

LAWS

OF THE

STATE OF DELAWARE

ONE HUNDRED AND TWENTY-FOURTH
GENERAL ASSEMBLY

FIRST SESSION COMMENCED AND HELD AT DOVER

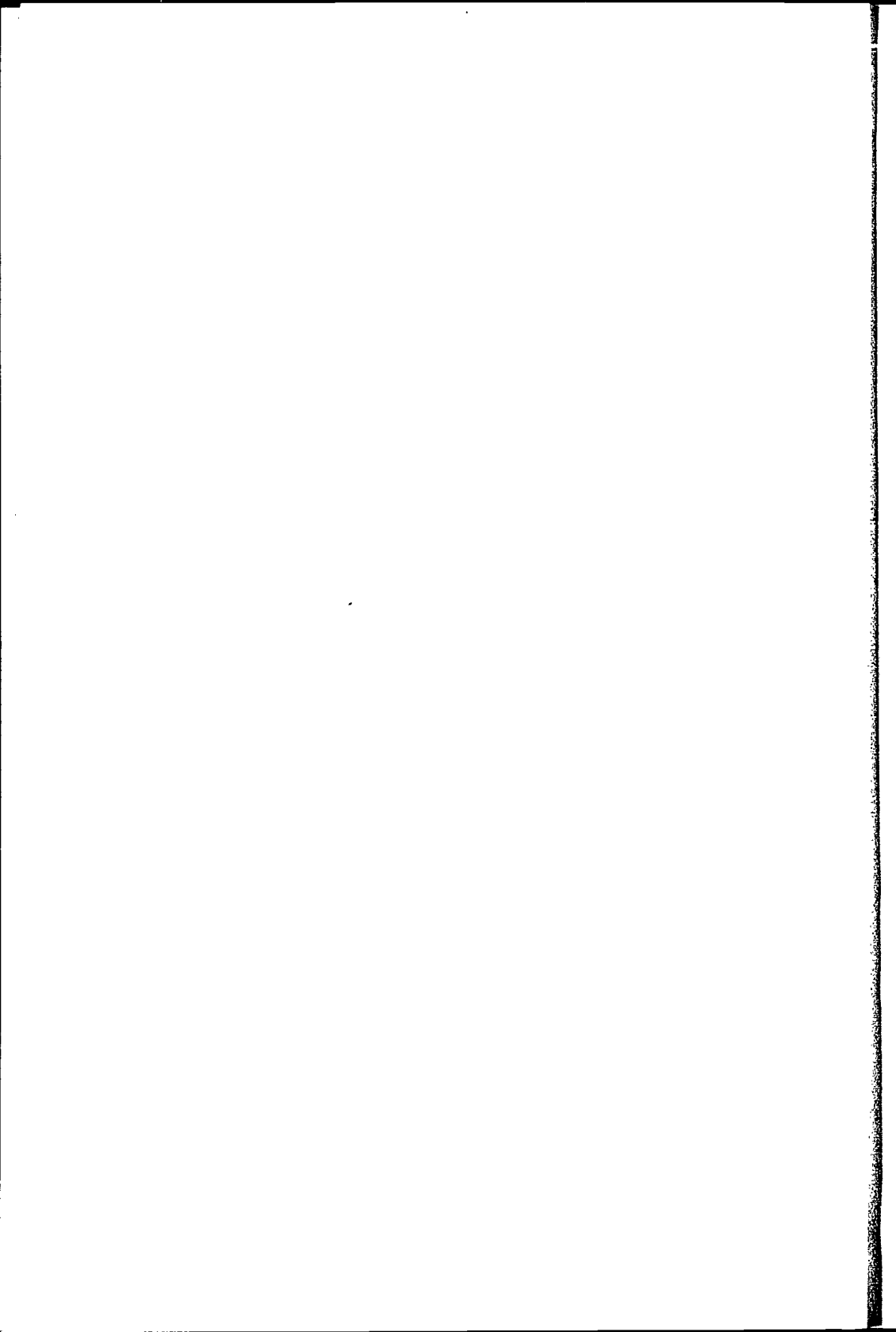
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CHAPTER 293

AN ACT ESTABLISHING AND CONCERNING A DEPARTMENT OF HOUSING, CONFERRING UPON IT CERTAIN DUTIES AND POWERS IN THE FIELD OF HOUSING, ALSO ESTABLISHING A STATE BUREAU OF HOUSING WITHIN THE DEPARTMENT OF HOUSING, CONFERRING UPON IT CERTAIN DUTIES IN THE FIELD OF HOUSING, ALSO ESTABLISHING A STATE HOUSING AUTHORITY WITHIN THE DEPARTMENT OF HOUSING, CONFERRING UPON IT CERTAIN DUTIES AND POWERS IN THE FIELD OF HOUSING, PROVIDING FOR STATE FINANCIAL ASSISTANCE IN THE FIELD OF HOUSING, ESTABLISHING A HOUSING DEVELOPMENT FUND AND MAKING A SUPPLEMENTARY APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 41 of Title 31, Delaware Code, is hereby repealed in its entirety.

Section 2. The word "Board" wherever it appears in Chapter 43 and 45 of Title 31, Delaware Code, is hereby stricken and the word "Bureau" is substituted therefor.

Section 3. Sections 4314, 4315 and 4316 of Chapter 43, Title 31, Delaware Code, are hereby repealed in their entirety and in lieu thereof a new Section 4314 is hereby added to read as follows:

§ 4314. Supervision of projects by the department

Whenever any project of any agency including public or private organizations or corporations is financed in whole or in part by the State of Delaware pursuant to the provisions of Chapter 40, Title 31, Delaware Code, the Secretary may:

(1) Order any agency undertaking or operating a project to make, at its expense, such repairs and improvements as will

preserve or promote the health and safety of the occupants of buildings and structures owned or operated by such agency.

(2) Order all such agencies to do such acts as may be necessary to comply with the provisions of the law, the rules and regulations adopted by the Secretary or by the terms of any project approved by the Secretary, or to refrain from doing any acts in violation thereof.

(3) Examine all such agencies and keep informed as to their general condition, their capitalization and the manner in which their property is constructed, leased, operated or managed.

(4) By his duly authorized agents, enter in or upon and inspect the property, equipment, buildings, plants, offices, apparatus and devices of any such agency, examine all books, contracts, records, documents and papers of any such agency and by subpoena duces tecum issued by the Bureau, compel the production thereof.

(5) In his discretion prescribe uniform methods and forms of keeping accounts, records and books to be observed by such agencies and to prescribe or order accounts in which particular outlays and receipts shall be entered, charged or credited.

(6) Require every such agency to file with the Bureau an annual report setting forth such information as he may require verified by the oath of a duly authorized representative of the agency. Such report shall be in the form, cover the period and be filed at the time prescribed by the Secretary. The Secretary may further require answers to questions upon which he or the Bureau may desire information and may also require such agency to file periodic reports in the form covering the period at the time prescribed by the Secretary.

(7) From time to time make, amend and repeal rules and regulations for carrying into effect the provisions of this Chapter.

Section 4, Part III, Title 31, Delaware Code, entitled "Housing and Slum Clearance" is amended by adding thereto a new Chapter to read:

CHAPTER 40. DEPARTMENT OF HOUSING
SUBCHAPTER 1. DEFINITIONS; PURPOSE
AND CONSTRUCTION

§ 4001. Definitions

As used in this Chapter, unless a different meaning appears from the context—

“Area” shall mean the State of Delaware.

“Assistant Secretary” means the Assistant Secretary of Housing.

“Authority” means a public body corporate or politic, organized in accordance with the provisions of chapter 43 or 45 for a purpose, with the powers and subject to the restrictions set forth in those Chapters including a community exercising the powers and duties of a Slum Clearance and Redevelopment Authority; provided, however, that “Authority” shall not mean the Delaware State Housing Authority.

“Bonds” mean any bonds (including refunding bonds), notes, interim certificates, debentures, or other obligations issued by the Delaware State Housing Authority pursuant to this chapter.

“Bureau” means the State Bureau of Housing.

“Community” means any municipality or county in this State.

“Community facilities” includes lands, buildings and equipment for recreation or social assembly, for educational, health or welfare activities and other necessary utilities primarily for use and benefit of the occupants of housing accommodations to be constructed and operated under this chapter.

“Conservation” means the preservation of any area or section of a community, and the supervision and care of such area or section, to prevent the reoccurrence or spread of slum conditions or conditions of blight.

“Department” means the Department of Housing.

“Governing Body” means the city council, town council, commissioners, or other legislative body charged with governing

the municipality or county council or levy court commissioners or other legislative body charged with governing the county.

"Government" includes the State and Federal Governments, and any subdivision, agency or instrumentality, corporate or otherwise, or either of them.

"Housing Authority" means any public body created by or pursuant to chapter 43.

"Issuing Officers" or "Issuing Officer" means the Secretary of Housing and the Assistant Secretary of Housing.

"Obligee" includes any bondholder, agents or trustees for any bondholders, or lessor demising to the property of the State Authority used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the State Authority.

"Persons of low or moderate income" means persons or families who lack the amount of income which is necessary, as determined by the authority undertaking a project, to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

"Public body" means the State or any municipality, county, township, board, commission, authority, district, or any other subdivision or public body of this State.

"Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

"Secretary" means the Secretary of Housing.

"State Authority" means the Delaware State Housing Authority, created by Section 4050 of this Chapter.

"State Commissioner" means one of the members of the State Bureau of Housing.

"Workable program" means an official community plan of action for using local public and private resources to eliminate

and prevent slums and blight, and to guide the community's orderly growth and development.

§ 4002. Purpose; construction

(a) It shall be the purpose and intent of this Chapter to establish the means whereby the full resources of this State can be used and applied in a coordinated and integrated manner to solve or assist in the solution of problems arising from unsanitary or unsafe dwelling accommodations as well as slums, blighted and deteriorated areas throughout the State, which cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the State and impair economic values; to promote the clearance, planning, replanning and redevelopment of slums as well as other areas in which unsanitary or unsafe housing conditions exist; to promote the rehabilitation or conservation of blighted and deteriorated areas including areas in which such unsanitary or unsafe housing conditions exist; to prevent the further development of slums or blighted or deteriorated areas; to provide housing accommodations to satisfy the existing acute shortage of decent, safe and sanitary housing available either at low rentals, purchase or otherwise which persons and families of low and moderate income, elderly persons and veterans including those who will be returning home from Vietnam can afford; to provide a source where the housing and construction industry and local governments may obtain information on the nature and availability of Federal assistance for housing and community development programs and new trends which are evident from development in these fields; to assist the State Planning Office and other state, local and regional planning authorities in the preparation and implementation of comprehensive plans and programs for rural and urban housing and improvement of housing in this State; and to coordinate the housing and urban renewal and redevelopment activities of State Agencies, and other public agencies and private bodies with such responsibilities within the State.

