

In all prosecutions under this act involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the secretary shall be accepted as prima facie evidence of the composition.

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Section 2. This act shall take effect immediately.

APPROVED—The 3d day of June, A. D. 1968.

RAYMOND P. SHAFER

No. 78

AN ACT

HB 1052

Regulating the writing, cancellation of or refusal to renew policies of automobile insurance; and imposing powers and duties on the Insurance Commissioner therefor.

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

Section 1. As used in this act the following definitions shall apply:

(1) "Policy of automobile insurance" or "policy" means a policy delivered or issued for delivery in this Commonwealth insuring a natural person as named insured or one or more related individuals resident of the same household, and under which the insured vehicles therein designated are of the following types only: (i) a motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers and is not rented to others; or (ii) any other four-wheel motor vehicle with a gross weight not exceeding nine thousand pounds which is not principally used in the occupation, profession or business of the insured other than the farming: Provided, however, That this act shall not apply to any policy issued under an automobile assigned risk plan, nor to any policy insuring more than four automobiles, nor to any policy covering garage, automobile sales agency repair shop, service station or public parking place operation hazards.

(2) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, such renewal policy to provide types and limits of coverage at least equal to those contained in the policy being superseded, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy being extended: Provided, however, That any policy with a policy period or term of less than

twelve months or any period with no fixed expiration date shall for the purpose of this act be considered as if written for successive policy periods or terms of twelve months.

(3) "Insurer" means any insurance company, association or exchange authorized to transact the business of automobile insurance in the Commonwealth of Pennsylvania.

(4) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

Section 2. This act shall apply only to that portion of a policy of automobile insurance providing bodily injury and property damage liability, comprehensive, and collision coverages and to the provisions therein, if any, relating to medical payments and uninsured motorists coverage.

Section 3. No insurer shall cancel or refuse to write or renew a policy of automobile insurance solely because of the age, residence, race, color, creed, national origin, ancestry or lawful occupation (including the military service) of anyone who is or seeks to become insured or solely because another insurer has refused to write a policy, or has cancelled or has refused to renew an existing policy in which that person was the named insured.

Section 4. No insurer shall cancel a policy except for one or the other of the following specified reasons:

(1) Nonpayment of premium; or

(2) The driver's license or motor vehicle registration of the named insured has been under suspension or revocation during the policy period; the applicability of this reason to one who either is a resident in the same household or who customarily operates an automobile insured under the policy shall be proper reason for the insurer thereafter excluding such individual from coverage under the policy, but not for cancelling the policy.

Section 5. No cancellation or refusal to renew by an insurer of a policy of automobile insurance shall be effective unless the insurer shall deliver or mail, to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. Such notice shall:

(1) Be approved as to form by the Insurance Commissioner prior to use;

(2) State the date, not less than thirty days after the date of such mailing or delivering on which such cancellation or refusal to renew shall become effective, except that such effective date may be fifteen days from the date of mailing or delivery when it is being cancelled or not renewed for the ¹ reason set forth in clause ²(1) of section 4;

¹ "reasons" in original.

² "6" in original.

(3) State the specific reason or reasons of the insurer for cancellation or refusal to renew or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than twenty days prior to the effective date of cancellation or refusal to renew, the insurer will specify the reason or reasons for such cancellation, or refusal to renew the insurer to supply such information within five days of receipt by it of such request;

(4) Advise the insured of his right to request in writing, within ten days of the receipt of the notice of cancellation or intention not to renew, or of the receipt of the reason or reasons for the cancellation or refusal to renew if they were not stated in the notice of cancellation or of intention not to renew, that the Insurance Commissioner review the action of the insurer;

(5) Either in the notice or in an accompanying statement advise the insured of his possible eligibility for insurance through the automobile assigned risk plan.

Section 6. Nothing in this act shall apply:

(1) If the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate or other evidence of renewal, or has manifested such intention by any other means;

(2) If the named insured has demonstrated by some overt action to the insurer or its agent that he wishes the policy to be cancelled or that he does not wish the policy to be renewed;

(3) To any policy of automobile insurance which has been in effect less than sixty days, unless it is a renewal policy, except that no insurer shall decline to continue in force such a policy of automobile insurance solely on the basis of the grounds set forth in section 3 hereof.

