

No. 1992-48

AN ACT

SB 748

Amending the act of May 17, 1921 (P.L.789, No.285), entitled, as amended, "An act relating to insurance; establishing an insurance department; and amending, revising, and consolidating the law relating to the licensing, qualification, regulation, examination, suspension, and dissolution of insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and certain societies and orders, the examination and regulation of fire insurance rating bureaus, and the licensing and regulation of insurance agents and brokers; the service of legal process upon foreign insurance companies, associations or exchanges; providing penalties, and repealing existing laws," further providing for the licensing and regulation of agents and brokers; and imposing penalties.

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

Section 1. Section 601 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of one thousand nine hundred and twenty-one, amended June 5, 1947 (P.L.439, No.200), is amended to read:

Section 601. **[Insurance Agents Defined.—An agent is an individual, copartnership or corporation, authorized in writing by a company, association, or exchange—**

(a) To solicit risks and collect premiums, and to issue or countersign policies in its behalf; or

(b) To solicit risks and collect premiums in its behalf.

A person, copartnership, association, or corporation, not a duly licensed insurance broker, who, for or without compensation, solicits insurance on behalf of any insurance company, association, or exchange, or transmits for a person, copartnership, association, or corporation, other than himself or itself, an application for a policy of insurance to or from such company, association, or exchange, or offers or assumes to act in the negotiation of such insurance, or in any manner aids in transacting the insurance business of any such company, association, or exchange, by negotiating for or placing risks or delivering policies or collecting premiums for such company, association, or exchange, shall be an insurance agent within the intent of this act, and shall thereby become liable to all the duties, requirements, liabilities, and penalties to which an agent of such company, association, or exchange is subject: Provided, however, That the word "agent" shall not include non-resident salaried employes of foreign exchanges which maintain no offices in this Commonwealth and pay no commissions to such employes, or officers or salaried employes of any insurance company, association or exchange, which is authorized to transact business in this Commonwealth, who do not solicit, negotiate or place risks or as to title insurance, duly admitted attorneys-at-law, licensed real estate agents, or real estate brokers.] *Certain Words Defined.—The word "agent," as used in this article, means any of the following:*

- (1) *Any person authorized in writing by an entity:*
- (i) *to solicit risks and collect premiums and to issue or countersign policies on its behalf; or*
 - (ii) *to solicit risks and collect premiums on its behalf.*
- (2) *A person, not a licensed insurance broker, who, whether or not for compensation:*
- (i) *solicits insurance on behalf of any insurance entity;*
 - (ii) *transmits for a person other than himself an application for a policy of insurance to or from the entity;*
 - (iii) *offers or assumes to act in the negotiation of such insurance; or*
 - (iv) *in any manner aids in transacting the insurance business of any entity by negotiating for or placing risks or delivering policies or collecting premiums for the entity.*

The term "agent" does not include:

- (1) *Nonresident salaried employes of foreign exchanges which maintain no offices in this Commonwealth and pay no commissions to such employes.*
- (2) *Officers or salaried employes of any insurance entity authorized to transact business in this Commonwealth who do not solicit, negotiate or place risks.*
- (3) *Individuals employed and used by agents, brokers or any entity exclusively for the performance of clerical, stenographic or similar office duties.*
- (4) *This section does not apply to title insurance agents.*

The word "appointment," as used in this article, is a written agreement between an agent and an entity under which the agent may solicit, negotiate, make or procure insurance policies for compensation, which are issued by the appointing insurer or insurers.

The term "certificate of qualification" or "certificate," as used in this article, is a document issued by the Insurance Department attesting that an agent has met the standards set forth under this subarticle to act as an agent in this Commonwealth.

The term "entity," as used in this article, means any person doing the business of insurance, including, but not limited to:

- (1) *the issuance or delivery of contracts or certificates of insurance to persons resident in this Commonwealth;*
 - (2) *the solicitation of applications for such contracts or other negotiations preliminary to the execution of such contracts;*
 - (3) *the collection of premiums, membership fees, assessments or other considerations for such contracts; or*
 - (4) *the transaction of matters subsequent to execution of such contracts arising out of them,*
- whether or not such person has obtained a certificate of authority, license or certificate of qualification.*

The term "nonresident agent," as used in this article, is an applicant or certificate holder with both business address and legal residence outside this Commonwealth.