(b) The department shall, in addition to the other powers and duties invested in it by this act, or by any other law, assist in the coordination of State and Federal activities relating to housing, slum clearance, urban and rural relocation, redevelopment and renewal activities of municipal, county, and regional

agencies and authorities; advise and inform the Governor on the affairs and problems relating to housing, slum clearance, urban and rural relocation, redevelopment and renewal and make recommendations to the Governor for proposed legislation pertaining thereto; encourage cooperative action by municipal and county governments, including joint service agreements and regional cooperation; study the entire field of housing, slum clearance, urban and rural relocation, redevelopment and renewal in the State; collect, collate, publish and disseminate information necessary to the effective operation of the department, including data and information required to advise the housing and construction industry and municipal, county and regional agencies or authorities of available State and Federal Services and programs for Housing and community development programs; to stimulate municipal, county, and regional activities in the fields of housing, slum clearance, urban and rural redevelopment and renewal through publicity, education and guidance; recommend, implement and enforce a Statewide housing code as may be necessary to develop workable programs for community improvements.

(c) Whenever the Department determines that a need for housing accommodations or services for low and moderate income persons or families, for elderly persons or veterans, exists in either urban or rural areas which is not being met, the Department shall undertake to supply such accommodations or services as soon as possible in such manner as the Department deems best through the activities of the State Housing Authority or through direct assistance pursuant to the provisions of Subchapter V of this Chapter.

(d) This part shall be construed according to the fair import of its terms and shall be liberally construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

SUBCHAPTER II. ORGANIZATION AND ADMINISTRATION

§ 4003. Establishment of a Department of Housing

There shall be a Department of Housing within the government of this State which shall consist of the Secretary of Housing, a Bureau of Housing, a State Housing Authority.

§ 4004. Secretary of the department

The administrator and head of the department shall be a Secretary of Housing, who shall be a person qualified by training and experience to perform the duties of his office. The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve on a full time basis at the pleasure of the Governor and until the appointment and qualification of the Secretary's successor. The Governor shall set the salary of the Secretary of Housing, which shall not exceed \$25,000 per year.

§ 4005. Assistant secretary of the department

The Governor shall appoint, upon written recommendation of the Secretary of Housing and with the advice and consent of the Senate, an Assistant Secretary of Housing who shall be a person qualified by training and experience to perform the duties of his office. The Assistant Secretary of Housing shall be the Chairman of the Bureau of Housing and shall perform such other duties as the Secretary of Housing may direct. The Assistant Secretary of Housing shall serve on a full time basis and, in the absence of the Secretary of Housing, shall be the head of the Department. The Governor shall set the salary of the Assistant Secretary of Housing, which shall not exceed \$20,000 per year.

**SUBCHAPTER III. JURISDICTION;
POWERS AND DUTIES****§ 4006. The secretary may—**

1. Develop, revise and maintain a State comprehensive plan for the coordination, development and improvement of housing accommodations or services for low and moderate income persons or families or for elderly persons and for slum clearance, urban and rural redevelopment and renewal programs. This shall be done in cooperation with any municipal, county, regional planning, housing, renewal or rehabilitation agency or authority and in cooperation with the assistance and review of the State Planning Office;

2. Develop programs designed to promote the clearance, re-planning and redevelopment of slums as well as other areas in which unsanitary or unsafe housing conditions exist;
3. Develop programs to promote the rehabilitation or conservation of blighted and deteriorated areas including areas in which unsanitary and unsafe housing conditions exist;
4. Develop programs to prevent the further development of slums, or blighted or deteriorated areas;
5. Develop programs to provide housing accommodations or services either at low rentals or purchase or otherwise for persons and families of low income, elderly persons and for veterans;
6. Assist municipal, county and regional governmental bodies in the development and establishment of workable programs for community improvement for the purpose of qualifying for Federal assistance;
7. Coordinate the activities of the State Housing Authority with the activities of municipal, county and regional housing, renewal and rehabilitation agencies and authorities to furnish housing accommodations or services either at low rentals or purchase or otherwise for persons and families of low or moderate income, and for elderly persons as the public need may require after a public hearing on the need for such accommodations or services;
8. Assist in the coordination of State and Federal activities relating to housing, slum clearance, urban and rural relocation, redevelopment and renewal activities of municipal, county and regional agencies and authorities;
9. Promote and encourage cooperative action by municipal and county governments, including joint service agreements, regional compacts and other forms of regional cooperation in the fields of housing, slum clearance and rural and urban redevelopment and rehabilitation;
10. Inquire into the utilization of state resources in, and study the entire fields of housing, slum clearance, urban and rural redevelopment and renewal in the State and collect, collate, publish and disseminate information necessary to the effective operation of the department, including data and information required

to advise the housing and construction industry and municipal, county, and regional agencies and authorities of available State and Federal services and programs in those fields;

11. Otherwise stimulate municipal, county and regional activities in the field of housing, slum clearance, urban and rural redevelopment and renewal, through publicity, education and guidance;

12. Cooperate with intra or interstate commissions and authorities, county governing bodies, State departments, councils, bureaus, commissions, and other State Agencies, appropriate Federal agencies, municipalities, and with interested private individuals and organizations in the coordinating of plans and policies for promoting and developing housing, slum clearance and urban and rural relocation, rehabilitation and renewal activities;

13. Employ, in his discretion, planning, architectural and engineering consultants, attorneys, accountants, construction, and financial experts and consultants, superintendents, managers, and such other officer, employees and agents as may be necessary in his judgment;

14. Call to the assistance of the Bureau the services of such employees of any Federal or State agency as it may require to conduct its investigative powers and as may be available for such purpose;

15. Delegate any of his powers and duties, except those of an issuing officer, to employees or other agencies of the Department;

16. Create and appoint members of advisory boards;

17. Supervise the activities of the Bureau of Housing; and

18. Enter into any and all agreements or contracts on behalf of the State of Delaware and or the State Housing Authority, execute any and all instruments and do and perform any and all acts or things necessary, convenient or desirable for the implementation or the purposes of this Chapter or to carry out any power or duty given in this Chapter.

§ 4007. The secretary shall—

1. Direct the Department's operations;
2. Recommend to the General Assembly for enactment and enforcement of a State Housing Code or from time to time any provisions or amendments thereto;
3. Make an annual report to the Governor and the General Assembly of the Department's operations; and render such other reports as may be required by law;
4. Make and enforce regulations to effectuate the purposes of this Act;
5. Determine the terms and conditions for the allocation and grant of State funds authorized by this Act.

SUBCHAPTER IV. THE STATE BUREAU OF HOUSING

§ 4015. Composition; appointments; terms; vacancies

There shall be a State Bureau of Housing within the Department of Housing, referred to in this Chapter as the "Bureau", which shall consist of the Assistant Secretary of Housing, who shall serve as Chairman, and six members, together with the pro tempore citizen members of the former State Board of Housing as set forth in Section 9 hereof. The members of the Bureau shall each be appointed by the Governor, upon written recommendation of the Secretary of Housing, from among the residents of this State, who have demonstrated an interest in slum clearance, urban and rural development, and the promotion of better housing to serve at the pleasure of the Governor, and shall serve until the appointment of a successor. In the case of any vacancy on the Bureau, for whatever reason, such vacancy shall be filled by the Governor, upon written recommendation of the Secretary of Housing.

The Chairman of the Bureau shall direct the Bureau's operations and shall perform such other duties as the Secretary may direct.

The duties and responsibilities of the Bureau as more particularly set forth in this subchapter shall be at all times exer-

cised under and subject to the supervision and direction of the Secretary. The Secretary may assign to employment in the Bureau such secretarial, clerical and other assistants in the Department as the internal operation of the Bureau shall require, and for such purposes as he shall consider necessary.

§ 4016. Meetings; quorum; by-laws

The Bureau shall meet at least once each month at the call of the Secretary or the Assistant Secretary in the Secretary's absence and more often if necessary, and three members shall constitute a quorum for the transaction of business. The Bureau may adopt such by-laws as may be necessary to govern their proceedings.

§ 4017. Compensation and expenses of members

No member other than the Assistant Secretary shall receive any compensation whether in the form of salary, per diem allowances or otherwise, for or in connection with his services as a member of the Bureau. Each member shall, however, be entitled to reimbursements, to the extent of appropriations or other funds available therefor, for any necessary expenditures in connection with the performance of his duties.

§ 4018. Employees and expenses

The Secretary may assign to the Bureau such assistants or employees and authorize them to make such reasonable expenses as may be necessary to carry out the provisions of this chapter.

§ 4019. Powers and duties of bureau

The Bureau may with the approval of the Secretary:

- (1) Study housing conditions and needs throughout the State to determine in what areas congested and unsanitary housing conditions constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the State;
- (2) Prepare programs for correcting such conditions;
- (3) Collect and distribute information relating to housing;
- (4) Investigate all matters affecting the cost of construction or production of dwellings;

(5) Study and cooperate with other State regional and local agencies in the study of means of lowering rents of dwellings, including recurring economy in the construction and arrangement of buildings; providing of social services and homemaking programs, methods of repair, securing low-interest financing, use of modern development approaches, and tenant participation in the operation of housing;

(6) Cooperate with local housing officials and planning commissions or similar bodies in cities and other localities in the development of projects, which may be at any time under consideration;

(7) Encourage community organizations to assist in initiating housing projects for low income or moderate income persons, urban and rural rehabilitation, redevelopment, and slum clearance projects as provided in Chapters 43 and 45, and to encourage and study means for making homeownership available to low and moderate income families;

(8) Encourage research in demonstration projects to develop new and better techniques and methods for increasing the supply of housing for low income or moderate income persons or families;

(9) Undertake and carry out studies and analyses of housing needs within the state and ways of meeting such needs including compilation of data with respect to population and family groups and the distribution thereof according to income groups, the amount and quality of available housing and its distribution to rentals and sales prices, employment, wages and other factors affecting housing needs and the Bureau thereof; and make the results of such studies and analyses available to the public and the housing and supply industries; and engage in research and disseminate information on housing;

(10) Survey and investigate the housing conditions and needs, both urban and rural, throughout the State and make recommendations to the Secretary as to legislation allocation of assistance under Subchapter V herein and other measures necessary or advisable to alleviate any existing or projected housing shortage in the state for his recommendation to the Governor and the Legislature;

(11) Cooperate with the State Housing Authority in the development and implementation of housing projects including recommendations as to housing needs, assistance of staff personnel, and providing material and information on housing needs and requirements in Delaware;

(12) Assist communities to develop and carry out workable programs for community improvements.

§ 4020. Investigative powers; power to compel assistance of witnesses and production of books

(a) The Bureau may investigate the affairs of housing authorities and all urban renewal and rehabilitation activities by municipal, county and regional agencies and authorities, and the dealings, transactions, or relationships of such authorities with other persons. The Bureau may act through a committee of its members in conducting any of the investigations provided for in this chapter and the chairman of any such committee shall have all the powers of the Bureau. Each member of the Bureau may administer oaths, take affidavits and make personal inspections of all places to which their duties relate. The Bureau may subpoena and require the attendance of witnesses and the production of books and papers pertaining to the investigations and inquiries authorized in this chapter and examine them in relation to any matter it has power to investigate, and issue commissions for the examination of witnesses who are out of the State or unable to attend before the Bureau are excused from attendance.

