No. 1986-64

AN ACT

SB 935

Amending the act of May 17, 1921 (P.L.682, No.284), 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," further providing for investments; requiring alcohol abuse and dependency coverage; providing civil immunity for persons who furnish or receive information relating to suspected fraudulent insurance activities; creating a task force to conduct a review of various factors used in determining automobile insurance premiums; and making an appropriation.

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

Section 1. It is the general purpose of this act to provide insurance companies with greater investment flexibility while maintaining reasonable investment standards and to promote economic development in this Commonwealth by encouraging insurance companies to invest in Pennsylvania new and small businesses.

Section 2. The act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, is amended by adding a section to read:

Section 349.1. Immunity from Liability.—(a) In the absence of fraud or bad faith, no person or his employes or agents shall be subject to civil liability and no civil cause of action shall arise against any of them for any of the following:

(1) Information relating to suspected fraudulent insurance acts furnished by them to or received from law enforcement officials, their agents and employes.

(2) Information relating to suspected fraudulent insurance acts furnished by them to or received from other persons subject to the provisions of this act.

(3) Information furnished by them in reports to the Insurance Department, National Association of Insurance Commissioners or another organization established to detect and prevent fraudulent insurance acts, their agents, employes or designees.

(b) The Insurance Commissioner and employes of the Insurance Department, in the absence of fraud or bad faith, shall not be subject to civil liability. No civil cause of action shall arise against any of them by virtue of the publication of a report or bulletin related to the official activities of the Insurance Department.

(c) Nothing in this section is intended to abrogate or modify a common law or statutory immunity heretofore enjoyed by any person.

(d) As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Absence of bad faith" means without serious doubt that the information furnished or received, or the report or bulletin published, is not true.

"Absence of fraud" means without knowledge that the information furnished or received, or the report or bulletin published, is not true.

"Fraudulent insurance act" means an act committed by a person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer or broker, or an agent of an insurer, purported insurer or broker, a written statement as part or in support of an application for the issuance or rating of an insurance policy for commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which he knows to contain materially false information concerning a fact material to the statement or claim or to conceal, for the purpose of misleading, information concerning a fact material to the statement or claim.

Section 3. Sections 402 and 404 of the act are repealed.

Section 4. The act is amended by adding sections to read:

Section 404.1. Investment Regulations.—(a) Any domestic company may invest its funds as provided in this act and not otherwise. Notwithstanding the provisions of this act, the Insurance Commissioner may, after notice and hearing, order a company to limit or withdraw from certain investments, or discontinue certain investment practices, to the extent that the commissioner finds that such investments or investment practices endanger the solvency of the company.

(b) No investment or loan (except loans on life policies) or an investment practice shall be made or engaged in by any domestic company unless the same has been authorized or ratified by the board of directors or by a committee thereof charged with the duty of supervising investments and loans. No such company shall subscribe to or participate in any underwriting of the purchase or sale of securities or property or enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of the board of directors. Any agreement or contract providing for the lawful disposition of property, wherein such disposition may be determined at the option of a third person at some specified future price or condition or specified time or upon demand, shall be construed to be within the control of the board of directors. Nothing contained in this section shall prevent the board of directors of any such company from depositing any of its securities with a committee appointed for the purpose of protecting the interest of security holders or with authorities of any state or country where it is necessary to do so in order to secure permission to transact its appropriate business therein; and nothing contained in this section shall prevent the board of directors of such company from depositing securities as collateral for the securing of any bond required for the business of the company.

Section 404.2. Investment.—Subject to the provisions of sections 405.2 and 406.1, the assets of any life insurance company organized under the laws of this Commonwealth shall be invested in the following classes of investment, provided the value of which, as determined for annual statement purposes, but in no event in excess of cost, shall not exceed the specified percentage of such company's assets as of the thirty-first day of December next preceding the date of investment:

(1) Bonds, notes or obligations issued, assumed or guaranteed by the United States or by any state thereof, or by any county, city, town, village, municipality or district therein or by any political subdivision thereof or by a public instrumentality of one or more of the foregoing, if, by statutory or other legal requirements applicable thereto, such obligations are payable, as to both principal and interest, from taxes levied, or required to be levied, upon all taxable property or all taxable income within the jurisdiction of such governmental unit, or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for the purpose of such payment; but not including any obligation payable solely out of special assessments on properties benefited by local improvements, unless adequate security is evidenced by the ratio of assessment to the value of the property or the obligation additionally secured by an adequate guaranty fund required by law.

(2) Bonds, notes, obligations and in stock where stated, issued, assumed or guaranteed by the following agencies of the United States, or in which such government is a participant, whether or not such obligations are guaranteed by such government:

(i) Farm Loan Bank.

(ii) Commodity Credit Corporation.

(iii) Federal intermediate credit banks.

(iv) Federal land banks.

(v) Central Bank for Cooperatives.

(vi) Federal home loan banks and stock thereof.

(vii) Federal National Mortgage Association and stock thereof.

(viii) International Bank for Reconstruction and Development.

(ix) Inter-American Development Bank.

(x) Asian Development Bank.

(xi) African Development Bank.

(xii) Any other similar agency of, or participated in by, the government of the United States and of similar financial quality, which such investments the Insurance Commissioner has determined were of similar financial quality.

(3) Bonds, notes, obligations or other investments of or in any business or governmental unit in or of any foreign country which are of the same kinds, classes and investment grades as those eligible for investment under this section. Investments under this clause in the Dominion of Canada shall not exceed ten per centum (10%) of such company's admitted assets. Investments under this clause in all other foreign countries shall not exceed ten per centum (10%) of such company's admitted assets except as provided in section 406.1(a).

(4) Business obligations:

(i) Bonds, notes or obligations issued, assumed, guaranteed or accepted by any corporation, joint-stock association, business trusts, business partnerships and business joint ventures, incorporated or existing under the laws of the United States or of any state, district or territory thereof.

(ii) Preferred stock of any of the foregoing.

(iii) Interest-bearing deposits or certificates of deposits in banks, bank and trust companies, savings banks, savings associations, savings and loan associations or national banking associations, incorporated or existing under the laws of the United States or any state, district or territory thereof and branches of foreign banking institutions located in the United States or any state, district or territory thereof.

(iv) Obligations which are not issued, assumed, guaranteed or accepted by any person described under subclause (i) but are secured by an assignment of a right to receive rent, purchase or other payment or revenues for the use or purchase of real or personal property sufficient to repay the investment and payable or guaranteed by any one or more persons or entities whose bonds, notes or obligations would qualify for investment under this section or a mortgage, interest in mortgage pool or mortgage participation, or lien or security interest in real or personal property or any interest therein. Investments permitted under subclause (ii) shall be limited to an aggregate of five per centum (5%) of such company's admitted assets.

(5) Trustees', receivers' or equipment trust obligations:

(i) Certificates, notes or obligations issued by trustees or receivers of any corporation or business trust created or existing under the laws of the United States or of any state, district or territory thereof which, or the assets of which, are being administered under the direction of any court having jurisdiction, if such obligation is adequately secured as to principal and interest.