The term "person," as used in this article, means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds

insurer, fraternal benefit society, beneficial association and any other legal entity engaged in the business of insurance, including agents, brokers and adjusters and also means health care plans as defined in 40 Pa.C.S. Chs. 61 (relating to hospital plan corporations), 63 (relating to professional health services plan corporations), 65 (relating to fraternal benefit societies) and 67 (relating to beneficial societies) and the act of December 29, 1972 (P.L.1701, No.364), known as the "Health Maintenance Organization Act." For purposes of this article, health care plans, fraternal benefit societies and beneficial societies shall be deemed to be engaged in the business of insurance.

Section 2. Section 602 of the act is amended to read:

Section 602. [Insurance Companies, Et Cetera, To Certify Names of Agents.—Insurance companies, associations, and exchanges, authorized by law to transact business within this Commonwealth, shall, from time to time, certify to the Insurance Commissioner the names of all agents appointed by them to solicit insurance in this Commonwealth.] *Requirements to Act as an Agent.—(a) A person may not act as an agent unless he complies with all of the following:*

(1) That person has obtained a certificate from the Insurance Department reflecting the lines of authority for the kinds of insurance for which that person intends to act as agent.

(2) That person has a current appointment or appointments from an insurer or insurers.

(3) That person with a valid license to sell insurance issued after December 31, 1970, has complied with any continuing education requirements set forth in the regulations promulgated by the Insurance Department.

(b) A certificate to act as an agent shall not be granted to any corporation unless by provisions of its charter it is authorized to engage in the business of insurance or real estate and unless individual certificates are also secured for each active officer of such corporation. A certificate shall not be granted to a partnership unless individual certificates are also secured for each active member of the partnership.

Section 3. Section 603 of the act, amended or added August 21, 1961 (P.L.1018, No.457), July 31, 1968 (P.L.1029, No.310), June 16, 1972 (P.L.436, No.131) and repealed in part April 28, 1978 (P.L.202, No.53), is amended to read:

Section 603. [Agent's Licenses.—(a) The Insurance Commissioner may issue, upon certification as aforesaid by any company, association, or exchange, authorized by law to transact business within this Commonwealth, an agent's license to any person of at least eighteen years of age and to any copartnership or corporation. No license as agent shall be granted to any corporation unless by provisions of its charter it is authorized to engage in the business of insurance or real estate, and unless individual licenses are also secured for each active officer of such corporation; and no license shall be granted to a copartnership or firm unless individual licenses are also secured for each active member of such copartnership or firm. Before any such license is granted, the applicant shall first make answer, in writing and under oath, to interrogatories on forms and supplements such as the Insurance

Commissioner shall prepare and submit, which answers shall be vouched for by indorsement of the company, association, or exchange interested, and to the effect that the applicant is of good business reputation, and of experience in underwriting, other than soliciting, and is worthy of a license: Provided, That any applicant who shall have held, for any period during the five years immediately preceding the application, a license to transact, as agent, any class or kind of insurance business for any company, association, or exchange, authorized to transact business within this Commonwealth, shall be entitled, upon proper application, to receive a license to transact, as agent, the same class or kind of insurance business for any other company, association, or exchange, so authorized to transact business, without the necessity of submitting to an examination. When the Insurance Commissioner is satisfied that the applicant is worthy of license, and that he is reasonably familiar with provisions of the insurance law of this Commonwealth, he shall issue a license stating that the company, association, or exchange, represented by the agent, has complied with the requirements of law and has been authorized by the Insurance Commissioner to transact business within this Commonwealth, and that the agent has been duly appointed by the company, association, or exchange named in the license. Licenses of life insurance agents shall expire annually at midnight of March thirty-first, licenses of fire insurance agents shall expire annually at midnight of September thirtieth, and the licenses of casualty and health and accident insurance agents shall expire annually at midnight of December thirty-first, unless sooner terminated as the result of severance of business relations between the company, association, or exchange and the agent, or unless revoked by the Insurance Commissioner for cause. The provisions of this section shall apply to domestic mutual fire insurance companies, but no agent of a domestic mutual fire insurance company acting or authorized to act as such on the effective date of this act shall be required to take an examination for licensure.