(b) The Bureau may hold hearings at such places and at such times as shall be determined by the Bureau to hear complaints on housing by any aggrieved person as contemplated by this Chapter. The procedure outlined in subsection (a) shall apply to such hearings. Written reports shall be rendered in all cases to the Secretary within 10 days after such hearing. Notice of complaint by any aggrieved person shall be in writing stating the nature thereof and may be made to any member of the Bureau.

(c) Upon the failure of any person to comply with a subpoena duly issued by the Bureau, the Bureau may seek an order from the Superior Court of the County in which the person sub-

poenaed resides, has a place of business or can be found to show cause why that person should not be held in contempt for failure to comply with the subpoena.

§ 4021. State Housing Code

(a) The Bureau shall recommend to the Secretary for his recommendation to the General Assembly pursuant to §4007.(2), after notice and public hearings, a statewide housing code to fully implement the policies and activities in the field of housing as contemplated by this chapter. The code shall contain such rules and regulations as may be necessary to establish and develop workable programs for community improvements whenever and wherever they are needed to qualify for Federal assistance.

(b) The administrative procedures relative to the times, places, and extent of said hearings shall be within the province of the Bureau.

(c) Such State Housing Code shall be drafted to have effect in all areas of the State of Delaware where either a housing code does not exist or does not comply with the standards and provisions of the State Housing Code and such other codes, rules and regulations to establish and develop workable programs for community improvements whenever and wherever they are needed to qualify for Federal assistance. It shall also provide that whenever a municipal or county housing code or regulation exists, the Bureau shall determine (1) its effectiveness, (2) its compliance with the State Housing Code. Such a determination shall create a presumption of compliance in any judicial or administrative proceeding.

§ 4022. Enforcement of State Housing Code; establishment of office of Housing Code Enforcement

(a) There is established, within the Department an Office of Housing Code enforcement to function directly under the supervision of the Secretary to carry out and enforce the provisions of the State Housing Code.

(b) The office shall be staffed with necessary personnel, including inspectors, as may be determined by the Bureau.

SUBCHAPTER V. STATE FINANCIAL ASSISTANCE**§ 4030. Financial assistance for preparation of community action plans**

(a) Any community may prepare a community development action plan which shall, to the extent feasible and appropriate, include the elements of a workable program for community improvement which shall include but not be limited to an official plan of action, as it exists from time to time, for effectively dealing with the problem of urban slums and blight within the community and for the establishment and preservation of a well planned community with well-organized residential neighborhoods of decent homes and suitable living environment for adequate family life, for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of slums and urban blight, to encourage needed urban rehabilitation, to provide for redevelopment of blighted, deteriorated, or slum areas, or to undertake such of the aforesaid activities or other feasible community activities as may be suitably employed to achieve the objectives of such a program.

A community development action plan shall be submitted to the regional or local planning agency, if any exists, for the planning area in which a community preparing such plan is situated. Said regional or local planning agency shall render an advisory opinion on such plan within sixty days of the referral of such plan and shall provide written copies of such opinion to the referring community and the Secretary. A community shall submit its community development action plan to the Secretary for approval.

(b) In order to receive State financial assistance under any provision of this Subchapter a community shall prepare a program for the preparation of a community development action plan. Such program shall include, among other things, (1) a general description of the physical, economic and human resource characteristics of the community, including the known physical economic and human resource, problems and needs of the community and identifying potential physical, economic and human resource needs and programs; (2) a schedule of work to be undertaken to assure the timely preparation of the community development action plan within the initial two-year period; (3) a

poenaed resides, has a place of business or can be found to show cause why that person should not be held in contempt for failure to comply with the subpoena.

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(a) The Bureau shall recommend to the Secretary for his recommendation to the General Assembly pursuant to §4007.(2), after notice and public hearings, a statewide housing code to fully implement the policies and activities in the field of housing as contemplated by this chapter. The code shall contain such rules and regulations as may be necessary to establish and develop workable programs for community improvements whenever and wherever they are needed to qualify for Federal assistance.

(b) The administrative procedures relative to the times, places, and extent of said hearings shall be within the province of the Bureau.

(c) Such State Housing Code shall be drafted to have effect in all areas of the State of Delaware where either a housing code does not exist or does not comply with the standards and provisions of the State Housing Code and such other codes, rules and regulations to establish and develop workable programs for community improvements whenever and wherever they are needed to qualify for Federal assistance. It shall also provide that whenever a municipal or county housing code or regulation exists, the Bureau shall determine (1) its effectiveness, (2) its compliance with the State Housing Code. Such a determination shall create a presumption of compliance in any judicial or administrative proceeding.

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(b) In order to receive State financial assistance under any provision of this Subchapter a community shall prepare a program for the preparation of a community development action plan. Such program shall include, among other things, (1) a general description of the physical, economic and human resource characteristics of the community, including the known physical economic and human resource, problems and needs of the community and identifying potential physical, economic and human resource needs and programs; (2) a schedule of work to be undertaken to assure the timely preparation of the community development action plan within the initial two-year period; (3) a

description of the means by which such community proposes to complete the community development action plan, including, but not limited to, the name of the official, board, commission, or agency designated to undertake the completion of the community development action plan and the names of independent contractors, if any, who have been or may be engaged to assist it in such preparation, or a request to the Secretary for such assistance, and shall contain a commitment to comply with the requirements of Section 6 of this Act. Such program shall be approved, and the undertaking of the community development action plan authorized, by the governing body of the community prior to the submission of the program to the Secretary for his approval. Progress reports on the preparation of the community development action plan shall be submitted to the Secretary at intervals of not less than six months commencing from the date of approval of the first application for state assistance under this act. The community development action plan shall be submitted to the Secretary for his approval within twenty-four months after the date of approval of such first application. If such community development action plan is not submitted to the Secretary and approved by the Secretary within twenty-four months after the date of approval of such first application, or the community does not show progress in the preparation of such community development action plan satisfactory to the Secretary within twelve months after such date, the State shall thereafter make no further payments of financial assistance or advances-in-aid of any program, project or activities in such community pursuant to the provisions of this act until such progress is shown or such plan is prepared by the community and approved by the Secretary; provided that the Secretary may grant a community an extension of time for preparing and securing his approval of such plan when the Secretary determines such extension to be in the best interest of the State and of the people of such community.

§ 4031. Financial assistance for redevelopment and urban renewal projects

(a) The State, acting by and in the discretion of the Secretary may enter into a contract with a community acting by its redevelopment agency, for state financial assistance for a redevelopment or urban renewal project under Chapter 45 of Title 31, Delaware Code, as amended, in any redevelopment or urban

renewal area in such community as defined in said chapter 45; provided such project shall have been approved for surveys and plans by the federal Department of Housing and Urban Development under the Federal Housing Act of 1949, as amended. Such contract shall provide for financial assistance by the State equal to one-half of the amount by which the net cost of the project, as determined by the Secretary, exceeds the federal grant-in-aid thereof.

§ 4032. Financial assistance for demolition of unsafe structures and urban beautification

(a) The State, acting by and in the discretion of the Secretary, may enter into a contract with a community for State financial assistance for the demolition of unsafe structures which under State or local law have been determined to be structurally unsound or unfit for human habitation and which such community has authority to demolish. Such contract shall provide State financial assistance equal to (1) two-thirds of the net cost of the demolition as approved by the Secretary of (2) where the demolition is financed under the Federal Housing Act of 1949, as amended, one-half of the amount by which the net cost of the demolition, as approved by the Secretary exceeds the federal grant-in-aid thereof.

(b) The State, acting by and in the discretion of the Secretary may enter into a contract with a community for State financial assistance for programs of urban beautification; provided such programs shall have been approved by the federal Department of Housing and Urban Development under the Federal Housing and Urban Development Act of 1965, as amended. Such contract shall provide for state financial assistance in the form of a state financial assistance equal to one-half of the amount by which the net cost of the program as approved by the Secretary exceeds the federal grant in aid thereof.

§ 4033. Financial assistance for development of neighborhood facilities and community services

The State, acting by and in the discretion of the Secretary may enter into a contract with a community for State financial assistance in developing neighborhood facilities for carrying out

programs of health, recreational, social or similar community services; provided such project will have been approved by the federal Department of Housing and Urban Development under the Federal Housing and Urban Development Act of 1965, as amended. Such contract shall provide for State financial assistance equal to one-half of the amount by which the net cost of the project as approved by the Secretary exceeds the federal grant-in-aid thereof.

§ 4034. Non-profit housing development corporation

A non-profit housing development corporation may qualify for assistance under section 4035 of this subchapter provided; (1) it shall be organized for purposes other than to make a profit or gain for itself and shall not be controlled or directed by persons or firms seeking to derive profit or gain therefrom; (2) it shall provide housing as defined in this section.

As used in this section, the term "housing" means housing acquired, or constructed, or rehabilitated and (1) leased under section 221 (D3) of the Federal Housing Act of 1961, as amended, to families and individuals eligible for rent supplements under the Federal Housing and Urban Development Act of 1965, as amended; or (2) sold under section 221 (h) of the Federal Housing Act of 1961, as amended; or (3) sold or leased to or under a contract with a housing authority under the provisions of the Federal Housing Act of 1937 as amended; or (4) sold or leased under any provisions of any statute of the United States or this State which restricts ownership or occupancy to families or individuals whose incomes do not exceed limits prescribed by such statute or by regulatory agreement.

§ 4035. Financial assistance to community housing development corporation

The State, acting by and in the discretion of the Secretary may enter into a contract with a non-profit housing development corporation for State financial assistance in the form of a state financial assistance equal to the cost of the non-profit housing development corporation, as approved by the Secretary, of developing low income housing under section 4034 of this subchapter but limited to the following expenses: (1) appraisals, title searches, legal fees, option agreements, architectural, engi-

neering and consultants' fees, financing fees, closing costs and such other expenses as may be financed by a mortgage loan under any federal or state housing statute incurred by a non-profit housing development corporation prior to the disbursement of mortgage loan funds on account of such property; provided, to the extent such expenses are recovered by the non-profit housing development corporation from the mortgage loan, such expenses shall be repaid to the State; (2) the costs of land in excess of the appraised value; (3) the administrative and overhead costs of such corporation; (4) the costs of an information program in connection with such housing; (5) the costs of a social services program in connection with the low income housing program; and (6) such other reasonable costs related to the development of such housing as may be approved by the Secretary.

§ 4036: Financial assistance for social and supplementary services

Any housing authority or non-profit housing corporation may prepare and submit to the Secretary for approval a program of social and supplementary services and project rehabilitation and improvement for any or all housing projects within the jurisdiction of such housing authority or corporation. Such program shall include the estimated costs of the services, rehabilitation and improvement and the method and staff required to carry out such program. After approval of such program by the Secretary, the State acting by and in the discretion of the Secretary may enter into a contract with the housing authority or non-profit housing corporation conditioned upon the housing authority, non-profit housing or corporations performing the program approved. Such contract shall provide for State financial assistance equal to one-half the cost of such program.