(ii) Equipment trust obligations or certificates, which are adequately secured, or other adequately secured instruments, evidencing an interest in transportation equipment, wholly or in part within the United States, and a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such transportation equipment.

(6) Obligations secured by real property or any interests therein, obligations or participations therein, secured by liens on real property or interests therein, located within the United States, district or territory thereof. The value of such real property or interest, together with such other security as shall secure any such obligation, shall be adequate to secure the investment as well as any lien senior to the lien created by the investment in such real estate. No investment in a single transaction shall exceed an amount equal to five per centum (5%) of such company's admitted assets.

(7) Loans upon the security of its own policies not exceeding the net value of the policy at the time of making the loan.

(8) Such real estate or interests therein located in any state, district or territory of the United States as such company is authorized to hold under this act.

(9) Subsidiaries as permitted under this act.

(10) Equity interests:

(i) Investments (other than investments provided for in section 406, clauses (11) and (13) of this section 404.2 and investments in subsidiaries as provided for in section 405.2(c)) in common stocks, limited partnership interests, trust certificates (except equipment trust certificates described in clause (5)) or other equity interests (other than preferred stocks) of corporations, joint-stock associations, business trusts, business partnerships and business joint ventures incorporated, organized or existing under the laws of the United States, or of any state, district or territory thereof.

(ii) Stocks or shares of any regulated investment company which is registered as an investment company under the Federal Investment Company Act of 1940 (54 Stat 789, 15 U.S.C. §§ 80a-1 to 80a-52, 107), as, from time to time, amended, and which has no preferred stock, bonds, loans or any other outstanding securities having preference or priority as to the assets or earnings over its common stock at the date of purchase.

(iii) Investments under this clause shall not exceed twenty-five per centum (25%) of such company's admitted assets, and no investment in any single corporation or entity contemplated by this clause shall exceed five per centum (5%) of such company's admitted assets.

(11) Investments in or investments in interests in machinery, equipment, facilities, furnishings, fixtures or other tangible personal property used for, in or as part of or connected with any commercial, industrial, manufacturing, processing or financial, business activity or operation and which may be subject to contractual or other similar arrangements for the purchase, sale or use thereof. Investments in this clause shall not exceed fifteen per centum (15%) of such company's admitted assets.

(12) Put options and call options. The investment practice of put options and call options issued under terms and conditions regulated by, or substantially similar to those terms and conditions required by, a national securities exchange registered under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.), as amended, or any board of trade designated as a contract market by the Commodity Futures Trading Commission (CFTC) under the Commodity Exchange Act (49 Stat. 1491, 7 U.S.C. § 1 et seq.), as amended, is authorized on the following conditions:

(i) A company shall not sell a call option on either:

(A) securities it does not own; or

(B) in an amount greater than securities which it presently owns: Provided, however, That in the case of financial futures contracts and stock or bond index contracts where it is not feasible to own the underlying security, a company may sell a call option only in connection with a hedging transaction;

(ii) A company shall not sell a put option unless its obligations under such put option are fully secured by a deposit by the company with a bank or other custodian of cash or cash equivalents;

(iii) A company shall not purchase as opening transactions under this clause (12) more than ten per centum (10%) of the excess of its capital and

surplus over the minimum requirements of a new stock or mutual company to qualify for a certificate ofieuthority to write the kind of insurance which the company is authorized to write; and

(iv) The Insurance Commissioner may promulgate reasonable rules and regulations for transactions under this clause (12), to include, but not be limited to, rules and regulations which impose financial solvency standards, valuation standards and reporting requirements.

(13) The investment practice of financial futures contracts issued under terms and conditions regulated by a Federal regulatory agency is authorized on the following conditions:

(i) A company shall not enter into financial futures contracts except as a hedging transaction as that term is defined in a rule or regulation promulgated pursuant to this act;

(ii) A company shall not have initial or maintenance margin outstanding under this section of more than ten per centum (10%) of the excess of its capital and surplus over the minimum requirements of a new stock or mutual company to qualify for a certificate of authority to write the kind of insurance which the company is authorized to write; and

(iii) The Insurance Commissioner may promulgate reasonable rules and regulations for transactions under this clause (13), to include, but not be limited to, rules and regulations which impose financial solvency standards, valuation standards and reporting requirements.

(14) Investment in properties and facilities for the exploration, development, production and distribution of energy-producing substances. Such investments may include ownership and control of such properties and facilities or interests therein, including royalty interests and production payments from such activities or investments in limited partnerships engaged in such activities. Investments under this clause shall not exceed five per centum (5%) of such company's admitted assets. The investments in activities producing royalty interests and production payments shall not exceed an additional ten per centum (10%) of such company's admitted assets. An additional one per centum (1%) of such company's assets may be invested in properties, facilities, royalty interests or production payments under this clause, provided that such properties and facilities are located in or operated principally in this Commonwealth.

(15) Lending of securities, repurchase agreements and reverse repurchase agreements:

(i) Definitions:

(A) "Lending of securities" means an investment, other than a repurchase agreement, whereby an agreement is entered into which transfers ownership rights and possession of securities to the borrower of such securities with the agreement providing for a return of ownership rights and possession of the securities to the lender at a specified date or upon demand.

(B) "Repurchase agreement" means a bilateral agreement whereby a company purchases securities with a related agreement that the seller will purchase or repurchase at a specified price the equivalent or similar securities within a specified period of time or on demand.

(C) "Reverse repurchase agreement" means a bilateral agreement whereby a company (i) sells securities with a related agreement ~~to purchase or~~ repurchase at a specified price the equivalent or similar securities within a specified period of time or upon demand or (ii) borrows funds and transfers securities to the lender with a related agreement that equivalent or similar securities will be returned to the company upon repayment of ~~the loan within~~ a specified period of time or on demand.

(ii) Lending of securities, repurchase agreements and reverse repurchase agreements transactions are authorized on the following conditions:

(A) The agreement for each transaction or the master agreement for a series of transactions shall be reduced to writing.

(B) Securities acquired by a company and owned subject to reacquisition pursuant to an outstanding repurchase agreement may not be sold pursuant to a reverse repurchase agreement nor lent pursuant to a lending of securities agreement. Consideration, or collateral, received from a reverse repurchase agreement or lending of securities agreement may be used to acquire securities which are equivalent or similar to the securities transferred pursuant to such repurchase agreement or lending of securities agreement; however, such acquired securities may not be sold pursuant to a reverse repurchase agreement nor lent pursuant to a lending of securities agreement.

(C) A company is limited to no more than two per centum (2%) of its admitted assets being subject to lending of securities, repurchase or reverse repurchase agreements transactions outstanding with any ~~one business entity~~ under this clause (15).

(D) A company may engage in lending its securities or repurchase or reverse repurchase agreements up to forty per centum (40%) of its admitted assets, provided that such transactions are fully collateralized.

(E) The Insurance Commissioner may promulgate reasonable rules and regulations for investments and transactions under this clause (15), to include, but not be limited to, rules and regulations which impose financial solvency standards, valuation standards and reporting requirements.

