggregate principal amount of bonds then outstanding under the indenture or bond resolution involved, by instrument or instruments filed in the Office of the Recorder of Deeds of the County of Dauphin and proved or acknowledged in the same manner as a deed to be recorded, may (except as such right may be limited under the provisions of any indenture or other agreement as aforesaid) appoint a trustee to represent the bondholders for the

purposes herein provided. Such trustee or any trustee under any indenture or the fiscal agent under any resolution or other agreement may, and upon written request of the holders of twenty-five per cent (or such other percentage as may be specified in any resolution, indenture or other agreement aforesaid) in principal amount of the bonds then outstanding under such indenture or resolution shall, in his or its own name—

(1) By mandamus or other suit, action or proceeding at law or in equity, in the Commonwealth Court enforce all rights of the bondholders, including the right to require the authority to carry out any agreement as to, or pledge of, the revenues or receipts of the authority and to require the authority to carry out any other agreements with, or for the benefit of, the bondholders, and to perform its duties under this act;

(2) Bring suit upon the bonds in the Commonwealth Court;

(3) By action or suit in equity, in the Commonwealth Court, require the authority to account as if it were the trustees of an express trust for the bondholders;

(4) By action or suit in equity, in the Commonwealth Court, enjoin any acts or things which may be unlawful, or in violation of the rights of the bondholders; or

(5) By notice in writing to the authority, declare all bonds due and payable and, if all defaults shall be made good, then with the consent of the holders of twenty-five per cent (or such other percentage as may be specified in any indenture, resolution or other agreement aforesaid) of the principal amount of the bonds then outstanding, to annul such declaration and its consequences.

#### ARTICLE IV

##### Basic Property Insurance Assessment

Section 401. Basic Property Insurance Assessment.—In order to provide for the payment of the principal of and interest on bonds of the authority, issued pursuant to section 306 of this act, an assessment is hereby levied on each insurer which is a member of the Industry Placement Facility. The amount of such assessment shall be two per cent of the aggregate gross premiums received by such insurer for policies of basic property insurance, or any component thereof, including homeowners and commercial multiple peril policies, written within this Commonwealth.

Section 402. Payment to Pennsylvania Civil Disorder Authority.—Every insurer shall, on or before the fifteenth day of April of each year, compute and pay to the Treasurer of the Pennsylvania Civil Disorder Authority the aggregate assessments due upon the gross premiums received by it for basic property insurance written within the Commonwealth during the calendar year immediately preceding said payment date. Said aggregate assessments shall bear interest at the rate of six per cent per annum from the date the same are due and payable to the authority until payment is made.

Section 403. Reports and Statements.—The commissioner may at any time require any insurer to furnish him with such information

as he, in his discretion, may deem necessary in order to determine whether or not such insurer is complying with the provisions of this article.

Section 404. *Effective Date.*—The assessment provided for here-in shall be collectible on all policies of basic property insurance, or any component thereof, including homeowners and commercial multiple peril policies, written on and after the thirtieth day following issuance by the authority of its bonds pursuant to section 306 of this act.

Section 405. *Termination of Assessment.*—The assessment imposed by this article shall remain in full force and effect until all bonds issued by the Pennsylvania Civil Disorder Authority have been retired, and shall thereafter terminate at such time and upon such terms and conditions as shall be specified by the board of the authority.

## ARTICLE V

### Miscellaneous

Section 501. *Constitutionality.*—If any provision or clause of this act or the application thereof to any person or situation is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 502. *Effective Date.*—This act shall take effect upon the effective date of the establishment of the Federal reinsurance facility and shall remain in effect only so long as the Federal reinsurance facility or any part thereof shall remain in effect, except that—

(1) Policies issued pursuant to the direction of and other obligations incurred by the Industry Placement Facility shall not be impaired by the expiration of this act and such facility shall be continued for the purpose of servicing such policies and performing such obligations;

(2) All bonds issued and other obligations incurred by the Pennsylvania Civil Disorder Authority shall not be impaired by the expiration of this act and such authority shall be continued for the purpose of servicing such bonds and performing such obligations; and

(3) The collection of the basic property insurance assessment shall terminate as provided in section 405 of this act.

APPROVED—The 31st day of July, A. D. 1968.

RAYMOND P. SHAFER.