§ 4037. Financial assistance for relocation

The State, acting by and in the discretion of the Secretary, may enter into a contract with a community for State financial assistance equal to the cost of relocating individuals, families, business concerns and farms displaced by governmental action who have been reimbursed for moving costs in a condemnation proceeding and who are not otherwise reimbursed or entitled to reimbursements by the federal government or the State. Such

contract shall provide for financial assistance by the State equal to the cost of relocation as determined by the Secretary. Whenever used in this section "governmental action" means any action by any agency, board, commission or department of the State or any community or any public authority which causes the displacement of any individual family, business concern or firm; "business concern" means a corporation, partnership, individual, or other private entity, concern, corporate or otherwise, including a non-profit organization engaged in some type of business, professional or institutional activity necessitating fixtures, equipment, stock in trade or other tangible property for the carrying on of the business, profession or institution; "farm" means a parcel of land or parcels of land operated as a single unit, which is used for production of one or more agricultural commodities for sale and home use and which customarily produces or is capable of producing such commodities in sufficient quantity to contribute materially to the operator's support, including the operation of stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, ranges and greenhouses or other similar structures used primarily for raising agricultural or horticultural commodities; "moving expenses" means the cost of dismantling, disconnecting, crating, loading, insuring, temporary storing, transporting, unloading, reinstalling and reconnecting of personal property, exclusive of the cost of any additions, improvements, alterations or other physical changes in or to any structure in connection with affecting such reassembly, reconnection or reinstallation. The amount of relocation assistance paid in accordance with the provisions of this section shall not exceed two hundred and fifty dollars for any individual or family or twenty-five thousand dollars for any business concern or farm. The chief executive officer of the community shall administer the relocation assistance as authorized herein to all persons, families, business concerns or farms displaced by governmental action in such community and may authorize any municipal agency, board, commission or department to prepare a relocation plan for individuals, families, business concerns and farms to be displaced by the proposed governmental action, and to file such plan with the Secretary. Upon approval of the plan by the Secretary, the community shall be authorized to expend such funds as may be necessary to accomplish the purposes of this section. The Secretary shall make payment to such commu-

nity for the purpose of defraying the reasonable cost of preparing and carrying out the provisions of this section, in an amount equal to the actual cost incurred by such community for relocation assistance and local cost of administration, provided the amount of such payment for other than administrative costs shall not exceed two hundred and fifty dollars for any individual or family or twenty-five thousand dollars for any business concern or farm. The Secretary shall review the scope and adequacy of all relocation assistance offered in Delaware by any public body, for any individual, family, business concern or farm displaced by governmental action where such displacement and relocation is not reviewed by a federal agency or another State agency, to assure that adequate relocation assistance is available to all individuals, families, business concerns and farms displaced by governmental action in the State, including assistance from public and private social service agencies for displaced families and individuals suffering from problems of deprivation and poverty. No payment for moving expenses shall be made under the provisions of this section to any person, family, business concern or farm unless the Secretary is satisfied that such person, family, business concern or farm has moved to a location within the State.

§ 4038. Financial assistance for community plan for development

(a) The State, acting by and in the discretion of the Secretary may enter into a contract with a community for State financial assistance equal to two-thirds of the cost of developing or updating community plans of development. The Secretary shall assure that any planning performed by any community with State financial assistance under this section shall be adequate to meet the standards and criteria of the federal Urban Planning Assistance Program administered by the federal Department of Housing and Urban Development and such other federal planning criteria for such other federal programs as may be appropriate. No State financial assistance shall be made under this section unless federal funds for the purposes described herein are not available, as determined by the Secretary, at the time of application for such State financial assistance; provided, if federal funds subsequently become available for the same purpose for which State financial assistance had been granted, the community shall repay the Secretary from such federal funds an amount

equal to such State financial assistance, if, under federal law, such federal funds may be so used, or the Secretary may apply to the United States for and accept such funds as reimbursement for such State financial assistance.

(b) The Secretary may in his discretion make advances of funds to communities for up to eighty per cent of the costs, as approved by the Secretary of surveys and planning in preparation of any project, program or activity for which State financial assistance is provided under this act, and the contracts for such advances of funds shall require that such advances shall be repaid to the State if the community receives funds for the purposes of this subsection from a source other than the State.

(c) The State, acting by and in the discretion of the Secretary may enter into a contract with a community to pay eighty percent of the costs, approved by the Secretary for preparation, review or revision of community development action plan as described in subsection (a) of section 4030 of this subchapter.

(d) The State, acting by and in the discretion of the Secretary, may enter into a contract with a housing authority or two or more housing authorities acting jointly for technical assistance and financial assistance in the form of a State grant-in-aid not to exceed two-thirds of the cost of conducting housing surveys and research as approved by the Secretary and as authorized in chapter 43, Title 31, Delaware Code.

SUBCHAPTER VI. ESTABLISHMENT OF STATE HOUSING AUTHORITY

§ 4050. Composition; appointment; term, vacancy

There is hereby created in the Department of Housing a Public Corporation of perpetual duration to be called the "Delaware State Housing Authority." The provisions of Chapter 43 of Title 31, Delaware Code, shall apply to the State Authority and to its projects as fully as such provisions apply to a housing authority created by section 4303 of that Chapter and to its housing projects; provided, however, that the State Authority shall not be subject to sections 4303, 4305, 4306, 4314, 4317, 4318 of Title 31, Delaware Code.

The State Authority shall exercise all its powers and functions by and through the Secretary.

The Secretary may assign to employment within the Authority such employees as deemed necessary to carry out its assigned duties and functions.

§ 4051. Authority to contract for labor or materials

The State Authority shall contract for labor or materials (except labor or materials used in the maintenance or operation of projects) pursuant to the manner prescribed in Chapter 69, Title 29, for Departments and other agencies of the State Government.

§ 4052. Seal of The State Housing Authority

The State Authority shall have a corporate seal in the form of a circle bearing the arms of the State in the center and the name of the Authority in the border. All deeds, contracts or other obligations, certificates, or other instruments executed, including bonds which are provided for in Section 4055, made or issued on behalf of the Authority, shall bear the signature of the Secretary and have impressed, or imprinted thereupon, the seal of the Authority, or facsimile thereof, and when so appearing shall be conclusively presumed in any judicial action or proceeding the valid act and deed of the authority. The presumption set forth in this provision shall also apply to all bonds executed pursuant to the provisions of section 4054 of this sub-chapter.

§ 4053. Powers of the State authority

The State Authority, in addition to its other powers, shall have power, notwithstanding anything to the contrary contained in this chapter or in any other provision of law:

(a) To exercise any or all of the powers conferred upon it, either generally or with respect to any specific housing project or projects, through or by an agent or agents which it may designate including any corporation or corporations which are or shall be formed under the laws of this State, and for such purposes the authority may cause one or more corporations to be incorporated under the laws of this State or may acquire the capital stock of any corporation or corporations. Any corporate agent, all of

the stock of which shall be owned by the State Authority or its nominee or nominees, may to the extent permitted by law exercise any of the powers conferred upon the State Authority herein, conferred upon it by the State Authority as agent.

(b) To fund the operation of any agents it may designate or any authority by advancing moneys appropriated pursuant to section 4067 of this subchapter.

(c) To make first mortgage loans without interest on such terms and conditions as may be determined by the Secretary of Housing, for the construction, financing, refinancing or rehabilitation of housing for low and moderate income persons and families;

(d) To insure mortgage loans to finance the building or rehabilitation of housing designed and planned to be available at low and moderate rentals for sale at low and moderate income persons and families;

(e) To build or rehabilitate housing designed and planned to be sold at low and moderate prices to low and moderate income persons and families.

§ 4054. Bonds

(a) The State Authority may with the approval of the Issuing Officer issues bonds (including refunding bonds for the purpose of paying or retiring bonds previously issued by the authority) from time to time in such amounts as it may deem advisable for any of its corporate purposes. The authority may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable; (a) exclusively from the income and revenues of any undertaking financed in whole or in part with the proceeds of such bonds; or (b) exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally or (d) grants, subsidies or other payments from the Federal Government. Any of such bonds may be additionally secured by a pledge of any revenues or a mortgage of any housing project, projects or other property of the State Authority or any of its agents or designees;

(b) Neither the Issuing Officers nor any person executing the bonds shall be liable personally on the bonds.

§ 4055. Forms and terms of bonds; disposition of proceeds

(a) All bonds issued under the authority of this sub-chapter shall be dated, shall bear interest at such rate or rates, not exceeding the allowable maximum interest established by Section 2301 of Title 6, Delaware Code, as amended, payable semi-annually, shall mature at such time or times and may be made redeemable before maturity at such times and at such price or prices and under such terms and conditions as may be fixed by the Issuing Officers prior to the issuance of the bonds. The principal of and the interest upon such bonds may be made payable in any lawful medium. The Issuing Officers shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denominations of the bonds. Both principal of and interest on the bonds shall be payable at the Farmers Bank of the State of Delaware, at Dover, or at such alternate places as the aforesaid Farmers Bank may designate;

(b) Bonds shall be signed by manual or facsimile signature of the Secretary and the seal of the State Authority or a facsimile thereof shall be affixed thereto or imprinted thereon and said seal shall be attested by the manual or facsimile signature of the Assistant Secretary. Any coupons attached thereto shall bear the facsimile signature of the Secretary. In case any person whose signature or facsimile thereof shall appear on any bonds or coupons shall cease to be the Secretary before the delivery of such bonds, such signature or facsimile shall, nevertheless, be valid for all purposes, the same as if he had remained in office until delivery;

(c) All bonds issued under the provisions of this sub-chapter shall have, and are declared to have, all the qualities and incidents of negotiable instruments under the Uniform Commercial Code;

(d) Such bonds and the income therefrom shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or authority thereof;

(e) The bonds may be issued in coupon or registered form, or both, as the Issuing Officers may determine, and provision may be made for the registration of any coupon bond as to prin-

principal alone or as to both principal and interest, and for the re-conversion of any bonds registered both as to principal and interest into coupon bonds;

(f) The Issuing Officers may sell such bonds either at public or private sale in such manner and for such price as they may determine to be for the best interest of State Authority but no such sale may be at a price so low as to require the payment of interest on money received therefor at more than the allowable maximum interest established by Section 2301 of Title 6, Delaware Code as amended, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values;

(g) The proceeds of such bonds, exclusive of accrued interest, shall be used solely for the purposes specified in the resolution of the State Authority authorizing the issuance thereof, or as set forth in the indenture securing their payment, which purposes may include redemption premiums, interest on bonds to be refunded to the redemption date or date of maturity thereof and all legal and other expenses of their issuance, and shall be disbursed under such restrictions, if any, as said resolution or trust indenture may provide;

(h) The proceeds of such bonds shall at no time revert to the General Fund of the State Treasury but shall at all times be available to the State Authority for the aforesaid purposes; provided, however, that if the proceeds of the bonds of any issue shall exceed the amount required for the purpose or purposes for which such bonds are authorized to be issued, the surplus may be used for any purpose of the State Authority authorized in this sub-chapter or for the payment of the principal of or interest on its outstanding bonds;

(i) Prior to the preparation of definitive bonds the Issuing Officers may issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The issuing officers may also provide for the replacement of any bond which shall become mutilated or be destroyed or lost. Such bonds may be issued without any other proceedings, conditions and things which are specified and required by this sub-chapter.