(b) Nothing in subsection (a) of this section shall be construed as requiring agents of domestic mutual fire insurance companies which agents write only coverages other than insurance upon automobiles authorized by clauses (1), (2) and (3) of subsection (b) of section 202 of the act of May 17, 1921 (P.L. 682), known as "The Insurance Company Law of 1921," to submit to examination prior to licensure by the Insurance Commissioner.

(c) The examination provided for in subsection (a) shall not be required of any person who has received the designation of Chartered Life Underwriter, (C.L.U.) from the American College of Life Underwriters, except, that such person may be examined on pertinent provisions of the insurance laws as determined by the Insurance Commissioner.] *Requirements to Obtain a Certificate of Qualification.—(a) In order to obtain a certificate to act as an agent a person shall comply with all of the following:*

(1) *Be at least eighteen (18) years of age.*

(2) *Have successfully passed an examination required by the Insurance Department demonstrating reasonable familiarity with insurance laws and the business of insurance in general.*

(3) Complete a verified application on a form approved by the Insurance Department.

(4) Have secured on the application a verified statement by the sponsoring entity that the applicant is of good business reputation and is worthy of a certificate.

(5) Pay in full all appropriate fees.

(b) The Insurance Department may, upon proper and acceptable application, exempt from the requirement to successfully pass an examination for such appropriate line or lines of authority any person who has met at least one of the following:

(1) Has held, for any period during the two (2) years immediately preceding the application, a certificate of qualification from the Insurance Department reflecting at least one of the same lines of authority for which he is now applying.

(2) Received the designation of Chartered Life Underwriter (C.L.U.) from the American College of Life Underwriters, the designation of Chartered Property and Casualty Underwriter (C.P.C.U.) from the American Institute for Property and Liability Underwriters, the designation of Certified Insurance Counselor (C.I.C.) from the Society of Certified Insurance Counselors or any other professional designation approved by the Insurance Commissioner.

(3) Is an agent of a domestic mutual fire insurance company, whose agents write only coverages other than insurance upon automobiles authorized by paragraphs (1), (2) and (3) of subdivision (b) of section 202 of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

(4) Is qualified to apply for and receive authorization from the Insurance Department to act as an agent on the effective date of this act.

(5) Is an agent of a fraternal benefit society who, under section 706 of the act of July 29, 1977 (P.L.105, No.38), known as the "Fraternal Benefit Society Code," is not required to take an examination.

Section 4. Section 604 of the act, amended December 3, 1975 (P.L.471, No.137), is amended to read:

Section 604. [Penalty for Acting as Agent Without License.—Any individual, copartnership, or corporation transacting business within this Commonwealth as the agent of an insurance company, association, or exchange, without a license as required by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars. Prosecution for any violation under this section may be instituted by the Insurance Commissioner or a duly designated deputy.] *Issuance of Certificate of Qualification.*—(a) *When the Insurance Department is satisfied that the applicant is worthy of a certificate of qualification and has successfully passed an examination and otherwise complied with this article, it shall issue a certificate. The certificate shall state that the agent has complied with this article and has been authorized by the Insurance Department to transact business in specific lines of authority in this Commonwealth.*

(b) *A person who was licensed to act as an agent on the effective date of this act may obtain a certificate to act as an agent reflecting the lines of authority for which that person was previously licensed or qualified by filing the appropriate application for an original certificate of qualification with the Insurance Department and paying the fee for an original agent's certificate as specified under this subarticle.*

(c) *A certificate of qualification shall state that a person is empowered to act as an insurance agent under the laws of the Commonwealth for specified lines of authority. The agent shall display his certificate of qualification in the agent's place of business.*

(d) (1) *All agents licensed on the effective date of this act shall complete and submit a conversion application in accordance with Insurance Department instructions. For the purpose of conversion each person shall pay a fee not to exceed six dollars and fifty cents (\$6.50). Such fee shall accompany the conversion application and be returned to the Insurance Department no later than three (3) months from date of receipt. The fees collected by the Insurance Department shall be placed in an Insurance Department restricted revenue account dedicated to fund the conversion to the single license system established by this act.*

(2) *Those persons who have complied with paragraph (1) shall receive, complete and submit a single license application to convert their existing licenses to a certificate of qualification in accordance with Insurance Department regulation. The regulation shall provide for, but not be limited to, timeliness of compliance, amount of fee, if any, to be charged and any late fee penalties for noncompliance.*