Section 7. There shall be no liability on the part of and no cause of action of any nature shall arise against the Insurance Commissioner, any insurer, the authorized representatives, agents and employes of either or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or refusal to write or renew for any statement made by any of them in complying with this act or for the providing of information pertaining thereto.

Section 8. (a) Any insured may within ten days of the receipt by the insured of notice of cancellation or notice of intention not to renew, or of the receipt of the reason or reasons for the cancellation or refusal to renew if they were not stated in the notice, request in writing to the Insurance Commissioner that he review the action of the insurer in cancelling or refusing to renew the policy of such insured.

(b) Any applicant for a policy who is refused such policy by an insurer may in writing within ten days of notice of such refusal request the insurer to supply the reasons for such refusal. The insurer shall supply such reasons within five days of receipt by it of

such request. Within ten days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant.

Section 9. On receipt of a request for review, the Insurance Commissioner or his designated representative shall notify the insurer thereof and shall review the matter to determine whether the cancellation or refusal to renew or to write was in violation of this act, and shall within forty days of the receipt of such request either order the policy written or reinstated or uphold the cancellation or refusal to renew. In the case of a cancellation of or refusal to renew a policy, such policy shall remain in effect until the conclusion of such review or the date referred to in clause (2) of section 5 of this act, whichever is later, except for appeals from cancellations under clause ¹(1) of section 4 in which case the policy shall terminate as of the date provided in the notice under clause (2) of section 5 unless the appeal is upheld or the policy reinstated.

Section 10. The Insurance Commissioner shall promulgate rules and regulations necessary for the administration of this act. The commissioner may provide in such rules and regulations for the establishment of a filing fee not exceeding fifteen dollars (\$15), to accompany the request for review. Should the Insurance Commissioner decide the appeal in favor of the insured, the filing fee shall be returned immediately and the fee shall be paid by the insurer. No part of the review by the Insurance Commissioner or his designated representative shall be subject to the provisions of sections 31 through 36 of the act of June 4, 1945 (P. L. 1388), known as the "Administrative Agency Law." The decision of the Insurance Commissioner or his designated representative shall be subject to appeal in accordance with sections 41 through 46 of that act, provided, however, that the court hearing such appeal shall not decline to affirm such decision on the ground that the requirements of sections 31 through 36 of that act have not been complied with.

Section 11. (a) Failure by an insurer to comply with any order of the Insurance Commissioner or his designated representatives under section 9 of this act shall constitute an act of unfair discrimination under section 353 of the act of May 17, 1921 (P. L. 682), known as "The Insurance Company Law of 1921."

(b) If any provision or clause of this act or 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.

(c) Each insurer shall maintain records of the numbers of cancellations and refusals to write or renew policies and the reasons therefor and shall supply to the Insurance Commissioner such information as he may request.

¹ "6" in original.

Section 12. All acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 13. This act shall take effect in sixty days.

APPROVED—The 5th day of June, A. D. 1968.

RAYMOND P. SHAFER

No. 79

AN ACT

HB 1124

Designating March twenty-first of each year as Bird Day and urging citizens and residents of this Commonwealth to devote a part of this day to the study of birds in order to become more aware of the beauty and usefulness of birds frequenting this Commonwealth.

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

Section 1. March twenty-first of each year is hereby designated as Bird Day, and the citizens and residents of this Commonwealth are urged to devote part of this day to a special study of birds in order to become more aware of the beauty and usefulness of the birds frequenting this Commonwealth.

APPROVED—The 6th day of June, A. D. 1968.

RAYMOND P. SHAFER

No. 80

AN ACT

SB 1373

Authorizing and directing the Department of Property and Supplies, with the approval of the Governor, to remise, quitclaim and convey to the City of Franklin, Pennsylvania, all right, title and interest of the Commonwealth to a certain portion of land in the City of Franklin; providing for the disposition of the proceeds of the sale; and authorizing the City of Franklin to sell and convey said land.

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

Section 1. The Department of Property and Supplies, with the approval of the Governor, is hereby authorized and directed to remise, quitclaim and convey to the City of Franklin in the County of