§ 4056. Bonds as legal investments for institutions and fiduciaries; and as legal deposit

The Bonds issued under the authority of this sub-chapter are hereby declared to be securities in which all State and municipal officers and administrative departments, boards and commissions of the State, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, and all other persons whatsoever who now or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any funds, including capital belonging to them or within their control; and such bonds are hereby declared securities which may properly and legally be deposited with and received by any State, County or municipal officer or agency of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

§ 4057. Credit of state not pledged

Bonds issued under the provisions of this sub-chapter shall be payable exclusively from the revenues and other funds of the State Authority and shall contain the following statement on their face: The State of Delaware is not obligated to pay the principal of this bond nor the interest thereon; nor are the faith and credit of the State pledged to the payment of the principal of, or interest on this bond. The issuance of bonds under the provisions of the sub-chapter shall not directly or indirectly or contingently obligate the State to levy or pledge any form of taxation whatever therefor or to make any appropriation for their payment and the bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

§ 4058. Provisions of bonds and mortgages

In connection with the issuance of bonds or the incurring of any obligation under a lease, and to secure the payment of

such bonds or obligations, the State authority in addition to its other powers may:

(1) Pledge all or any part of its rents, fees or revenues to which its right then exists or may thereafter come into existence;

(2) Mortgage all or any part of its property, real or personal, then owned or thereafter acquired, including any of the public domain owned or acquired by it;

(3) Covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired or against permitting or suffering any lien thereon;

(4) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof;

(5) Covenant against pledging all or any part of its rents, fees, and revenues to which its right then exists or may thereafter come into existence, or against permitting or suffering any lien thereon;

(6) Covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

(7) Covenant as to what other, or additional debts may be incurred by it;

(8) Covenant that the State authority warrants the title to the premises;

(9) Covenant as to the rents and fees to be charged, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof;

(10) Covenant as to the use of any or all of its property, real or personal;

(11) Create or authorize the creation of special funds segregating the proceeds of any loans or grants, the revenues of any project or projects, reserves for principal and interest on its bonds and for operating contingencies, and other reserves; and covenant as to the use and disposal of the moneys held in such funds;

(12) Redeem the bonds, and covenant for their redemption, and provide the terms and conditions thereof;

(13) Covenant against extending the time for the payment of its bonds or interest thereon;

(14) Prescribe the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(15) Covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;

(16) Vest in an obligee, in the event of a default by the State authority, the right to cure any such default and to advance any moneys necessary for such purpose, and covenant that the moneys so advanced be an additional obligation of such authority with such interest, security and priority as may be provided in any mortgage, lease or contract;

(17) Covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;

(18) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation;

(19) Covenant to surrender possession of a project or projects or parts thereof upon the happening of an event of default; and vest in an obligee the right, upon such default and without judicial proceedings, to take possession and use, operate, manage and control such projects or any parts thereof, and to collect and receive rents, fees and revenues arising therefrom in the same manner as such authority itself might do, and to dispose of the moneys collected in accordance with the agreement of such obligee with the authority;

(20) Vest in a trustee or trustees the right to enforce any covenant to secure, or pay the bonds, or otherwise relating to such bonds; provide for the powers and duties of such trustee

or trustees, limit the liabilities thereof, and provide the terms and conditions upon which the trustee or trustees, or the holders of bonds, or any proportion of them may enforce any such covenant;

(21) Vest in a government or in a trustee the right, upon the happening of an event of default, to foreclose the mortgage securing any bonds held by such government, through judicial proceedings or through the exercise of a power of sale without judicial proceedings;

(22) Vest in other obligees the right, upon the happening of an event of default, to foreclose any mortgage through judicial proceedings;

(23) Vest in any obligee, the right to foreclose any such mortgage as to all or such part or parts of the property covered thereby as such obligee shall elect; the institution, prosecution and conclusion of any such foreclosure proceedings or the sale of any such parts of the mortgaged property shall not affect in any manner or to any extent the lien of the mortgage on the parts of the mortgaged property not included in such proceedings or not sold as aforesaid;

(24) Make covenants other than, and in addition to, the covenants herein expressly authorized, of like or different character and execute all instruments necessary or convenient in the exercise of the powers herein granted, or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as the government or any purchaser of the bonds of the State Authority may require;

(25) Make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the State Authority tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein.

§ 4059. Trust indenture

(a) In the discretion of the Issuing Officers each and any issue of such bonds may be secured by a trust indenture by and

between the Issuing Officers and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State;

(b) Such trust indenture may pledge or assign the revenues of the State Authority but shall not create a security interest in or convey or mortgage any real property owned, operated or maintained by the State Authority. Either the resolution providing the issuance of the bonds or such trust indenture may contain such provisions specifying, defining, protecting and enforcing the rights and not in violation of law, include covenants setting forth the duties of the State Authorities in relation to the acquisition, construction, improvement maintenance, operation, repair and insurance of any facilities or additions thereto, and the custody, safeguarding and application of all moneys;

(c) It shall be lawful for any bank or trust company incorporated under the laws of this State to act as such depository and to furnish such indentifying bonds or to pledge such securities as may be required by the State Authority. Such indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporation;

(d) In addition to the foregoing, such trust indenture may contain such other provisions as Issuing Officers may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of any facility to which such indenture is related or may be paid out of the revenues of the State Authority.

§ 4060. Remedies of bondholders and trustees

(a) Any holder of bonds issued under the provisions of this sub-chapter or any of the coupons attached thereto, and the trustee under the trust indenture, if any, except to the extent the rights given by this sub-chapter may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may either at law or in equity by suit, action, mandamus, or other proceedings protect and enforce any and all rights under the laws of the United States or of the State of Delaware or

granted under this sub-chapter or under such resolution or trust indenture, and may enforce and compel performance of all duties required by this subchapter, or by such resolution or trust indenture, to be performed by the State Authority or any officer thereof, including the fixing, charging and collecting of fares or charges for the use of any facility operated by the State Authority;

(b) Such resolution or trust indenture may contain provisions under which any holder of such bonds or the trustee under such trust indenture shall be entitled to the appointment of a receiver in the event of a default, and any receiver so appointed shall have and be entitled to exercise all the rights and powers of the State Authority with respect to the facilities operated or maintained by the State Authorities and all of the appropriate rights and powers of a receiver in equity.

§ 4061. Moneys as trust funds

All moneys received pursuant to the authority of this subchapter, whether as proceeds from the sale of bonds, or grants or other contributions from any person corporate or otherwise or government or as fares and revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this subchapter. The Issuing Officers shall, in the resolution authorizing the issuance of bonds or in the trust indenture, provide for the payment of the proceeds of the sale of the bonds and the fares and revenues to be received, to any officer, agency, bank or trust company who shall act as trustee of such funds, and shall hold and apply the same to the purposes of this sub-chapter, subject to such regulations as this sub-chapter and such resolution or trust indenture may provide.

§ 4062. Subordination of mortgage to agreement with government

The State Authority may agree in any mortgage made by it that such mortgage shall be subordinate to a contract for the supervision by a government of the operation and maintenance of the mortgaged property and the construction of improvements thereon. In such event, any purchase or purchasers at a sale of the property of the State Authority pursuant to a foreclosure of such mortgage or any other remedy in connection therewith shall obtain title subject to such contract.

§ 4063. Powers with respect to rural housing

In undertaking the provision of housing for individuals and families of low and moderate income in rural areas the State authority may comply with any conditions not inconsistent with the purposes of this chapter required by the federal government pursuant to federal law in any contract for financial assistance with the State authority concerning such undertakings.

§ 4064. Make payments to public bodies

The State Authority may agree to make such payments to the State, or any political subdivisions thereof (which payments such bodies are hereby authorized to accept) as the State Authority finds consistent with the maintenance of the low and moderate rent character of housing projects or the achievement of the purposes of this sub-chapter.

§ 4065. Advisory services

The State Authority is authorized to provide to non-profit housing corporations and consumer housing cooperatives, such educational services as will assist them to become owners of housing projects, in accordance with the provisions of this act. Advisory and educational services may include but are not necessarily limited, consultation services, training courses, seminars and lectures, and preparation and dissemination of newsletters and other printed materials and the services of field representatives. The State Authority is also authorized to provide non-profit housing companies and consumer housing companies with advisory, consultative, technical, training and educational services in the management and training and advisory services for the residents of the housing projects so as to promote efficient and harmonious management of the housing projects so as to promote efficient and harmonious management of the housing projects; to make available technical and financial assistance and advisory services to any municipal, county or regional planning, zoning or redevelopment agency or commission, housing authority, or other appropriate agency for surveys, land use studies, municipal plans of development, urban renewal plans, housing plans, housing cite development plans, human resource development programs, community development action plans, and for other functions pertinent to municipal planning, zoning,

redevelopment, urban renewal, the provision of adequate housing human resource development, industrial and commercial development, municipal public improvement programs and other rural, urban and municipal problems. Such financial assistance shall be rendered upon such contractual arrangements as may be agreed upon by the Secretary and any such agency, authority or commission in accordance with their respective needs.

§ 4066. Assistance to nonprofit sponsors of low and moderate income housing

(a) The State Housing Authority is authorized to provide or contract with public or private organizations to provide, information, advice, and technical assistance with respect to the construction, rehabilitation, and operation by non-profit organizations of housing for low or moderate income families. Assistance by the Secretary may include—

(1) the assembly, correlation, publication, and dissemination of information with respect to the construction, rehabilitation, and operation of low and moderate income housing, and

(2) Providing advice and technical assistance with respect to the construction, rehabilitation, and operation of low and moderate income housing.

(b) (1) The Secretary is authorized to make loans not to exceed a total amount at any time outstanding and not repaid of \$1,000,000 appropriated by section 467 of Title 31, Delaware Code, to nonprofit organizations for the necessary expenses, prior to construction, in planning, and obtaining financing for, the rehabilitation or construction of housing for low or moderate income families under any federally assisted program. Such loans shall be made without interest and shall not exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for such housing prior to the availability of financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. The Secretary shall require repayment of loans made under this subsection, under such terms and conditions as he may require, upon completion of the project or sooner, and may cancel any part or all of a loan as he may determine cannot be recovered from the

proceeds of any permanent loan made to finance the rehabilitation or construction of the housing.

(2) The Secretary shall determine prior to the making of any loan that the nonprofit organization meets such requirements and respect to financial responsibility and stability as he may prescribe.