(3) *Persons in compliance with paragraph (2) shall receive a certificate of qualification from the Insurance Department. A person receiving a valid certificate of qualification will be able to solicit additional appointments immediately. However, a licensed agent who fails to comply with paragraph (2) as of the transition date to a single license system shall have his license or licenses terminated.*

(4) *Insurers will be deemed to have appointed all their agents licensed on the transition date as provided for by Insurance Department regulation. The first appointment report shall be filed with the Insurance Department ninety (90) days after the transition date and must include all existing agents and any new appointments. Appointment reports shall be filed on a monthly basis thereafter pursuant to Insurance Department regulation.*

Section 5. Sections 605 and 606 of the act are amended to read:

Section 605. **[Personal Liability of Agents Acting for Unauthorized Companies.—**An insurance agent shall be personally liable on all contracts of insurance or suretyship unlawfully made by or through him, directly or indirectly, for or in behalf of any company, association, or exchange not authorized to do business in this Commonwealth. Any person soliciting risks, forwarding premiums, or countersigning or delivering policies, shall be deemed to be the agent of the company, association, or exchange, within the meaning of this section.] **Appointment.—**(a) *No agent shall do business on behalf of any entity without a written appointment from that entity.*

(b) All appointments shall be obtained by procedures established by the Insurance Department's regulations.

(c) Insurance entities authorized by law to transact business in this Commonwealth shall, from time to time as determined by the Insurance Department, certify to the Insurance Department the names of all agents appointed by them.

(d) Each appointment fee, both new and renewal, shall be paid in full by the entity appointing the agent.

Section 606. [Penalty for Advertising as Agent of Unauthorized Company, Et Cetera.—Any person who, by poster, circular, letter, or in any other way or manner, represents or advertises himself as the agent of any insurance company, association, or exchange of any other State or government, which has not complied with the laws of this State, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not more than one thousand dollars.] *Reports by Entities to the Insurance Department.—All entities shall report to the Insurance Department all appointments and terminations of appointments in the format and time frame required by the Insurance Department's regulations.*

Section 6. Section 607 of the act, amended December 30, 1974 (P.L.1047, No.343), is amended to read:

Section 607. [Penalty for Soliciting for Fictitious or Dead Companies, Et Cetera.—Any individual, and the officers, managers, agents, owners, or representatives of and any corporation, partnership, or association, offering within this State, in person or by advertisement, poster, letter, circular, or otherwise to sell, procure, or obtain policies, certificates, agreements, binders, or applications for insurance, surety, or indemnity, for or on behalf of any spurious, fictitious, nonexistent, dissolved, inactive, liquidated or liquidating or bankrupt insurance company, association, exchange, society, or order, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to not more than one year or less than six months imprisonment, and, in addition, shall pay a fine not exceeding one thousand dollars for each and every violation.] *Personal Liability of Agents for Unauthorized Entity.—An insurance agent shall be personally liable on all contracts of insurance or suretyship unlawfully made by or through him, directly or indirectly, for or on behalf of any entity not authorized to do business in this Commonwealth. This section applies to any person who transacts business in this Commonwealth as an agent of an insurance entity without a certificate as required by this article.*

Section 7. Section 608 of the act, amended July 14, 1977 (P.L.88, No.31), is amended to read:

Section 608. [Nonresident Agents.—(a) The Insurance Commissioner may issue a license as agent to a person not resident of this Commonwealth, upon compliance with the applicable provisions of this act, if the state or the Province of Canada of such person's residence will accord the same privilege to a resident of this Commonwealth.

(b) The Insurance Commissioner may enter into reciprocal agreements with the appropriate official of any such other state or province waiving the

written examination of any applicant resident in such other state or province, if:

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

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

(3) That in such other state or province a resident of this Commonwealth is privileged to procure an insurance agent's license upon the foregoing conditions and without discrimination as to fees otherwise in favor of the residents of such other state or province.

(c) No such applicant or licensee shall have a place of business in the Commonwealth, nor be an officer, director, stockholder, or partner in any corporation or partnership doing business in the Commonwealth as a life insurance agency.