(16) Other loans and investments:

(i) Loans or investments not authorized by any of the clauses of this section to an amount not exceeding the aggregate of twenty per centum (20%) of such company's admitted assets. The twenty per centum (20%) limitation provided above shall be increased in the same amount that investments approved by the Insurance Commissioner are made in the following categories of investments provided that their principal operations or locations are located in this Commonwealth:

(A) Investments in venture capital limited partnerships or in new and young small businesses which are making an initial public offering of securities or utilizing a limited private placement.

(B) Investments in minority-owned and operated businesses domiciled in Pennsylvania as provided in the act of July 22, 1974 (P.L.598, No.206), known as the "Pennsylvania Minority Business Development Authority Act."

(C) Investments in businesses located in enterprise zones designated by the Department of Community Affairs.

(D) Investments in housing for families and persons of low income or in housing in enterprise zones designated by the Department of Community Affairs.

(E) Investments in seed capital funds established pursuant to the provisions of the act of July 2, 1984 (P.L.555, No.111), known as the "Small Business Incubators Act."

(F) Investments in business development credit corporations established pursuant to the act of December 1, 1959 (P.L.1647, No.606), known as the "Business Development Credit Corporation Law."

(G) Investments in small business investment corporations and minority enterprise small business investment companies certified pursuant to applicable Federal laws.

In no event may the percentage limitation under this subclause (i) exceed the aggregate of twenty-five per centum (25%).

(H) Investments in and direct management of or participation in private placement accounts, including investments by private and public employe pension funds, and investments in and direct management of ~~*or participation*~~ *in long and intermediate loans to small and large corporations within Pennsylvania for purposes such as plant construction, equipment purchases and working capital.*

(I) Investments in, and financial assistance to, Pennsylvania-based employe-owned enterprises, as defined and described by the Internal Revenue Code of 1954, including worker cooperatives, employe stock ownership plans and businesses in which a majority of the voting rights are held or controlled by employes or held in trust for and passed through to employes.

(J) Investments in, and financial assistance to, Pennsylvania-based employe-ownership groups, including corporations, labor unions or other entities formed by, or on behalf of, the current or former employes of an industrial or commercial firm or facility for the purpose of assuming ownership or control of the firm or facility and operating it as an employe-owned enterprise.

(K) Investments in construction loans to builders and developers of low-income to moderate-income housing in Pennsylvania involved in the new construction or rehabilitation of single-family or multi-family housing in census tracts or neighborhoods, in both urban and rural communities, designated by State or Federal law as economically deprived or financially underserved, and mortgage loans and other credit to individuals seeking to purchase this type of housing.

(ii) For each one-half per centum (.5%) of such company's admitted assets invested in categories (A) through (G) of subclause (i) of this clause whose principal operations or locations are located in this Commonwealth, investments under other clauses of this section may exceed the volume limitations set forth in such other clauses by an aggregate of two and one-half per centum (2.5%) of the company's admitted assets, but in no event may such

excess investments exceed a maximum of five per centum (5%) of admitted assets; however, such excess investments shall be charged against the limitation established in subclause (i) of this clause.

(17) (i) Investments shall be valued in accordance with the published valuation standards of the National Association of Insurance Commissioners. Securities investments as to which the National Association of Insurance Commissioners has not published valuation standards in its valuation of securities manual or its successor publication shall be valued as follows:

(A) Any investment by any insurer that is not valued by Standards published by the National Association of Insurance Commissioners shall, at the time of acquisition, be submitted to the National Association of Insurance Commissioners for evaluation.

(B) Other securities investments shall be valued in accordance with regulations promulgated by the Insurance Commissioner pursuant to subclause (iv) of this clause.

(ii) Other investments, including real property, shall be valued in accordance with regulations promulgated by the Insurance Commissioner pursuant to subclause (iv) of this clause, but in no event shall such other investments be valued at more than their purchase price. Purchase price for real property includes capitalized permanent improvements, less depreciation spread evenly over the life of the property or, at the option of the company, less depreciation computed on any basis permitted under the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 1 et seq.) and regulations thereunder. Such investments that have been affected by permanent declines in value shall be valued at not more than their market value.

(iii) Any investment, including real property, not purchased by a company but acquired in satisfaction of a debt or otherwise, shall be valued in accordance with the applicable procedures for that type of investment contained in this section. For purposes of applying the valuation procedures, the purchase price shall be deemed to be the market value at the time the investment is acquired or, in the case of any investment acquired in satisfaction of debt, the amount of the debt (including interest, taxes and expenses), whichever amount is less.

(iv) The Insurance Commissioner may promulgate rules and regulations for determining and calculating values to be used in financial statements submitted to the Insurance Department for investments not subject to published National Association of Insurance Commissioners' valuation standards.

Section 5. Sections 405 and 405.1 of the act are repealed.

Section 6. The act is amended by adding a section to read:

Section 405.2. Additional Investment Authority for Subsidiaries.—(a) As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Insurance company" or "insurer" includes any company, association or exchange authorized to conduct an insurance business in the jurisdiction of its domicile.

"NAIC" means the National Association of Insurance Commissioners.

"Owner" or "holder" of securities of a specified person is one who owns any security of such person, including common stock, preferred stock, debt obligations and any other security convertible into or evidencing the right to acquire any of the foregoing.

"Person" is an individual, corporation, partnership, association, joint-stock company, business trust, unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

"Subsidiary" shall mean only a corporation in which another person owns or holds, with the power to vote directly or through one or more intermediaries, a majority of the outstanding voting securities. A person whose business consists primarily of real property and interests therein, or a corporation which is held in a separate account pursuant to section 406.2, shall not be deemed a subsidiary for the purposes of determining the volume limitations set forth in subsection (c)(1). A person which is controlled by another person solely as a result of the temporary assumption of control by the owner of securities upon the happening of a prescribed event of default shall not be deemed a subsidiary or affiliate for purposes of this section, if such securities are disposed of within five years from the date of acquisition, unless such period is extended by the Insurance Commissioner to enable the owner to dispose of such securities in a reasonable and orderly manner.

"Voting security" means stock of any class or any ownership interest having the power to elect the directors, trustees or management of a person, other than securities having such power only by reason of the happening of a contingency.

(b) Any domestic life insurance company, either by itself or in cooperation with one or more persons, may, in addition to any authority to acquire or hold securities in corporations provided for elsewhere in this act, organize or acquire one or more subsidiaries. Such subsidiaries may conduct any kind of business or businesses, and their authority to do so shall not be limited by reason of the fact that they are subsidiaries of a domestic life insurance company. No domestic life insurance company shall be deemed to be authorized to participate in or to form a general partnership with any other person.

(c) (1) At no time shall a domestic life insurance company make an investment in any subsidiary which will bring the aggregate value of its investments, as determined for annual statement purposes but not in excess of cost, in all subsidiaries under this subsection to an amount in excess ~~of ten~~ *per centum (10%) of its total admitted assets as of the immediately preceding thirty-first day of December. In determining the amount of investments of any domestic life insurance company in subsidiaries for purposes of this subsection, there shall be included investments made directly by such insurance company and, if such investment is made by another subsidiary, then to the extent that funds for such investments are provided by the insurance company for such purpose.*

(2) The limitations set forth in clause (1) of this subsection shall not apply to investments in any subsidiary which is:

(i) An insurance company.