§ 4067. Establishment of a housing development fund

There is hereby authorized to be appropriated from the Capital Investment Fund for the purposes of this subsection \$5,000,000.00. All funds appropriated shall be deposited in a fund which shall be known as the "Housing Development Fund," which shall be administered by the Secretary, except as permitted by Section 4066 of this sub-chapter, as a revolving fund for carrying out the purposes of this subchapter. Sums received in repayment of loans made under this subsection shall be deposited in such fund.

Section 5. All rights, privileges and immunities vested or accrued by and under any laws enacted prior to the adoption or amendments of this Act, all suits pending, all rights of action conferred, and all duties, restrictions, liabilities and penalties imposed or required by and under laws enacted prior to the adoption or amendment of this Act, shall not be impaired, diminished or affected by this Act.

Section 6. The purpose of this act is to make available to all the citizens of this State decent and adequate housing without regard to the age, race, creed, color or national origin of any person.

The Department, The State Housing Authority, or any recipient of assistance under this Chapter, in determining the location or types of housing, accommodations, facilities, services, financial aid, or other benefits which will be provided, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their age, race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity as respect persons of a particular age, race, color or national origin.

The Secretary shall include in all contracts other than bonds entered into pursuant to the provisions of this Chapter, the following provisions:

"During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of age, race, creed, color, or national origin. The contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment, without regard to their age, race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including an apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary setting forth the provisions of this non-discrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color or national origin.

(3) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract, this contract may be cancelled, terminated or suspended in whole or in part by the Secretary.

Section 7. The sum of \$100,000 is appropriated to the Department of Housing established herein for the fiscal year ending June 30, 1968, for the operation of the Department.

Section 8. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 9. The members of the State Board of Housing serving at the time this act becomes law shall continue to serve

out the term for which they were originally appointed as additional members *pro tempore* of the State Bureau of Housing.

Section 10. If any provision of this act or of any rule, regulation or order thereunder or the application of such provision to any person or circumstance shall be held invalid, the remainder of this act and the application of such provision of this act or of such rule, regulation or order to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 11. Any money appropriated herein and unexpended shall not revert to the General Fund of the State of Delaware until June 30, 1969.

Section 12. The first definition covering "Area of Operation" in Section 4501 of Title 31, Delaware Code, is hereby repealed, and the following definition is substituted therefor:

"Area of operation" means in the case of a municipality, the area within such municipality and in the case of a county, the area within the county except that the area of operation in such case shall not include any area which lies within the territorial boundaries of a municipality unless a resolution shall have been adopted by the governing body of such municipality declaring a need therefor; and in the case of a regional authority, shall mean the area within the communities for which such regional authority is created; provided, however, that a regional authority shall not undertake a redevelopment project within the territorial boundaries of any municipality or county unless a resolution shall have been adopted by the governing body of such municipality or county declaring that there is a need for the regional authority to undertake such redevelopment project within such municipality. No authority shall operate in any area of operation in which another Authority already established is undertaking or carrying out a redevelopment project without the consent, by resolution, of such other Authority.

Section 13. Notwithstanding any other provision of this bill or of any other prior statute, no "Authority" or "Housing Authority" shall be created or operated within the boundaries of any municipality or county without the express prior approval of the governing body of the municipality or county involved.

Approved June 3, 1968.

CHAPTER 294

**AN ACT TO AMEND § 1351, TITLE 30, DELAWARE CODE,
RELATING TO ESTATES CONSISTING ONLY OF
JOINTLY OWNED PROPERTY.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 1351 (a), title 30, Delaware Code, is amended by adding the following words on the second line after the word "except" and before the word "real" as follows:

" . . . , property qualifying for distribution without grant of letters pursuant to section 2305 of title 12, and except . . . "

Approved June 11, 1968.

CHAPTER 295

**AN ACT TO AMEND § 2305(3), TITLE 12, DELAWARE CODE,
RELATING TO DISTRIBUTION OF DECEDENT'S
PROPERTY WITHOUT GRANT OF LETTERS WHERE
ESTATE ASSETS DO NOT EXCEED \$1,500.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 2305(3), title 12, Delaware Code, is amended by adding the following words on the second line after the word "property" and before the word "does" as follows:

" . . . and not including jointly owned property,"

Approved June 11, 1968.

CHAPTER 296

AN ACT TO AMEND TITLE 13, DELAWARE CODE, ENTITLED "DOMESTIC RELATIONS" IN REGARD TO DIVORCE, REDUCING THE SEPARATION TIME FOR DESERTION AND VOLUNTARY SEPARATION. AND ADDING INCOMPATIBILITY AS A GROUND.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 1522, Title 13, paragraph (5), Delaware Code, is amended by striking "two years" and inserting in lieu thereof "one year."

Section 2. Section 1522, Title 13, paragraph (11), Delaware Code, is further amended by striking "three consecutive years" from the second line and inserting in lieu thereof "eighteen consecutive months".

Section 3. Section 1522, Title 13, Delaware Code, is further amended by adding the following new paragraph at the end thereof:

(12) When husband and wife are incompatible in that their marriage is characterized by rift or discord produced by reciprocal conflict of personalities existing for two consecutive years prior to the filing of the divorce action, and which has destroyed their relationship as husband wife and the reasonable possibility of reconciliation.

Approved June 11, 1968.

CHAPTER 297

AN ACT TO AMEND CHAPTERS 17, 43 AND 64, TITLE 9, DELAWARE CODE, PERTAINING TO PENSION BENEFITS FOR FORMER JUSTICES OF THE PEACE AND FORMER CONSTABLES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 1701, Title 9, Delaware Code, is amended by adding a new paragraph at the end thereof to read as follows:

If any employee of New Castle County shall have spent time as a Justice of the Peace or Constable prior to March 31, 1965, such time shall be deemed time spent in covered employment for the purpose of determining his right to a pension and his benefits thereunder, anything to the contrary in this Chapter otherwise notwithstanding.

Section 2. Section 4302, Title 9, Delaware Code, is amended by adding a new paragraph at the end thereof to read as follows:

If any employee of Kent County shall have spent time as a Justice of the Peace or Constable prior to March 31, 1965, such time shall be deemed time spent in covered employment for the purpose of determining his right to a pension and his benefits thereunder, anything to the contrary in this Chapter otherwise notwithstanding.

Section 3. Section 6402, Title 9, Delaware Code, is amended by adding a new paragraph at the end thereof to read as follows:

If any employee of Sussex County shall have spent time as a Justice of the Peace or Constable prior to March 31, 1965, such time shall be deemed time spent in covered employment for the purpose of determining his right to a pension and his benefits thereunder, anything to the contrary in this Chapter otherwise notwithstanding.

Approved June 11, 1968.

CHAPTER 298

AN ACT AUTHORIZING THE GOVERNOR AND THE SECRETARY OF STATE TO CONVEY TO THE COMMISSIONERS OF BETHANY BEACH CERTAIN LANDS AND INTERESTS IN LAND BELONGING TO THE STATE OF DELAWARE.

WHEREAS, a great amount of pollution exists in southeastern Sussex County, particularly in and around Bethany Beach, which is caused by the general use of septic tanks and cesspools for disposal of human and commercial waste; and

WHEREAS, this area is in great need of central sewage facilities to alleviate the existing pollution problem; and

WHEREAS, the existing pollution problem creates an acute emergency in the area of southeastern Sussex County, particularly in and around Bethany Beach; and

WHEREAS, The Commissioners of Bethany Beach, a municipal corporation of the State of Delaware, has determined that it is necessary to construct and install a sewage system including a sewage disposal plant for the citizens residing within the corporate limits of the Town of Bethany Beach and under such terms and conditions as may be in the best interest of the Town of Bethany Beach for those persons, firms or corporations whose property lies outside the corporate limits of the Town of Bethany Beach to alleviate the existing pollution problem; and

WHEREAS, the State of Delaware is the owner of a large tract of land adjoining the corporate limits of the Town of Bethany Beach which is used by the National Guard of the State of Delaware; and

WHEREAS, it is in the best interest of the State of Delaware that adequate sewage facilities, including a sewage disposal plant and necessary pipelines, be available for the National Guard camp area as well as for the citizens of the Town of Bethany Beach; and

WHEREAS, part of the tract of land now owned by the State of Delaware is not used by the National Guard of the State of Delaware.

Now, therefore, *Be it enacted by the General Assembly of the State of Delaware, (two-thirds of all Members elected to each House thereof concurring therein):*

Section 1. The Governor and the Secretary of State of the State of Delaware are hereby authorized, empowered and directed to execute and deliver, in the name of and under the Great Seal of the State of Delaware, a deed conveying to The Commissioners of Bethany Beach, a municipal corporation of the State of Delaware, its successors and assigns, the following described tract of land for use as part of its public sewage system, together with the right of ingress and egress over lands of the State of Delaware and used by the National Guard of the State of Delaware, said route to be designated by representatives of the National Guard of the State of Delaware, said tract of land to revert to the State of Delaware if, for any period of one year after the public sewage system is constructed and installed, the land ceases to be used as part of the public sewage system of The Commissioners of Bethany Beach;

ALL that certain tract, piece and parcel of land, situate, lying and being in Baltimore Hundred, Sussex County, Delaware, and being more particularly described as follows: Beginning at a point, said point being located the following two courses and distance from a concrete monument located in the western right of way of Delaware Route 14 and marking a corner of the lands of the State of Delaware used by the Delaware National Guard; South 8° 16' 40" East a distance of Four Hundred Twenty-seven and Seventy-eight one hundredths (427.78) feet and South 78° 44' 17" East a distance of One Thousand Six Hundred Three and Forty-one one hundredths (1,603.41) feet; thence from said beginning point South 4° 56' 14" East a distance of Two Hundred Twenty and Twelve one hundredths (220.12) feet; thence from said beginning point South 40° 03' 46" East One Thousand Thirty-five and Forty-three one hundredths (1,035.43) feet to a point in the northern edge of Bethany Beach Canal; thence North 73° 53' 35" West a distance of Three Hundred Sixty (360) feet to a concrete monument; thence North 75° 53' 35" West a distance of Thirty-eight (38) feet to a concrete monument; thence North 25° 59' 25" East a distance of One Hundred Sixty-six (166) feet to a concrete monument; thence North 25° 06' 25" East a distance of One Thousand Fifty-

CHAPTER 298

AN ACT AUTHORIZING THE GOVERNOR AND THE SECRETARY OF STATE TO CONVEY TO THE COMMISSIONERS OF BETHANY BEACH CERTAIN LANDS AND INTERESTS IN LAND BELONGING TO THE STATE OF DELAWARE.