(d) If the laws of another state or the Province of Canada require the sharing of commissions with resident agents of that state or province on applications for insurance written by nonresident agents, then the same provisions shall apply when resident agents of that state or province, licensed as nonresident agents of Pennsylvania, write applications for insurance on residents of the Commonwealth.] *Penalty for Advertising as Agent of Unauthorized Entity.*—Any person who represents or advertises himself as the agent of any foreign or alien insurance entity which has not complied with the laws of this Commonwealth commits a misdemeanor of the third degree.

Section 8. The act is amended by adding sections to read:

Section 609. Penalty for Soliciting for Nonexistent Entity.—Any individual, and the officers, managers, agents, owners or representatives of and any corporation or partnership, offering in this Commonwealth to sell, procure or obtain policies, certificates, agreements, binders or applications for insurance, surety or indemnity for or on behalf of any spurious, fictitious, nonexistent, dissolved, inactive, liquidated, liquidating or bankrupt insurance entity, society or order commits a misdemeanor of the third degree.

Section 610. Requirements for Nonresidents to Obtain Certificate of Qualification.—(a) The Insurance Department may issue a certificate to a person not a resident of this Commonwealth, upon compliance with the applicable provisions of this article, if the state or the province of the Dominion of Canada of the person's residence accords the same privilege to a resident of this Commonwealth.

(b) The Insurance Department may enter into reciprocal agreements with the appropriate official of any such other state or province waiving the written examination of any applicant resident in the other state or province if the following conditions exist:

(1) A written examination with no exemptions not substantially similar to those set forth in section 603(b)(1) and (2) is required of applicants for an insurance agent's certificate or its equivalent in the other state or province.

(2) *The appropriate official certifies that the applicant holds a currently valid certificate or its equivalent as an insurance agent in the other state or province and either passed a written examination or was the holder of an insurance agent's certificate or its equivalent prior to the time a written examination was required.*

(3) *In the other state or province, a resident of this Commonwealth may obtain an insurance agent's certificate or its equivalent upon the conditions stated in this subsection, without discrimination as to fees or otherwise in favor of the residents of the other state or province.*

(c) *If the law of another state or province of the Dominion of Canada requires the sharing of commissions with resident agents of the state or province on applications for insurance written by nonresident agents, then the same provisions shall apply when resident agents of that state or province authorized as nonresident agents in this Commonwealth write applications for insurance on residents of this Commonwealth.*

Section 9. Section 621 of the act is amended to read:

Section 621. [Insurance Broker Defined.—An insurance broker is a person, copartnership, or corporation, not an officer or agent of the company, association, or exchange interested, who or which, for compensation, acts or aids in any manner in obtaining insurance for a person other than himself or itself.] *Definitions and Applicability.—(a) As used in this subarticle and Subarticle (c), the term "insurance broker" means a person, not an officer or agent of the entity interested, who for compensation acts or aids in any manner in obtaining insurance, other than title insurance, for a person other than himself.*

(b) *This subarticle does not apply to title insurance brokers.*

Section 10. Section 622 of the act, amended March 28, 1974 (P.L.231, No.52) and repealed in part April 28, 1978 (P.L.202, No.53), is amended to read:

Section 622. Brokers' Licenses.—[The Insurance Commissioner may issue, to any person of at least eighteen years of age or to any copartnership or corporation, a license to act as an insurance broker to negotiate contracts of insurance or reinsurance, with any insurance company, association, or exchange, or the agents thereof, authorized by law to transact business within this Commonwealth. No license shall be issued to any corporation to act as an insurance broker unless by its charter it is authorized to engage in the business of insurance or real estate. Before any license is issued, the applicant shall make answer, in writing and under oath, to such interrogatories and on such forms and supplements as the Insurance Commissioner shall prepare and submit, which answers shall be vouched for by indorsement of at least two agents or by the officers of any insurance company, association, or exchange, who are acquainted with the applicant, to the effect that the applicant is of good business reputation, and has experience in underwriting, other than soliciting, and is worthy of a license. When the Insurance Commissioner is satisfied that the applicant is worthy of a license, and that he is reasonably familiar with provisions of the insurance laws of this Commonwealth, he shall issue a broker's license to expire annu-

ally one year from date of issue, unless sooner revoked by the Insurance Commissioner for cause.] (a) *The Insurance Department may issue to any individual or to any partnership or corporation a license to act as an insurance broker to negotiate contracts of insurance or reinsurance with any insurance entity or the appointed agents thereof authorized by law to transact business in this Commonwealth.*