(ii) A holding company to the extent its business consists of the holding of the stock of, or otherwise controlling, its own subsidiaries.

(iii) A corporation whose business primarily consists of direct or indirect ownership, operation or management of assets authorized as investments pursuant to sections 404.1 and 406.

(iv) A company engaged in any combination of the activities described in subclauses (i), (ii) and (iii) of this clause. Investments made pursuant to subclause (i) shall not be restricted in amount provided that after such investment, as calculated for NAIC annual statement purposes, the insurer's surplus will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. Investments made pursuant to subclause (ii), or to the extent applicable in this subclause, shall in addition not be subject to any limitations on the amount of a domestic life insurance company's assets provided for under any other provision of this act and which might otherwise be applicable: Provided, however, That such life insurance company's investments, to the extent that such life insurance company provided the funds therefor, in each of the subsidiaries of such holding company shall be subject to the limitations, if any, applicable to such investment as if the holding company's interest in each such subsidiary were instead owned directly by the life insurance company. Investments made pursuant to subclause (iii), or, to the extent applicable, this clause, shall be counted in determining the limitations contained in applicable subsections of sections 404.2 and 406: Provided, however, That the value as calculated for annual statement purposes, but not in excess of the cost thereof, of such investment shall include only funds provided by the insurance company therefor. Investments made in other subsidiaries of such life insurance company by any subsidiary described in subclauses (i), (ii), (iii) and this subclause or by a person whose business primarily consists of direct or indirect ownership, operation or management of real property and interest therein under section 406 shall be deemed investments made by the insurance company only to the extent the funds for such investment were provided by such insurance company.

(d) No restrictions, prohibitions or limitations contained in this act otherwise applicable to investments of domestic life insurers shall be applicable to investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to subsection (c); nor shall the additional investment authority granted by subsection (c) have the effect of restricting, prohibiting or limiting the rights of a domestic life insurer to make investments permitted under any other section of this act.

(e) Whether any investment made pursuant to subsection (c) meets, at any time thereafter, the applicable requirements thereof is to be determined when such investment is made, taking into account the then outstanding principal balance on all previous investments in debt obligations and the value, but not in excess of the cost thereof, of all previous investments in equity securities as calculated for annual statement purposes. In calculating the amount of such investments, there shall be included, as determined for NAIC annual statement purposes:

(1) Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of ~~such subsidiary~~ whether or not represented by the purchase of capital stock or issuance of other securities.

(2) All amounts expended by the domestic life insurance company in acquiring additional common stock, preferred stock debt obligations, and other securities and all contributions to the capital or surplus, or a subsidiary subsequent to its acquisition or formation.

(f) If a domestic life insurer ceases to own, directly or indirectly through one or more intermediaries, a majority of the voting securities of a subsidiary held pursuant to subsection (c), it shall dispose of any investment therein made pursuant to such subsection within five years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless, at any time after such investment shall have been made, such investment shall have met the requirements for investment under any other section of this act.

Section 7. Section 406 of the act, added May 9, 1947 (P.L.201, No.93) and amended June 2, 1965 (P.L.77, No.54), is amended to read:

Section 406. Real Estate Which May Be Purchased, Held or Conveyed.—Subject to the provisions of section four hundred six, point one, it shall be lawful for any life insurance company, organized under the laws of this Commonwealth, *directly or indirectly, alone or together with one or more persons or entities*, to purchase, receive, hold and convey, real estate or any interest therein:

(a) Required for its convenient accommodation in the transaction of its business with reasonable regard to future needs; including residential real estate purchased from employes transferred or about to be transferred to new places of employment with such company.

(b) Acquired in satisfaction or on account of loans, mortgages, liens, judgments or decrees, previously owing to it in the course of its business;

(c) Acquired in part payment of the consideration of the sale of real property owned by it if the transaction shall result in a net reduction in the company's investment in real estate;

(d) Reasonably necessary for the purpose of maintaining or enhancing the sale value or real property previously acquired or held by it under subsections (a), (b) or (c) of this section;

[(e) Purchased, leased or owned for the purpose of maintenance, or construction and maintenance, of housing projects consisting of apartment, tenement or other dwelling houses, which projects may include accommodations for retail stores, shops, offices and other community services, reasonably incidental thereto and any improvements thereon, but not hotels;]

(f) Purchased, leased or owned**[, for the purpose of renting for business, commercial or industrial use, or for development, improvement, maintenance or construction and maintenance for such purpose, as an investment for the production of income.]** *for residential, business, commercial or industrial use, or for development, improvement, maintenance or construc-*

tion and maintenance. Provided that investments under this subsection (f), including investments in limited partnership interests or other entities where said entities are engaged primarily in holding real estate or interests therein under this subsection and corporations which are engaged primarily in holding real estate or interests therein as defined in this subsection and the majority of whose voting securities are owned directly or indirectly through one or more intermediaries, shall not exceed twenty-five per centum (25%) of such company's admitted assets.

Section 8. Section 406.1 of the act, added May 9, 1947 (P.L.201, No.93), and amended July 19, 1951 (P.L.1100, No.245), June 2, 1965 (P.L.77, No.54), July 31, 1968 (P.L.1028, No.309), June 1, 1972 (P.L.321, No.88) and May 7, 1982 (P.L.385, No.112), is amended to read:

Section 406.1. General Investment Provisions and Restrictions.—Investment under authority of section **[four hundred four, or four hundred five]** *404.2* and holding of real estate under authority of section four hundred six by any life insurance company, organized under the laws of this Commonwealth, shall be subject to the following provisions:

(a) The Insurance Commissioner may permit such company to invest sufficient of its **[capital and reserves]** *assets exclusive of the amounts permitted in section 404.2(3)* in the securities of a foreign government in order to comply with the laws of such foreign government and transact business in such foreign country.

(b) No investment *under section 404.2 or 406* shall be made in *the equity interest, as defined in section 404.2(10), of* any unincorporated business or enterprise other than a business trust **[or]**, *joint-stock company or limited* partnership in which a life insurance company acts as a limited partner. A subsidiary of a life insurance company may act as a general partner.

(c) No investment shall be made in any loan *solely* upon personal security *of an individual or individuals*, but nothing in this act shall be construed to prevent the taking of a bona fide obligation with legal interest in payment of any premium**[, the making of a collateral loan, as provided in section four hundred five,]** or a loan for defraying in whole or in part the expenses of an employe transferred or about to be transferred to a new place of employment with such company.

(d) No investment shall be made *by any life insurance company* in any loan upon the stock, shares or obligation of such company or any other insurance company transacting like classes of business but any stock life insurance company may, with the approval of its board of directors, acquire, retain, cancel or dispose of shares of its own capital stock: Provided, That (i) no such company shall acquire such stock without the prior approval of the Insurance Commissioner, **[which shall be granted in accordance with regulations previously promulgated by him,]** (ii) no such company shall effect a reduction in its capital stock without complying with the applicable provisions of the law, and (iii) no such company shall directly or indirectly vote shares of its own stock held by it.