WHEREAS, a great amount of pollution exists in southeastern Sussex County, particularly in and around Bethany Beach, which is caused by the general use of septic tanks and cesspools for disposal of human and commercial waste; and

WHEREAS, this area is in great need of central sewage facilities to alleviate the existing pollution problem; and

WHEREAS, the existing pollution problem creates an acute emergency in the area of southeastern Sussex County, particularly in and around Bethany Beach; and

WHEREAS, The Commissioners of Bethany Beach, a municipal corporation of the State of Delaware, has determined that it is necessary to construct and install a sewage system including a sewage disposal plant for the citizens residing within the corporate limits of the Town of Bethany Beach and under such terms and conditions as may be in the best interest of the Town of Bethany Beach for those persons, firms or corporations whose property lies outside the corporate limits of the Town of Bethany Beach to alleviate the existing pollution problem; and

WHEREAS, the State of Delaware is the owner of a large tract of land adjoining the corporate limits of the Town of Bethany Beach which is used by the National Guard of the State of Delaware; and

WHEREAS, it is in the best interest of the State of Delaware that adequate sewage facilities, including a sewage disposal plant and necessary pipelines, be available for the National Guard camp area as well as for the citizens of the Town of Bethany Beach; and

WHEREAS, part of the tract of land now owned by the State of Delaware is not used by the National Guard of the State of Delaware.

Now, therefore, *Be it enacted by the General Assembly of the State of Delaware, (two-thirds of all Members elected to each House thereof concurring therein):*

Section 1. The Governor and the Secretary of State of the State of Delaware are hereby authorized, empowered and directed to execute and deliver, in the name of and under the Great Seal of the State of Delaware, a deed conveying to The Commissioners of Bethany Beach, a municipal corporation of the State of Delaware, its successors and assigns, the following described tract of land for use as part of its public sewage system, together with the right of ingress and egress over lands of the State of Delaware and used by the National Guard of the State of Delaware, said route to be designated by representatives of the National Guard of the State of Delaware, said tract of land to revert to the State of Delaware if, for any period of one year after the public sewage system is constructed and installed, the land ceases to be used as part of the public sewage system of The Commissioners of Bethany Beach;

ALL that certain tract, piece and parcel of land, situate, lying and being in Baltimore Hundred, Sussex County, Delaware, and being more particularly described as follows: Beginning at a point, said point being located the following two courses and distance from a concrete monument located in the western right of way of Delaware Route 14 and marking a corner of the lands of the State of Delaware used by the Delaware National Guard; South 8° 16' 40" East a distance of Four Hundred Twenty-seven and Seventy-eight one hundredths (427.78) feet and South 78° 44' 17" East a distance of One Thousand Six Hundred Three and Forty-one one hundredths (1,603.41) feet; thence from said beginning point South 4° 56' 14" East a distance of Two Hundred Twenty and Twelve one hundredths (220.12) feet; thence from said beginning point South 40° 03' 46" East One Thousand Thirty-five and Forty-three one hundredths (1,035.43) feet to a point in the northern edge of Bethany Beach Canal; thence North 73° 53' 35" West a distance of Three Hundred Sixty (360) feet to a concrete monument; thence North 75° 53' 35" West a distance of Thirty-eight (38) feet to a concrete monument; thence North 25° 59' 25" East a distance of One Hundred Sixty-six (166) feet to a concrete monument; thence North 25° 06' 25" East a distance of One Thousand Fifty-

one and Twenty-five one hundredths (1,051.25) feet to a concrete monument; thence North $17^{\circ} 06' 25''$ East a distance of Nine Hundred and Ninety-five one hundredths (900.95) feet to a concrete monument; thence South $79^{\circ} 34' 40''$ East, a distance of One Hundred Sixty (160) feet, thence South $4^{\circ} 56' 14''$ West One Thousand Fifty-four and Sixty-two one hundredths (1,054.62) feet, home to the place of beginning, containing 22.21 acres of land more or less.

Section 2. (a) The Commissioners of the Town of Bethany Beach may adopt rules governing the admission or exclusion of persons from entry on to land used for sewer treatment purposes as described in Section 1 above.

(b) Any conveyance of the land described in Section 1 of this Act shall be subject to the condition that the National Guard of the State of Delaware shall have the right to prohibit entry through land owned by the State of Delaware to the land described in Section 1 of this Act in the event of a national emergency as declared by the President of the United States; PROVIDED, HOWEVER, that in the event entry is prohibited, the sewer system shall be operated by personnel of the Town of Bethany Beach given clearance by the National Guard of the State of Delaware.

Section 3. The Governor and the Secretary of State of the State of Delaware are hereby authorized, empowered and directed to execute and deliver, in the name of and under the Great Seal of the State of Delaware, a deed of easement conveying to The Commissioners of Bethany Beach, a municipal corporation of the State of Delaware, its successors and assigns, three (3) easements and rights of way, hereinafter described, including the right of The Commissioners of Bethany Beach, its agents, servants, employees or independent contractors of The Commissioners of Bethany Beach to enter upon said land over routes designated by the National Guard of the State of Delaware for the purpose of constructing, maintaining and repairing underground pipelines and/or mains for the purpose of conveying sewage across, through and under the lands of the State of Delaware, together with the right to excavate and refill ditches and/or trenches for the location of said pipeline and/or mains, and the further right to remove trees, bushes, undergrowth and other obstructions interfering with the location, construction and

maintenance of said pipelines and/or mains, said easements to continue so long as The Commissioners of Bethany Beach, its successors and assigns use the said easements as part of its public sewer system, said easements and right of way hereinafter described, to revert to the State of Delaware if the land hereinafter described ceases to be used as part of public sewage system of The Commissioners of Bethany Beach for any period of one year after construction and installation of the public sewage system is completed:

EASEMENT No. 1

ALL that certain tract, piece and parcel of land, situate, lying and being in Baltimore Hundred, Sussex County, Delaware, being more particularly described as follows: Beginning at a point, said point being located South $8^{\circ} 16' 40''$ East a distance of Four Hundred Twenty-seven and Seventy-eight one hundredths (427.78) feet from a concrete monument located on the western right of way of Delaware Route 14 and marking a corner of the lands of the State of Delaware used by the Delaware National Guard; thence from said beginning point South $78^{\circ} 44' 17''$ West a distance of One Thousand Six Hundred Three and Forty-one one hundredths (1,603.41) feet to a point; thence South $4^{\circ} 56' 14''$ East a distance of Twenty and twelve one hundredths (20.12) feet to a point; thence North $78^{\circ} 44' 17''$ East a distance of One Thousand Six Hundred Four and Fifty-eight one hundredths (1,604.58) feet to a point located on the western right of way line of Delaware Route 14; thence North $8^{\circ} 16' 40''$ West a distance of Twenty and Three one hundredths (20.3) feet, home to the place of beginning, containing .74 acres of land more or less.

EASTMENT No. 2

ALL that certain tract, piece and parcel of land located in Baltimore Hundred, Sussex County, Delaware, and being more particularly described as follows: Beginning at a point, said point being located the following 3 courses and distances from a concrete monument located in the western right of way of Delaware Route 14 and marking a corner of the lands of the State of Delaware used by the Delaware National Guard; thence from said concrete monument South $8^{\circ} 16' 40''$ East a distance of Four Hundred Twenty-seven and Seventy-eight one hundredths

(427.78) feet; thence South $78^{\circ} 44' 17''$ East a distance of One Thousand Six Hundred Three and Forty-one one hundredths (1,603.41) feet; thence South $4^{\circ} 56' 14''$ East a distance of Two Hundred Twenty and Twelve one hundredths (220.12) feet to the place of beginning; thence from said point of beginning South $4^{\circ} 56' 14''$ East a distance of One Thousand Seventy-one and Forty-five one hundredths (1,071.45) feet to a point; thence South $80^{\circ} 06' 25''$ West a distance of Twenty and eight one hundredths (20.08) feet to a point; thence North $4^{\circ} 46' 14''$ West a distance of One Thousand Fifty-three and Nineteen one hundredths (1,053.19) feet to a point; thence North $40^{\circ} 03' 46''$ East a distance of Twenty-eight and twenty-eight one hundredths (28.28) feet to the place of beginning containing .49 acres of land more or less.

EASEMENT No. 3

ALL that certain tract, piece and parcel of land situate, lying and being in Baltimore Hundred, Sussex County, Delaware and being more particularly described as follows: Beginning at a concrete monument located in the western right of way of Delaware Route 14 at its intersection with the northwest corner of 5th Street as shown on a plot of the Town of Bethany Beach; thence from said beginning point along and with the northerly right of way of 5th Street South $80^{\circ} 06' 25''$ West a distance of One Thousand Four Hundred Eleven and Eighty-four one hundredths (1,411.84) feet to a concrete monument said concrete monument located in the easterly edge of the Bethany Beach Canal; thence by and with the easterly edge of the Bethany Beach Canal North $52^{\circ} 53' 35''$ West a distance of Twenty-seven and Thirty-five one hundredths (27.35) feet to a point, thence North $80^{\circ} 06' 25''$ East a distance of One Thousand Four Hundred thirty-seven and seventy-four one hundredths (1,437.74) feet to a point; thence South $10^{\circ} 02' 32''$ West a distance of Twenty-one and twenty-seven one hundredths (21.27) feet home to the place of beginning containing .65 of an acre more or less.

Section 4. Any conveyance of any easement described in Section 3 of this Act shall be subject to the following conditions:

a. Any easement and right of way described in Section 3 above and any equipment located or situated herein may be relocated if it is determined by the Adjutant General of the National

Guard of the State of Delaware that any easement and right of way described above and any equipment located or situate therein causes substantial interference with use of the other land of the State of Delaware used by the National Guard of the State of Delaware; PROVIDED, HOWEVER, that any relocation shall be done at the expense of The Commissioners of Bethany Beach; and PROVIDED FURTHER, that the relocation of any easement and right of way and the equipment situate therein does not interfere with planned or constructed sewage facilities; and

b. The present property currently being used by the State of Delaware shall be accorded free sewage treatment for the National Guard of the State of Delaware so long as the land is held by the State of Delaware for non-income producing purposes; and

c. The Commissioners of Bethany Beach shall pay to the State of Delaware an annual fee of One Dollar (\$1.00) for each and every year that the facilities are in use, the first such annual payment to be made on or before February 1 of the first year following the date of approval of this Act by the Governor of the State of Delaware and continuing on a like day each year thereafter.

Section 5. Any conveyance of the land described in Section 1 hereof or of any easement described in Section 3 hereof shall be subject to the right of those persons, firms and corporations, including the State of Delaware, whose property lies outside the corporate limits of the Town of Bethany Beach to connect to the sewer systems upon payment of all costs of construction and installation to the sewer facilities by such connecting person, firm, or corporation, including the State of Delaware; PROVIDED, HOWEVER, that any such connection shall be accomplished pursuant to plans and specifications approved by the Commissioners of Bethany Beach; and PROVIDED FURTHER, that any such person, firm or corporation, including the State of Delaware, agrees to accept and abide by the provisions of any ordinance adopted by the Commissioners of Bethany Beach relating to the use of the public sanitary sewer, including the sewage treatment facilities, and the payment of fees for the use of the sewage treatment facilities; PROVIDED, HOWEVER, said

charges or fees are set out in a validly enacted ordinance of the Commissioners of Bethany Beach, and said charges are uniform, both within and without the municipal boundaries of Bethany Beach, and without regard to whether such user is an individual, firm or corporation, including the State of Delaware, excepting however, the National Guard of the State of Delaware, as required by the terms of Section 4, Subsection 6, thereof.

