

## No. 208

## AN ACT

To amend section six hundred and sixty-one 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 providing limitation on the amount of hazard that can be assumed on any risk; and prescribing penalties.

Section 1. Be it enacted, &c., That section six hundred and sixty-one 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 to read as follows:

Insurance Com-  
pany Law of 1921.

Section 661, act of  
May 17, 1921 (P.  
L. 682), amended.

Section 661. Conditions for Doing Business.— Every surety company, to be qualified to so act as surety or guarantor, must be authorized, under the laws of the State or country where incorporated and its charter, to guarantee the fidelity of persons holding places of public or private trust, and to guarantee the performance of contracts other than insurance policies, and to execute bonds and undertakings required or permitted in action or proceedings or by law allowed, must: (a) Comply with the requirements of the laws of this State applicable to such company in doing business therein; (b) must have at least one hundred thousand dollars (\$100,000) invested in securities created by the laws of the United States, or by or under the laws of the State or country wherein it is incorporated, or in other safe, marketable, and interest-bearing stocks and securities, the value of which shall be at or above par and deposited with or held by the Insurance Commissioner or other corresponding officer of the State or country in which it is authorized to transact business, in trust for the benefit of the holders of the obligations of such company; (c) its liabilities must not exceed its

available assets, which said liabilities, however, shall be taken to be—(I) its capital stock, (II) its outstanding debts, and (III) a premium reserved equal to fifty per centum of the annual premium on all outstanding risks in force; and (d) such company shall also, before transacting business in this State under this act, file with the Insurance Commissioner a certified copy of its charter or act of incorporation, (e) a written application to be authorized to do business under this act, and (f) a statement, signed and sworn to by its president or one of its vice presidents and its secretary, or one of its assistant secretaries, stating—(I) the amount of its paid up cash capital, (II) particularly each item of investment, (III) the amount of premium on existing bonds upon which it is surety, (IV) the amount of liability for unearned portion thereof, estimated at fifty per centum of the annual premium on all outstanding premiums for one year or less, and pro rata for terms of more than one year, and (V) the amount of its outstanding debts of all kinds.

*Any surety company which is authorized to do business in this Commonwealth shall not expose itself to any loss or hazard on any one fidelity or surety risk in an amount exceeding ten per centum of its capital and surplus unless it shall be protected in excess of that amount by:*

(a) *Reinsurance in a corporation authorized to transact the fidelity or surety business in this State: Provided, That such reinsurance is in such form as to enable the obligee or beneficiary to maintain an action thereon against the company reinsured jointly with such reinsurer, and, upon recovering judgment against such reinsured, to have recovery against such reinsurer for payment to the extent in which it may be liable under such reinsurance and in discharge thereof; or*

(b) *The co-suretyship of such a corporation similarly authorized; or*

(c) *By deposit with it, in pledge or conveyance to it in trust, for its protection, of property; or*

(d) *By conveyance or mortgage for its protection; or*

(e) *In case a suretyship obligation was made on behalf or on account of a fiduciary holding property in a trust capacity, by deposit or other disposition of a portion of the property so held in trust that no future sale, mortgage, pledge, or other disposition can be made thereof without the consent of such corporation, except by decree or order of a court of competent jurisdiction.*

*Provided, (1) That such a corporation may execute what are known as transportation or warehousing bonds for United States internal revenue taxes to an amount equal to fifty per centum of its capital and surplus; (2)*

that, when the penalty of the suretyship obligation exceeds the amount of a judgment described therein as appealed from and thereby secured, or exceeds the amount of the subject matter in controversy or of the estate in the hands of the fiduciary for the performance of whose duties it is conditioned, the bond may be executed if the actual amount of the judgment or the subject matter in controversy or estate not subject to supervision or control of the surety is not in excess of such limitation; and (3) that, when the penalty of the suretyship obligation executed for the performance of a contract exceeds the contract price, the latter shall be taken as the basis for estimating the limit of risk within the meaning of this section.

No such corporation shall, anything to the contrary in this section notwithstanding, execute suretyship obligations guaranteeing the deposits of any single financial institution in an aggregate amount in excess of ten per centum of the capital and surplus of such corporate surety, unless it shall be protected in excess of that amount by credits in accordance with subdivisions (a), (b), (c), or (d) of this section.

Upon satisfactory evidence of the violation of this section by any insurance company, association, or exchange, its members, officers, directors, or attorney-in-fact, the Insurance Commissioner shall, in his discretion, take, against the offending party, any one or more of the following courses of action: (1) Revoke the certificate of authority of such offending company, association, or exchange; (2) refuse, for a period of not to exceed one year thereafter, to issue a new license to such offending company, association, or exchange; (3) impose a fine of not more than one thousand dollars for each act of violation of said section. When the Insurance Commissioner shall take any action as above set forth, the party aggrieved may appeal to the court of common pleas of Dauphin County. Any insurance company, or the officers, directors, members, or attorney-in-fact of any insurance company, association, or exchange, or any other person, violating any of the provisions of this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each and every violation, or to imprisonment in the jail of the county in which the offense is committed for a period of not more than six (6) months, or both.

APPROVED—The 22nd day of June, A. D. 1931.

GIFFORD PINCHOT