[(f) No investment in a single mortgage shall exceed ten thousand dollars ($10,000), or an amount equal to two per cent (2%) of such company's total

admitted assets as of the thirty-first day of December next preceding the date of investment, whichever is the greater.

(g) Exclusive of investments in subsidiaries as provided in section four hundred five point one no investment shall be made which ~~would result in the~~ cost of total investments in, or in loans upon, any of the following classes of investment exceeding the percentage of such company's admitted assets on the thirty-first day of December next preceding the date of investment, which is specified in the class.

(1) Stock or shares of any one corporation, other than stock or shares of a corporation incorporated for a purpose stated in subsection (e) or (f) of section four hundred six, all of whose stock or shares, except directors' qualifying shares, was at the time of acquisition owned by such insurance company or by insurance companies authorized to do business in this Commonwealth, two per cent (2%).

(2) Common stock or common shares of corporations, including stock or shares of regulated investment companies, but excluding stock or shares of corporations incorporated for a purpose stated in subsection (e) or (f) of section four hundred six, and excluding stock or shares guaranteed by corporations whose obligations would be eligible for investment under section four hundred four, ten per cent (10%): Provided, however, That the limitation for a company having a surplus of less than five million dollars ($5,000,000) shall be the lesser of (i) the amount of such company's surplus or (ii) ten per cent (10%) of such company's admitted assets.

(3) Stock or shares of corporations, incorporated for a purpose stated in subsection (e) or (f) of section four hundred six, and real estate or interests therein, purchased, leased or owned, under authority of such subsections, fifteen per cent (15%).

(4) Obligations and stock or shares of corporations or business trusts incorporated or existing under the laws of the Dominion of Canada, or any province thereof; and bonds or evidences of indebtedness issued, assumed or guaranteed by any province of the Dominion of Canada, or any county, city, town, municipality or political subdivision located in the Dominion of Canada or any province thereof, ten per cent (10%): Provided, however, That the limitation for a company having a surplus of less than five million dollars ($5,000,000) shall be the lesser of (i) the amount of such company's surplus or (ii) ten per cent (10%) of such company's admitted assets.

(h) The cost to such a company of improvements of each parcel of real estate acquired under subsection (f) of section four hundred six, plus costs incurred by it in improving and developing such parcel, shall be written down annually on the books of the company at a rate which will average not less than two per cent (2%) of such cost or costs for each year, or part of a year, the parcel is held after the date of acquisition.

(i) Any parcel of real estate acquired by a company under any other subsection of section four hundred six may be held under authority of subsection (e) or (f) of section four hundred six upon transfer on the company's books as a real estate investment for the purpose stated in such subsection, in which event the date of transfer shall be considered to be the date of acquisi-

tion in applying the provisions of this section to a parcel so transferred, and for the purpose of applying the limitation of clause three of ~~subsection (g) of~~ this section the cost of the parcel shall be considered to be its book value on the date of transfer, plus the estimated cost of improvement or development under any improvement or development program contemplated by the company.

(j) Any such company may own, hold, maintain, improve, manage, lease, collect or receive income from, sell, transfer, convey or assign any real estate or interest therein after acquisition thereof, under authority of section four hundred six, subject to the provisions of such section and of this section: Provided, That within such reasonable time as the Insurance Commissioner shall direct by written notice to such company, any such company shall sell and dispose of any real estate or interest therein held by it under authority of subsections (b), (c) or (d) of section four hundred six, and which shall have been so held for a period of more than five (5) years, provided the Commissioner after due notice and hearing, shall have found that such real estate or interest therein should be disposed of by such company in the interest of its policyholders, and that the interest of the company will not suffer materially by a forced sale, except that any such company heretofore organized, having the power to receive and execute trusts, may take, receive and hold estates and property, real and personal, which may be granted, committed, transferred or conveyed to it with its consent upon any trust or trusts whatsoever at any time or times, or by any court of the United States or of this Commonwealth and may administer, fulfill and discharge the duties of such trusts.]

(k) With the approval of the Insurance Commissioner such company may enter into agreements with one or more insurance companies**[,]** authorized to do business in this Commonwealth, whereby such companies shall participate in ownership, management and control of real estate held or to be acquired by such company or companies under subsection **[(e) or]** (f) of section four hundred six, or held by a corporation whose stock is held or to be acquired by such company or companies.

[(l) Subject to subsection (k) of this section, no such company shall enter into any agreement to withhold any of its property from sale, and the disposition of its property shall be at all times within the control of its board of directors or trustees.]

(m) No provision of this act shall be so construed as to prevent any such company from investing any of its **[capital, reserve or surplus funds, as authorized by acts or parts of acts not repealed by this act]** *assets,* or from holding any of such funds in cash or deposits in banks or trust companies or from acquiring or holding property taken in reorganization or foreclosure proceedings or which may be obtained in satisfaction of or on account of any debt previously contracted.

(n) Any such company may continue its investment of any of its **[capital, reserve or surplus funds]** *assets* in any corporate bonds, notes or obligations held by it on the effective date of this amendment, under authority of section four hundred four, as amended by the act, approved the twelfth day of May, one thousand nine hundred and thirty-nine (Pamphlet Laws 131).

[(o) No security or investment of a class stated in clauses (b), (c), (d), (e), (f) or (g) of section four hundred five shall by this act, be authorized or permitted for investment of reserve funds of any such company, if at the date of investment its total investment in classes of investment stated in section four hundred four, is less than its capital and three-fourths (3/4) of its reserves.

(p) No such company shall acquire by purchase from the United States any housing project acquired by the Federal Works Administrator, or the National Housing Administrator under the provisions of the act of Congress, approved October 14, 1940, as amended by the act, approved April 29, 1941, the act, approved June 28, 1941, and the act, approved January 21, 1942.]

(q) "Date of Investment" shall mean the date of commitment in the case of a commitment to invest.

(r) If any investment is made in a manner not authorized by this act, the officers, directors and trustees making or authorizing such investment, shall be personally liable for any loss occasioned thereby.

(s) "State" shall mean any state, *district or territory, including Puerto Rico, the Virgin Islands* of the United States and **[also]** the **[Commonwealth of Puerto Rico]** *District of Columbia.*

[(t) Investments permitted under sections 404(bb) and 405(i) shall be limited to five per cent (5%) of such company's admitted assets: Provided, however, That the limitation for a company having a surplus of less than five million dollars ($5,000,000) shall be the lesser of (i) the amount of such company's surplus or (ii) five per cent (5%) of such company's admitted assets. For purposes of calculating these limitations, the investments referred to under subsection (g)(4) shall not be taken into account.

(u) Investments permitted under section 405(j) shall be limited to five per cent (5%) of such company's admitted assets.]