(b) *A license shall not be issued to any partnership or corporation to act as an insurance broker unless by its charter it is authorized to engage in the business of insurance or real estate and unless individual certificates or licenses are also secured for each active partner or officer of such partnership or corporation.*

(c) *No person shall act as an insurance broker without a license.*

(d) *In order to obtain a license to act as a broker a person shall:*

(1) *Be at least eighteen (18) years of age.*

(2) *Have successfully passed an examination required by the Insurance Department demonstrating reasonable familiarity with insurance laws and the business of insurance in general.*

(3) *Complete a verified application on a form approved by the Insurance Department.*

(4) *Pay in full all appropriate fees.*

(e) *The Insurance Department may, upon proper and acceptable application, exempt from the requirement to successfully pass an examination for such appropriate lines of authority for the kinds of insurance business any person who has received the designation of Chartered Life Underwriter (C.L.U.) from the American College of Life Underwriters, the designation of Chartered Property and Casualty Underwriter (C.P.C.U.) from the American Institute for Property and Liability Underwriters, the designation of Certified Insurance Counselor (C.I.C.) from the Society of Certified Insurance Counselors or any other professional designation approved by the Insurance Commissioner.*

(f) *When the Insurance Department is satisfied that the applicant is worthy of a license and is reasonably familiar with the insurance laws of this Commonwealth and the business of insurance in general, it shall issue a broker's license to expire two (2) years from the date of issue, unless sooner revoked by the Insurance Department for cause.*

(g) *A broker's license shall state that a person is empowered to act as an insurance broker under the laws of the Commonwealth for specified lines of authority. The broker shall display his broker's license in the broker's place of business.*

(h) *Insurance brokers with a valid license to sell, issued after December 31, 1970, shall comply with any continuing education requirements established by the Insurance Department by regulation.*

Section 11. Section 623 of the act, amended December 3, 1975 (P.L.471, No.137), is amended to read:

Section 623. [Penalties for Acting as Broker Without a License, and Transacting Business with an Unlicensed Broker.—Any person, copartnership, or corporation transacting business as an insurance broker, within

this Commonwealth, or soliciting insurance or transmitting for a partnership, copartnership, association, or corporation, other than himself or itself, an application for a policy of insurance, or offering or assuming to act in the negotiation of such insurance, or in any manner aiding in transacting an insurance business, or negotiating for or placing risks, or delivering policies or collecting premiums for policies which are effective in this State, without a license as broker, or in the case of title insurance without being admitted to practice as an attorney-at-law or being licensed as a real estate broker or real estate agent, unless he or she or it be acting as a licensed agent and then only for the companies he, she or it is duly licensed by this Commonwealth to represent, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine not exceeding one thousand dollars. Any company, association, or exchange, or the agent of any company, association, or exchange, accepting applications or orders for insurance or securing any insurance business through anyone acting without a license, as aforesaid, shall be guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine not exceeding one thousand dollars. Prosecution for any violation under this section may be instituted by the Insurance Commissioner or a duly designated deputy.] *Doing Business with Unlicensed Brokers.—Any entity or the appointed agent of any entity accepting applications or orders for insurance or securing any insurance business through anyone acting without a license commits a misdemeanor of the third degree.*

Section 12. Section 626 of the act, added June 5, 1947 (P.L.456, No.206), is amended to read:

Section 626. [Payment of Commissions to Brokers.—Any insurance company, association or exchange, or the agent thereof, may pay money, commission or brokerage, or give or allow anything of value to a duly licensed insurance broker for, or on account of, the solicitation or negotiation of contracts for insurance on property or risks within the Commonwealth.] *Payment of Commissions to Brokers.—Any insurance entity or the appointed agent thereof may pay money, commission or brokerage or give or allow anything of value to a duly licensed broker for the solicitation or negotiation of contracts for insurance on property or risks in this Commonwealth.*

Section 13. Section 631 of the act is amended to read:

Section 631. [Penalty for Acting for Companies, Et Cetera, Failing to Appoint Insurance Commissioner for Service of Process.—Any person, copartnership, or corporation, acting as agent or broker for himself or for others, not having been specially and lawfully licensed so to do, who solicits or procures, or aids in the solicitation or procurement of, policies or certificates of insurance from, or adjusts losses, or in any manner aids in the transaction of any business for, any foreign insurance company, association, or exchange, which has not executed and filed in the office of the Insurance Commissioner a written appointment of the commissioner to be the true and lawful attorney of such company, association, or exchange in and for this State, upon whom all lawful process in any action or proceeding against the company, association, or exchange may be served, is guilty of a misde-

meanor, and, upon conviction, shall be sentenced to pay a fine of not less than three hundred dollars and not more than one thousand dollars.] *Fraudulent Unlicensed Activity.*—A person who without a certificate of qualification performs the duties of an agent as defined in section 601 and any regulations promulgated thereunder or who without a license performs the duties of a broker as defined in section 621 and any regulations promulgated thereunder commits a felony of the third degree.

Section 14. Section 639 of the act, amended December 30, 1974 (P.L.1047, No.343) and repealed in part April 28, 1978 (P.L.202, No.53), is amended to read:

Section 639. [Revocation, Et Cetera, of License; Penalty.—Upon satisfactory evidence of the violation of any of the provisions of sections six hundred four, six hundred six, six hundred seven, six hundred twenty-three, six hundred thirty-one, six hundred thirty-two, six hundred thirty-three, six hundred thirty-three point one, six hundred thirty-four, six hundred thirty-five, six hundred thirty-six, six hundred thirty-seven, and six hundred thirty-eight of this act, by any agent or solicitor of any insurance company, association, or exchange, or by any insurance broker or excess insurance broker, or upon satisfactory evidence of such conduct as would disqualify such agent or broker or excess broker from initial issuance of a license under sections six hundred three, six hundred twenty-two and six hundred twenty-four, the Insurance Commissioner may, in his discretion, pursue any one or more of the following courses of action regardless of whether such agent, solicitor or broker was licensed or not licensed by the Insurance Commissioner:

(1) Suspend or revoke or refuse to renew the license of such offending party or parties;

(2) Impose a civil penalty of not more than one thousand dollars for each and every act in violation of any of said sections by said party or parties.

Before the Insurance Commissioner shall take any action as above set forth, he shall give written notice to the person, company, association, or exchange, accused of violating the law, stating specifically the nature of such alleged violation and fixing a time and place, at least ten (10) days thereafter, when a hearing of the matter shall be held. After such hearing or upon failure of the accused to appear at such hearing, the Insurance Commissioner shall impose such of the above penalties as he deems advisable.

Any agent or solicitor of any insurance company, association, or exchange, or any insurance broker, or any person, copartnership, association, or corporation, violating the provisions of sections six hundred thirty-three point one, six hundred thirty-five, six hundred thirty-six, six hundred thirty-seven, and six hundred thirty-eight of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) for each and every violation, or, at the discretion of the court, to imprisonment in the county jail of the county in which the offense is committed for a period of not more than six months, or both.] *Penalties Imposed by Insurance Department.*—(a) Upon satisfactory evidence of the violation of sections 602, 605, 606, 608, 609, 622 and 631 through 638 by any agent of any insurance entity or by any insurance

broker or upon satisfactory evidence of such conduct that would disqualify the agent or broker from initial issuance of a certificate of qualification under section 604 or 622, the department may pursue any one or more of the following courses of action regardless of whether the agent or broker was so authorized by the department:

(1) Suspend or revoke or refuse to issue the certificate of qualification or license of the offending party or parties.

(2) Impose a civil penalty of not more than one thousand dollars (\$1,000.00) for each act in violation of any of the provisions listed in this subsection.

(b) Before the Insurance Commissioner shall take any action as above set forth, he shall give written notice to the entity accused of violating the law, stating specifically the nature of such alleged violation and fixing a time and place, at least ten (10) days thereafter, when a hearing of the matter shall be held. After such hearing or upon failure of the accused to appear at such hearing, the Insurance Commissioner shall impose such of the above penalties as he deems advisable.

(c) Any agent or solicitor of any entity or any insurance broker or any person, partnership, association or corporation violating the provisions of sections 633.1, 635, 636, 637 and 638 of the act shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) for each and every violation or, at the discretion of the court, to imprisonment in the county jail of the court in which the offense is committed for a period of not more than six (6) months.

Section 15. This act shall take effect immediately.

APPROVED—The 11th day of June, A. D. 1992.

ROBERT P. CASEY