

LEG REG REVIEW 2008, Sixth Issue

LEG REG REVIEW is a periodic newsletter produced by PHILLIPS ASSOCIATES, a professional lobbying and consultant firm based near the State Capitol. It contains news on the legislative and regulatory scene in Pennsylvania that may be useful to insurance producers, companies, and business interests. It is a free Member Service if you belong to the Pennsylvania Association of Health Underwriters or Manufacturers Association of South Central PA. Subscription information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 FAX 717/728-1164 or e-mail xenobun@aol.com. Please email jtrout2792@aol.com supplying both your e-mail and fax numbers in order to convert this publication to e-mail. If you wish to no longer receive it, please tell us.

OPEN RECORDS LAW SIGNED

On February 14, Governor Rendell signed Senate Bill 1 into law as Act 3 of 2008. This far-reaching law gives a presumption that records are open to the public unless specifically exempted. Some items of interest to insurance and business interests:

- State contracts will be posted on the Treasury Department website.
- *The Office of Open records shall be housed in the Department of Community & Economic Development (DCED).*
- Contracts between insurance carriers and agencies are public record.
- *The term 'agency' includes local as well as state agencies.*
- This law applies to public records not in possession of an agency but in possession of a party with whom the agency has contracted to perform a government function (but no other record of the party is accessible). [section 506]
- *If there is a request that deals with a trade secret, the agency must alert the owner party of the request which then has five days to provide input on the release and the agency must release the information or refuse to do so within ten days. [section 707(b)]*
- Section 706 is the redaction (exemption) section. Among its exemptions are proposals relative to agency procurement prior to the award of the contract (financial information of bidders in the RFP).
- *Also exempted is 'confidential proprietary information'. This term is defined in section 102 as "commercial or financial information received by an agency: (1) which is privileged or confidential; and, (2) the disclosure of which would cause substantial harm to the competitive position of the person (person means 'natural' person or a business) that submitted the information."*

The new law will become fully effective by January 1, 2009. Text is available from the Electronic Bill Room www.legis.state.pa.us.

BUDGET PROPOSAL INCLUDES INSURANCE ITEMS

Following up on the Governor's presentation of his Budget proposal for 2008-2009 to the General Assembly, there are a number of items of particular interest to the insurance community. Some are:

- An additional charge on homeowners' insurance policies located within flood plains would fund a new special fund for flood control projects. The word 'tax' is not used.
- Health Insurance: Implementation of Prescription for Pennsylvania is included in Budget assumptions. The increase in cigarette taxes is there designed (with the MCARE abatement fund surplus) to fund the Governor's Cover All Pennsylvanians (CAP) proposal. The Budget also presumes the transfer of adultBasic and the Community Reinvestment Program (insurer reserves) monies into CAP.
- Crop Insurance premium subsidy program was restored to the \$3 million level it had two years ago (\$2.4 million this FY).
- \$29.8 million in revenue is anticipated from insurance producer licensing fees and \$481.2 million is expected from insurance premium taxes.

HEALTH INSURANCE UPDATE

The House Insurance Committee moved four bills last week. Of these, HB 2209 is already on the House calendar.

- **HB 2028** (Stern-R-Blair) would add another function to the PA Health Cost Care Containment Council (PHC4), making it the PHC5 by adding ‘Comparability’. PHC5 would **establish an Internet accessible data base where consumers could compare prices charged by physicians for common procedures**. This bill is strongly supported by the Pennsylvania Association of Health Underwriters.
- **HB 2209** (Shapiro-D-Montgomery) would permit **community health networks** to form in specific PA geographic regions **for the purpose of securing insurance for its members**. This is a change from current law which prohibits groups from organizing solely for that purpose. Although the bill specifies that plans must be obtained from PA insurance carriers, it is silent on the role of the agent.
- **HB 2028** (DeLuca) **permits insurers not to pay hospitals and doctors for “preventable serious adverse events”**. This builds on HHS’ decision not to pay under Medicare and Governor Rendell’s order to block Medicaid payments. It is regarded as a key component in the Governor’s Prescription for Pennsylvania because it is seen as forcing health care providers to reduce the likelihood of medical malpractice, i.e. reducing health costs.
- **HB 2026** (Pickett-R-Bradford) establishes a **Mini-COBRA** where employees within employer groups of two to 19 would be allowed to continue health insurance, paying 105 percent of the full premium themselves. Mini-COBRA is part of the House Republicans’ package of alternatives to Gov. Rendell’s Cover All Pennsylvanians proposal.

NEWS FROM AUTO THEFT PREVENTION AUTHORITY

The Auto Theft Prevention Authority (AFTA) is hosting the 2008 Northeast International Association of Auto Theft Investigators training seminar in Scranton May 13-16, 2008. (www.neiaati.org) ...VINgraving, the process of chemically etching vehicle identification numbers on auto glass, is provided for free by AFTA grantees. Spring 2008 free VINgraving events are listed at www.watchyourcar.org. ...AFTA is established by legislation and attempts to increase public awareness of auto theft and prevention as well as making grants to selected law enforcement/prosecution units throughout the state. It is funded by the insurance industry.

REGULATORY UPDATES

- Surplus Lines input is being sought on what types of coverage should be included on the Insurance Department’s export list. Types of insurance on the export list are deemed to be unavailable from the admitted market, meaning that the usual three declinations do not apply. Suggestions and rationale are due to Cressinda Bybee by March 2. (717/787-8557 cbybee@state.pa.us)
- Workers Compensation Bureau announced that only form LIBC-372 dated 12/06 applications for Safety Committee Certification will be accepted after March 1, 2008. This may be obtained from 717/772-1635, ra-li-bwc-safety@state.pa.us Employers with a certified safety committee receive a mandatory 5% Workers’ Compensation premium discount.
- The 7th Annual Workers’ Compensation conference is scheduled May 5-6, 2008 in Hershey.
- The PA Department of Labor & Industry is seeking public comment on Vocational Rehabilitation services for those people with disabilities per federal rules that require a multi-agency State Plan effective October 1, 2008. Hearings will be March-April at 22 locations. Interested parties must contact a regional location instead of a central number. These are available at www.pabulletin.org February 6 issue.