Section 9. Section 406.2 of the act, amended December 13, 1974 (P.L.951, No.313), is amended to read:

Section 406.2. Separate Accounts.—(a) Any life insurance company organized under the laws of this Commonwealth may establish one or more separate accounts and may allocate thereto any amounts (including without limitation proceeds applied under optional modes of settlement or under dividend options) to provide for life insurance or annuities (and benefits incidental thereto) payable in fixed or variable amounts or both, *and for any other investment purpose consistent with a company's investment powers under sections 404.2, 406 and 406.1 or this subsection in connection with any product permissible to such company under this act and* subject to the following:

(1) The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall, in accordance with applicable contracts, be credited to or charged against such account, without regard to other income, gains or losses of the company. *Life insurance companies may maintain one or more separate accounts subject to reasonable regulations promulgated by the commissioner with respect to:*

(i) Separate accounts with all or any portion of the benefits guaranteed as to dollar amounts and duration.

(ii) Separate accounts with all or any portion of the funds guaranteed as to the principal amount or stated rate of interest.

(2) **[Except as may be provided with respect to reserves for guarantee benefits and funds referred to in clause (3) of this subsection (a), (i) amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this Commonwealth governing the investments of life insurance companies and (ii) the investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.]** *Except as herein provided, the amounts allocated to each separate account established by the insurer pursuant to this section, together with any accumulations thereon, may be invested and reinvested in any class of investments which may be authorized in the written contract or agreement without regard to any investment limitations otherwise applicable to the investment of life insurance companies. The investments in such separate account or accounts shall not be taken into account in the investment limitations applicable to the investments of the insurance company under the provisions of this act.*

(3) **[Except with the approval of the Insurance Commissioner and under such conditions as to investments and other matters as he may prescribe, which shall recognize the guaranteed nature of the benefits provided, reserves for (i) benefits guaranteed as to dollar amount and duration and (ii) funds guaranteed as to principal amount or stated rate of interest shall not be maintained in a separate account.**

(4) **Unless otherwise approved by the Insurance Commissioner, assets]** *Assets* allocated to a separate account shall be valued at their market value on the date of valuation, or **[if]** *at amortized cost if it approximates market value. If* there is no readily available market *value*, then *such assets shall be valued* as provided under the terms of the contract or the rules or other written agreement applicable to such separate account**[: Provided, That unless otherwise approved by the Insurance Commissioner, the portion, if any, of the assets of such separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in clause (3) of this subsection (a) shall be valued in accordance with the rules otherwise applicable to the company's assets]** *or by regulation prescribed by the commissioner.*

(5) Amounts allocated to a separate account shall be owned by the company, and the company shall not be, nor hold itself out to be, a trustee with respect to such amounts. If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct. *Sales, exchanges or other transfers of assets may be made by a company at any time between any of its separate accounts or between any other investment account and one or more of its separate*

accounts provided that the transfer into or from a separate account is made by:

(i) A transfer of cash.

(ii) A transfer of assets having a valuation which could be readily determined in the marketplace.

(iii) Such other transfers as the commissioner in his discretion may approve.

(6) If pursuant to the terms of the applicable contracts amounts allocated to a separate account are to be invested in shares of a specified investment company registered under the Investment Company Act of 1940, as amended, which shares are to be held for the exclusive benefit of the applicable contracts, such shares shall, if and to the extent provided in the applicable contracts, be deemed to be a separate account pursuant to the provisions of section 406.2.

[(7) No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made (i) by a transfer of cash, or (ii) by a transfer of securities having a readily determinable market value: *Provided*, That such transfer of securities is approved by the Insurance Commissioner. The Insurance Commissioner may approve other transfers among such accounts if, in his opinion, such transfers would not be inequitable.]

(8) To the extent the company deems it necessary to comply with any applicable Federal or State laws, such company, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with such company, to manage the business of such account.

(b) Any contract providing benefits *for life insurance or annuities* payable in variable amounts delivered or issued for delivery in this Commonwealth shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will so vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

(c) No company shall deliver or issue for delivery within this Commonwealth variable contracts unless it is licensed or organized to do a life insur-

ance business in this Commonwealth, and the Insurance Commissioner is satisfied that its condition or method of operation, including investment policy, in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this Commonwealth. In this connection, the Insurance Commissioner shall consider among other things:

(1) The history and financial condition of the company;

(2) The character, responsibility and general fitness of the officers and directors or trustees of the company, and whether such individuals command the public confidence and warrant the belief that the business of the company will be honestly and efficiently conducted in accordance with the intent and purpose of this act; and

(3) The law and regulation under which the company is authorized in the state of domicile to issue variable contracts. The state of entry of an alien company shall be deemed its place of domicile for this purpose.

If the company is a subsidiary of an admitted life insurance company, or affiliated with such company through common management or ownership, it may be deemed by the Insurance Commissioner to have met the provisions of this section if either it or the parent or the affiliated company meets the requirements hereof.

(d) Notwithstanding any other provision of law, the Insurance Commissioner shall have sole authority to regulate the issuance and sale of variable contracts, including the approval or disapproval of provisions of the contracts under section 354 of this act, and, further including annual statements furnished to contract holders, and to issue such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of section 406.2 in the public interest, including that the premiums to be charged shall not be excessive, inadequate or unfairly discriminatory, and the prevention of excessive management, administrative and sales charges. Variable contracts, and agents or other persons who sell variable contracts, shall not be subject to the act of December 5, 1972 (P.L.1280, No.284), known as the "Pennsylvania Securities Act of 1972," or to regulation by the Pennsylvania Securities Commission.

[(e) Under no circumstances shall premiums payable, by a person who meets standard underwriting requirements, for a variable life insurance contract issued in this Commonwealth, exclusive of that portion allocable to any incidental insurance benefit, exceed the following:

(1) Either one hundred twenty-five per centum (125%) of the premiums payable for an equivalent plan of fixed benefit life insurance for the same initial face amount issued by the same insurance company or its affiliate; or

(2) When an equivalent plan of fixed benefit life insurance for the same initial face amount issued by the same insurance company or its affiliate is not available the maximum premium for that contract shall be fixed under the rules and regulations promulgated by the Insurance Commissioner.]

(f) Except for sections 410(b), *410(c),* 410(h), 410(i), 410(j), 410(k) and 410A and *410D* of The Insurance Company Law of 1921 and section 6(1) of the act of May 11, 1949 (P.L.1210, No.367), entitled "An act relating to

group life insurance; describing permitted policies and restrictions thereon, the premium basis thereof and rights thereunder; limiting the amount of such insurance; prescribing standard policy provisions; and requiring notice of conversion privileges," in the case of variable life insurance contract and sections 410B(a), 410B(f), 410B(g) **[and]**, 410B(3) *and 410E* of The Insurance Company Law of 1921 in the case of a variable annuity contract and except as otherwise provided in section 406.2, all pertinent provisions of the insurance laws shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance or variable annuity contract, delivered or issued for delivery in this Commonwealth shall contain grace, reinstatement **[and]**, *incontestability,* nonforfeiture **[provisions]** *and right to review provisions as shall be provided in rules and regulations established by the commissioner* appropriate to such contract; and any group variable life insurance contract, delivered or issued for delivery in this Commonwealth shall contain a grace provision *as shall be provided in rules and regulations established by the commissioner* appropriate for such contract.

