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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1181 Session of  
2010

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INTRODUCED BY WARD, D. WHITE, VANCE, TARTAGLIONE, WAUGH, ORIE, PICCOLA, BROWNE,  
STACK, EARLL AND MENSCH, JANUARY 8, 2010

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REFERRED TO BANKING AND INSURANCE, JANUARY 8, 2010

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AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An  
2 act relating to insurance; amending, revising, and  
3 consolidating the law providing for the incorporation of  
4 insurance companies, and the regulation, supervision, and  
5 protection of home and foreign insurance companies, Lloyds  
6 associations, reciprocal and inter-insurance exchanges, and  
7 fire insurance rating bureaus, and the regulation and  
8 supervision of insurance carried by such companies,  
9 associations, and exchanges, including insurance carried by  
10 the State Workmen's Insurance Fund; providing penalties; and  
11 repealing existing laws," further providing for immunity from  
12 liability.

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

15 Section 1. Section 349.1 of the act of May 17, 1921

16 (P.L.682, No.284), known as The Insurance Company Law of 1921,  
17 added June 11, 1986 (P.L.226, No.64) is amended to read:

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

22 (1) Information relating to suspected fraudulent insurance  
23 acts furnished by them to or received from law enforcement

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1 officials, their agents and employes.

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

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

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

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

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

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

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

27 "Fraudulent insurance act" means an act committed by a person  
28 who, knowingly and with intent to defraud, presents, causes to  
29 be presented or prepares with knowledge or belief that it will  
30 be presented to or by an insurer, purported insurer or broker,

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1 or an agent of an insurer, purported insurer or broker, a  
2 written statement as part or in support of an application for  
3 the issuance or rating of an insurance policy for commercial  
4 insurance, or a claim for payment or other benefit pursuant to  
5 an insurance policy for commercial or personal insurance which  
6 he knows to contain materially false information concerning a  
7 fact material to the statement or claim or to conceal, for the  
8 purpose of misleading, information concerning a fact material to

9 the statement or claim.]

10 (a) In the absence of actual malice, a person is not subject  
11 to civil liability for libel, slander, bad faith or any other  
12 civil cause of action, and no civil cause of action of any  
13 nature shall arise against the person:

14 (1) For any information furnished to or received from  
15 Federal, State or local law enforcement officials, their agents  
16 or employes relating to suspected fraudulent insurance acts or  
17 persons suspected of engaging in such acts.

18 (2) For any information furnished to or received from the  
19 Insurance Department, the Department of Health, the Department  
20 of Labor and Industry, the Insurance Fraud Prevention Authority,  
21 the Automobile Theft Prevention Authority, the National  
22 Insurance Crime Bureau, the National Association of Insurance  
23 Commissioners or a recognized comprehensive database system  
24 relating to suspected fraudulent insurance acts or persons  
25 suspected of engaging in such acts.

26 (3) For other actions taken in cooperation with any of the  
27 agencies or individuals identified in this subsection in the  
28 lawful investigation of suspected fraudulent insurance acts.

29 (b) (1) In addition to the immunity granted in subsection  
30 (a), persons identified as designated employes of insurers,

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1 self-insurers or insurance licensees whose responsibilities

2 include the investigation and disposition of claims relating to  
3 suspected fraudulent insurance acts may share information on  
4 such acts and persons suspected of engaging in them with other  
5 designated employes employed by the same or other insurers,  
6 self-insurers or insurance licensees whose responsibilities  
7 include the investigation and disposition of claims relating to  
8 suspected fraudulent insurance acts. Unless such persons act  
9 with actual malice or in reckless disregard for the rights of  
10 any insured, the insurers, self-insurers or insurance licensees  
11 and their employes shall not be subject to libel, slander, bad  
12 faith or any other civil cause of action, and such causes of  
13 action shall not arise against them.

14 (2) Notwithstanding the provisions of this subsection, the  
15 qualified immunity against civil liability conferred under this  
16 subsection shall be forfeited with respect to the exchange or  
17 publication of any defamatory information with third persons not  
18 expressly authorized by this subsection to share in the  
19 information.

20 (c) The Insurance commissioner and employes of the Insurance  
21 Department when acting without malice and in the absence of  
22 fraud or bad faith are not subject to civil liability for libel,  
23 slander or any other relevant tort, and no civil cause of action  
24 of any nature exists against such person by virtue of the  
25 execution of official activities or duties of the Insurance

26 Department under this act or by virtue of the publication of any  
27 report or bulletin related to the official activities or duties  
28 of the Insurance Department under this act.

29 (d) Nothing in this section is intended to abrogate or  
30 modify a common law or statutory immunity enjoyed by any person

1 prior to the effective date of this subsection or to prohibit a  
2 bad faith or any other civil action based upon actions other  
3 than those described in this section.

4 Section 2. Repeals are as follows:

5 (1) The General Assembly declares that the repeals under  
6 paragraph (2) are necessary to effectuate the provisions of  
7 this act.

8 (2) (i) The provisions of 75 Pa.C.S. § 1795(b) and  
9 (c) are repealed.

10 (ii) Section 3(c) of the act of July 2, 1980  
11 (P.L.340, No.85), known as the Arson Reporting Immunity  
12 Act, is repealed.

13 Section 3. This act shall take effect in 60 days.