The reserve liability for variable contracts shall be established in accordance with actuarial procedures acceptable to the Insurance Commissioner that recognize the variable nature of the benefits provided and any mortality guarantees.

Section 10. The act is amended by adding an article to read:

ARTICLE VI-A.
BENEFITS FOR ALCOHOL ABUSE AND DEPENDENCY.

Section 601-A. Definitions.—As used in this article the following words and phrases shall have the meanings given to them in this section:

"Alcohol abuse." Any use of alcohol which produces a pattern of pathological use causing impairment in social or occupational functioning or which produces physiological dependency evidenced by physical tolerance or withdrawal.

"Detoxification." The process whereby an alcohol-intoxicated or alcohol-dependent person is assisted, in a facility licensed by the Department of Health, through the period of time necessary to eliminate, by metabolic or other means, the intoxicating alcohol, alcohol dependency factors or alcohol in combination with drugs as determined by a licensed physician, while keeping the physiological risk to the patient at a minimum.

"Hospital." A facility licensed as a hospital by the Department of Health, the Department of Public Welfare, or operated by the Commonwealth and conducting an alcoholism treatment program licensed by the Department of Health.

"Inpatient care." The provision of medical, nursing, counseling or therapeutic services twenty-four hours a day in a hospital or non-hospital facility, according to individualized treatment plans.

"Non-hospital facility." A facility, licensed by the Department of Health, for the care or treatment of alcohol-dependent persons, except for transitional living facilities.

"Non-hospital residential care." The provision of medical, nursing, counseling or therapeutic services to patients suffering from alcohol abuse or dependency in a residential environment, according to individualized treatment plans.

"Outpatient care." The provision of medical, nursing, counseling or therapeutic services in a hospital or non-hospital facility on a regular and predetermined schedule, according to individualized treatment plans.

"Partial hospitalization." The provision of medical, nursing, counseling or therapeutic services on a planned and regularly scheduled basis in a hospital or non-hospital facility licensed as an alcoholism treatment program by the Department of Health, designed for a patient or client who would benefit from more intensive services than are offered in outpatient treatment but who does not require inpatient care.

Section 602-A. Mandated Policy Coverages and Options.—(a) All group health or sickness or accident insurance policies providing hospital or medical/surgical coverage and all group subscriber contracts or certificates issued by any entity subject to this act, 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or Ch. 63 (relating to professional health services plan corporations), the act of December 29, 1972 (P.L.1701, No.364), known as the "Health Maintenance Organization Act," or the act of July 29, 1977 (P.L.105, No.38), known as the "Fraternal Benefit Society Code," providing hospital or medical/surgical coverage, shall in addition to other provisions required by this act include within the coverage those benefits for alcohol abuse and dependency as provided in sections 603-A, 604-A and 605-A.

(b) The benefits specified in subsection (a) may be provided through a combination of such policies, contracts or certificates.

(c) The benefits specified in subsection (a) may be provided through prospective payment plans.

(d) The provisions of subsection (a) shall not apply to Medicare or Medicaid supplemental contracts or limited coverage accident and sickness policies, such as, but not limited to, cancer insurance, polio insurance, dental care and similar policies as may be identified as exempt from this section by the Insurance Commissioner.

Section 603-A. Inpatient Detoxification.—(a) Inpatient detoxification as a covered benefit under this article shall be provided either in a hospital or in an inpatient non-hospital facility which has a written affiliation agreement with a hospital for emergency, medical and psychiatric or psychological support services, meets minimum standards for client-to-staff ratios and staff qualifications which shall be established by the Department of Health and is licensed as an alcoholism treatment program.

(b) The following services shall be covered under inpatient detoxification:

(1) Lodging and dietary services.

(2) Physician, psychologist, nurse, certified addictions counselor and trained staff services.

(3) Diagnostic X-ray.

(4) Psychiatric, psychological and medical laboratory testing.

(5) Drugs, medicines, equipment use and supplies.

(c) Treatment under this section may be subject to a lifetime limit, for any covered individual, of four admissions for detoxification and reimbursement per admission may be limited to seven (7) days of treatment or an equivalent amount.

Section 604-A. Non-hospital Residential Alcohol Services.—(a) Minimal additional treatment as a covered benefit under this article shall be provided in a facility which meets minimum standards for client-to-staff ratios and staff qualifications which shall be established by the Office of Drug and Alcohol Programs and is appropriately licensed by the Department of Health as an alcoholism treatment program. Before an insured may qualify to receive benefits under this section, a licensed physician or licensed psychologist must certify the insured as a person suffering from alcohol abuse or dependency and refer the insured for the appropriate treatment.

(b) The following services shall be covered under this section:

(1) Lodging and dietary services.

(2) Physician, psychologist, nurse, certified addictions counselor and trained staff services.

(3) Rehabilitation therapy and counseling.

(4) Family counseling and intervention.

(5) Psychiatric, psychological and medical laboratory tests.

(6) Drugs, medicines, equipment use and supplies.

(c) The treatment under this section shall be covered, as required by this act, for a minimum of thirty (30) days per year for residential care. Additional days shall be available as provided in section 605-A(d). Treatment may be subject to a lifetime limit, for any covered individual, of ninety (90) days.

Section 605-A. Outpatient Alcohol Services.—(a) Minimal additional treatment as a covered benefit under this article shall be provided in a facility appropriately licensed by the Department of Health as an alcoholism treatment program. Before an insured may qualify to receive benefits under this section, a licensed physician or licensed psychologist must certify the insured as a person suffering from alcohol abuse or dependency and refer the insured for the appropriate treatment.

(b) The following services shall be covered under this section:

(1) Physician, psychologist, nurse, certified addictions counselor and trained staff services.

(2) Rehabilitation therapy and counseling.

(3) Family counseling and intervention.

(4) Psychiatric, psychological and medical laboratory tests.

(5) Drugs, medicines, equipment use and supplies.

(c) Treatment under this section shall be covered as required by this act for a minimum of thirty outpatient, full-session visits or equivalent partial visits per year. Treatment may be subject to a lifetime limit, for any covered individual, of one hundred and twenty outpatient, full-session visits or equivalent partial visits.

(d) In addition, treatment under this section shall be covered as required by this act for a minimum of thirty separate sessions of outpatient or partial hospitalization services per year, which may be exchanged on a two-to-one basis to secure up to fifteen additional non-hospital, residential alcohol treatment days.

Section 606-A. Deductibles, Copayment Plans and Prospective Pay.—(a) Reasonable deductible or copayment plans, or both, after approval by the Insurance Commissioner, may be applied to benefits paid to or on behalf of patients during the course of alcohol abuse or dependency treatment. In the first instance or course of treatment, no deductible or copayment shall be less favorable than those applied to similar classes or categories of treatment for physical illness generally in each policy.

(b) In the first instance or course of treatment under a prospective payment plan, no deductible or copayment shall be less favorable than those applied to similar classes or categories of treatment for physical illness generally in each policy.

Section 607-A. Rules and Regulations.—The Insurance Commissioner and the Secretary of Health shall jointly promulgate those rules and regulations as are deemed necessary for the effective implementation and operation of this article.

Section 608-A. Preservation of Certain Benefits.—Nothing in this article shall serve to diminish the benefits of any insured or subscriber existing on the effective date of this article nor prevent the offering or acceptance of benefits which exceed the minimum benefits required by this act.

Section 11. Sections 621.2(c) and 626 of the act, section 621.2 added December 9, 1955 (P.L.807, No.233), are amended to read:

Section 621.2. Group Accident and Sickness Insurance.—* * *

(c) Any group accident and health policy may provide that all or any portion of any indemnities provided by any such policy, on account of hospital, nursing, medical or surgical services, may at the insurer's option be paid directly to the hospital or person rendering such services**[, but]** . *Except as provided in section 630,* the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

* * *

Section 626. Discrimination Prohibited.—Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by this act, or in the benefits payable thereon, or in any of the terms or conditions of such policy, or in any other manner whatsoever, is prohibited*, except as provided in section 630.*

Section 12. The act is amended by adding a section to read:

Section 630. Preferred Provider Organizations.—Upon compliance with the provisions of this act and notwithstanding any other provision of law to the contrary, the General Assembly hereby affirms the right of any health care insurer or purchaser to:

(a) Enter into agreements with providers or physicians relating to health care services which may be rendered to persons for whom the insurer or pur-

chaser is providing health care coverage, including agreements relating to the amounts to be charged by the provider or physician for services rendered.

(b) Issue or administer policies or subscriber contracts in this Commonwealth which include incentives for the covered person to use the services of a provider who has entered into an agreement with the insurer or purchaser.

(c) Issue or administer policies or subscriber contracts in this Commonwealth that provide for reimbursement for services only if the services have been rendered by a provider or physician who has entered into an agreement with the insurer or purchaser.

(d) The Insurance Commissioner shall determine that:

(1) A preferred provider organization which assumes financial risk is licensed as an insurer in this Commonwealth, has adequate working capital and reserves, or is governed and regulated under the provisions of the Employee Retirement Income Security Act of 1974, referred to as ERISA (Public Law 93-406, 88 Stat. 829), and has filed a certificate to that effect with the Insurance Commissioner.

(2) Enrollee literature adequately discloses provisions, limitations and conditions of benefits available or that the preferred provider organization is governed and regulated under the provisions of ERISA and has filed a certificate to that effect with the Insurance Commissioner.

(e) The Insurance Commissioner, in consultation with the Secretary of Health, shall determine that arrangements and provisions for preferred provider organizations which assume financial risk which may lead to undertreatment or poor quality care are adequately addressed by quality and utilization controls and by a formal grievance system, unless the Insurance Commissioner makes a prior determination that the preferred provider organization is governed by and regulated under the provisions of the Employee Retirement Income Security Act and has filed a certificate to that effect with the Insurance Commissioner.

(f) No preferred provider organization which assumes financial risk may commence operations until it has reported to the Insurance Commissioner and the Secretary of Health such information as the Insurance Commissioner and the Secretary of Health require in accordance with the duties required in this section. If, after sixty days, either the Insurance Commissioner or the Secretary of Health has not informed the preferred provider organization of deficiencies, the preferred provider organization may commence operations unless and until such time as the Insurance Commissioner or the Secretary of Health has identified significant deficiencies and such deficiencies have not subsequently been corrected within sixty days of notification.

(g) Any disapproval or order to cease operations issued in accordance with this section shall be subject to appeal in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

Section 13. Within 120 days of the effective date of this act, a preferred provider organization which assumes financial risk and which is operating on the effective date shall file the information required by the Insurance Com-

missioner and the Secretary of Health under section 12 and may continue to operate subject to the terms of section 12.

Section 14. Any investments properly made pursuant to applicable provisions of this act prior to the effective date of this amendatory act shall continue as permitted investments under this act.

Section 15. This act is not intended to repeal section 641 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 or its application as provided in the act of December 30, 1974 (P.L.1148, No.365), entitled "An act 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,' prohibiting the licensing of lending institutions, public utilities and holding companies except for the sale of certain types of insurance."

Section 16. (a) The act of July 11, 1917 (P.L.804, No.309), entitled "An act relating to domestic and foreign insurance companies and corporations holding and dealing in insurance stock and certificates; regulating the sale of stock and evidence of indebtedness of such companies and corporations, and of subscriptions and applications therefor; and prescribing penalties," is repealed.

(b) Section 618(B)(11) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, is repealed insofar as it is inconsistent with this act.

Section 17. The provisions of this act relating to benefits for alcohol abuse and dependency shall apply only to contracts of insurance issued or renewed after the effective date of this act.

Section 18. The provisions of this act relating to benefits for alcohol abuse and dependency shall expire December 31, 1989.

Section 19. (a) A task force is established to conduct an in-depth study of automobile insurance rates and present to the General Assembly a detailed proposal and recommendations concerning various rating factors used in determining automobile insurance premiums.

(b) The task force shall consist of nine members. Three members shall be appointed by the Governor, three by the President pro tempore of the Senate and three by the Speaker of the House of Representatives. Each appointing authority shall appoint one male representative of consumers of automobile insurance, one female representative of consumers of automobile insurance and one individual with special skill, training and experience in the field of automobile insurance. At least one member appointed by the President pro tempore shall be recommended by the Minority Leader of the Senate and at least one member appointed by the Speaker of the House of Representatives

shall be recommended by the Minority Leader of the House of Representatives. Members of the task force shall not be officers, officials or employees of the Commonwealth. Members of the task force shall not receive compensation, but may be reimbursed for actual and necessary expenses reasonably incurred in the deliberations of the task force.

(c) The task force shall constitute a legislative advisory committee assigned administratively to the Joint State Government Commission. The commission shall provide offices, staff, support, clerical assistance and administrative services to the task force.

(d) The task force shall contract for an independent professional evaluation of automobile insurance rating practices, which evaluation shall identify, analyze and compare various options for the rating of drivers, including recommendations regarding the use of alternatives to any or all of the existing rating factors and the economic impact upon consumers of such options. The task force shall develop criteria and specifications for the evaluation, publicly advertise a request for proposals and competitively select a contractor, with the approval of at least six members of the task force, from among responsive and responsible bidders. A final report from the contractor shall be presented to the task force on January 6, 1987.

(e) The task force shall review the final report of the contractor, conduct public hearings following receipt of the report and issue a final report of the recommendations of the task force not later than April 1, 1987. The task force shall provide its final report and recommendations to the Governor, the President pro tempore of the Senate and the Speaker of the House of Representatives.

Section 20. The sum of $125,000, or as much thereof as may be necessary, is hereby appropriated to the Insurance Department to carry out the provisions of section 19.

Section 21. (a) The provisions of this act relating to benefits for alcohol abuse and dependency shall take effect in 180 days.

(b) The remainder of this act shall take effect immediately.

APPROVED—The 11th day of June, A. D. 1986.

DICK THORNBURGH