Be it further enacted that all fees for both residents and non-resident participants of the said sewage system and facilities thereof be based and charged on a cost study conducted by a recognized professional engineer of the State of Delaware.

Approved June 11, 1968.

CHAPTER 299

AN ACT TO AMEND SECTION 1504, CHAPTER 15, TITLE 14, DELAWARE CODE, RELATING TO AUTHORITY TO ORDER DISBURSEMENTS OF APPROPRIATIONS AND OTHER REVENUES OF SCHOOL DISTRICTS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 1504, Chapter 15, Title 14, Delaware Code, is amended by deleting the period at the end of the section, by substituting in lieu thereof a comma, and by adding the following after the comma:

provided, however, that the State Board of Education may delegate this authority to order payments to the Boards of School Trustees of the school districts and to the Boards of Education of the special school districts, and of the City of Wilmington.

Approved June 11, 1968.

CHAPTER 300

AN ACT TO AMEND CHAPTER 11, TITLE 13, DELAWARE CODE, RELATING TO TERMINATION OF PARENTAL RIGHTS SO AS TO PROVIDE FOR AN INTERLOCUTORY DEGREE IN CERTAIN CASES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 1108, title 13, Delaware Code, is amended by adding to that section an additional subsection to be designated "(c)" and to read as follows:

(c) In the case of the termination of the parental rights of one parent only, for the purposes of adoption by a stepparent, upon the finding described in paragraph (a) above, the court may, in its discretion, in lieu of a final order enter an interlocutory order which the court shall make final at the completion of adoption proceedings, provided that any such interlocutory order which does not become final within eighteen calendar months of the issuance thereof shall, upon the expiration of such eighteen calendar month period, become null and void.

Approved June 14, 1968.

CHAPTER 301

AN ACT TO AMEND CHAPTER 11, TITLE 13, DELAWARE CODE, RELATING TO TERMINATION AND TRANSFER OF PARENTAL RIGHTS IN CONNECTION WITH PROCEEDINGS FOR ADOPTION OR PLACEMENT FOR ADOPTION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. That the caption of Chapter 11, Title 13, Delaware Code, be amended to read:

CHAPTER 11

TERMINATION AND TRANSFER OF PARENTAL RIGHTS IN CONNECTION WITH PROCEEDINGS FOR ADOPTION OR PLACEMENT FOR ADOPTION OR FOR THE PURPOSE OF PROVIDING OTHER SUITABLE CARE IF ADOPTION CANNOT BE EFFECTED.

Section 2. § 1103, Title 13, Delaware Code, is amended by repealing and striking out the introductory phrase thereof which reads as follows:

The procedure for termination of parental rights for the purpose of adoption may be initiated whenever it appears that— and enacting and substituting in lieu thereof the following:

The procedure for termination of parental rights for the purpose of adoption or, if a suitable adoption plan cannot be effected, for the purpose of providing for the care of the child by some other plan which may or may not contemplate the continued possibility of eventual adoption, may be initiated whenever it appears that—

Approved June 14, 1968.

CHAPTER 302

AN ACT TO AMEND TITLE 21, SECTION 4169, DELAWARE CODE, RELATING TO THE EFFECT OF PRIOR RESOLUTIONS SETTING SPEED LIMITS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 4169, Title 21, Delaware Code, is amended by adding after subsection (b) a new subsection (bb) as follows:

(bb) All surveys made and resolutions passed by the State Highway Department concerning speed limits before May 5, 1964 shall have the same force and effect as though made and passed after that date and the limits set shall continue to be the proper limits on speed on the highways so designated. Such surveys and resolutions shall continue to be effective until such time as the State Highway Department declares otherwise by subsequent resolution.

Approved June 14, 1968.

CHAPTER 303

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE STATE DEPARTMENT OF PUBLIC WELFARE
FOR THE PURPOSE OF COMPENSATING LEWIS DON-
ALD McKNATT, FUNERAL DIRECTOR, FOR THE
BURIAL OF CERTAIN INDIGENT INDIVIDUALS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$300 is hereby appropriated to the State Department of Public Welfare for the purpose of compensating Lewis Donald McKnatt, funeral director, Harrington, Delaware, for services performed in connection with the burial of certain indigents, Richard Darnell Pritchett, Daniel Pritchett, Jr., and Duane Anthony Pritchett; said Lewis Donald McKnatt not having been compensated therefor by the State Department of Public Welfare or by any other source.

Section 2. This Act shall be known as a supplementary appropriation act and the funds hereby appropriated shall be paid out of the General Fund of the State Treasury from funds not otherwise appropriated, with the understanding and to the extent that Lewis Donald McKnatt has not received compensation for his services from any other source.

Approved June 14, 1968.

CHAPTER 304

AN ACT TO AMEND SECTION 8323 (c), TITLE 11, DELAWARE CODE, BY MAKING RETIRED MEMBERS OF THE DELAWARE STATE POLICE ELIGIBLE TO BE EMPLOYED AS STATE DETECTIVES UNDER THE ATTORNEY GENERAL WHILE STILL RECEIVING STATE PENSION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 8323 (c), Title 11, Delaware Code, is hereby amended by striking the period (.) as it appears in the last line of said subsection after the word "year" and inserting the following words after said word "year":

or (4) appointment and employment as a State Detective by the Attorney General.

Approved June 14, 1968.

CHAPTER 305

**AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE,
BY ADDING CHAPTER 46 RELATING TO CARELESS
DRIVING.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 21, of the Delaware Code, is amended by adding thereto a Chapter 46 as follows:

CHAPTER 46

**CARELESS DRIVING, INATTENTION TO DRIVING, PEN-
ALTY.****§ 4601. Careless or inattentive driving**

(a) Whoever operates a motor vehicle on a public highway in a careless or imprudent manner or without due regard for road, weather, and traffic conditions then existing shall be guilty of careless driving.

(b) Whoever operates a motor vehicle on a public highway and who fails to give full time and attention to the operation of the motor vehicle, or whoever fails to maintain a proper lookout while operating the motor vehicle shall be guilty of inattentive driving.

(c) Whoever violates any of the provisions of Section 4601 shall be fined not less than \$10.00 nor more than \$100.00 or be imprisoned not less than 10 days nor more than 30 days or both. For each subsequent violation of this Section a person shall be fined not less than \$25.00 nor more than \$200.00 or imprisoned not less than 15 days nor more than 60 days or both. A subsequent violation before being punishable as such shall have been committed within 24 months after the commission of the prior offense.

Approved June 14, 1968.

CHAPTER 306

AN ACT TO PROVIDE SUMMER EMPLOYMENT FOR CERTAIN YOUTHS OF THIS STATE AND TO MAKE A SUPPLEMENTARY APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$350,000 is appropriated to the Governor for the fiscal year ending June 30, 1968, for the purposes set forth herein.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall not revert to the General Fund of the State of Delaware until October 30, 1968.

Section 4. The sums appropriated herein shall be expended for the purpose of providing summer employment for disadvantaged youths of this state during the summer of 1968.

Section 5. Eligibility for the employment authorized by this act shall be limited to a person;

(a) who is over 14 and under 21 years of age or is over 21 years of age but is a college or university student and

(i) is a member of a household which is receiving public assistance from this state; or

(ii) is a member of a household, the head of which is receiving unemployment compensation benefits from the state or has exhausted his benefits and has not returned to work; or

(iii) is a member of a household whose gross family income for 1967 was less than \$4,000 plus \$600 for each member of the household over 2 members.

(b) who is not employed in any other job which receives governmental funds or aid.

Section 6. The provisions of section 5 shall not apply to persons hired as staff who possess special training or skills if persons meeting the requirement of section 5 with the special training or skills required are not readily available.

Section 7. In special circumstances the State Director of the Office of Economic Opportunity, with the approval of the Governor, may waive the requirements of section 5, provided he states in writing the reasons for the waiver. Priority shall in all cases, however, be given to those persons who meet the requirements of section 5.

Section 8. Moneys earned by persons employed under programs provided for herein shall not be considered as income by the Department of Welfare in considering eligibility for assistance under any of its programs.

Section 9. The moneys appropriated herein may be used by the Governor, in his discretion, as matching funds for any grants or aid provided by the government of the United States or any of its agencies.

Section 10. At least \$50,000 of the \$350,000 appropriated by this act shall be used to supply employment to youths who reside in the City of Wilmington.

Section 11. The Governor may delegate to other persons the responsibility of administering the program authorized herein.

Approved June 14, 1968.

CHAPTER 307

AN ACT TO AMEND CHAPTER 365, VOLUME 55, LAWS OF DELAWARE, AS AMENDED, RELATING TO AN APPROPRIATION TO THE STATE HIGHWAY DEPARTMENT FOR THE PURPOSE OF CONSTRUCTING A SIDEWALK FROM MILLSBORO SCHOOL No. 23 TO MILLSBORO SCHOOL No. 204.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2, Chapter 365, Volume 55, Laws of Delaware, as amended, is further amended to read:

Section 2. The funds appropriated shall be used only for the purpose specified and any funds hereby appropriated that remain unexpended on June 30, 1970, shall revert to the General Fund of the State.

Approved June 14, 1968.

CHAPTER 308

AN ACT TO AMEND CHAPTER 10, VOLUME 56, LAWS OF DELAWARE, ENTITLED, "AN ACT TRANSFERRING \$600,000 FROM THE CAPITAL INVESTMENT FUND TO BE USED FOR PARK DEVELOPMENT," BY EXTENDING THE REVERSION DATE THEREOF AND PROVIDING FOR THE USE OF FEDERAL FUNDS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2, Chapter 10, Volume 56, Laws of Delaware, is amended to read:

Any monies, including federal funds which have been appropriated or received as reimbursements may be used for the development of these projects, and such monies that remain unexpended upon completion of the projects or on June 30, 1969, whichever first occurs, shall revert to the Capital Investment Fund.

Approved June 14, 1968.

CHAPTER 309

AN ACT TO AMEND VOLUME 56, CHAPTER 131, LAWS OF DELAWARE, ENTITLED "AN ACT TO AMEND SECTION 1306 AND SECTION 1321, TITLE 14, DELAWARE CODE, RELATING TO STATE SUPPORTED SALARY SCHEDULES FOR SCHOOL EMPLOYEES BY PROVIDING A FORMULA FOR ADDITIONAL STAFFING IN THE SCHOOL DISTRICTS AND BY MAKING A SUPPLEMENTARY APPROPRIATION TO THE STATE BOARD OF EDUCATION THEREFOR", RELATING TO THE FORMULA FOR STAFFING IN THE SCHOOL DISTRICTS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Volume 56, Chapter 131, Laws of Delaware, is amended by adding the following new subsections to Section 2 thereof:

(h) In school districts which contract with the Federal Government to operate schools, the units of pupils in such schools shall be counted for entitlement of that school district under this Act.

(i) Whenever units in addition to State units are counted for entitlement under subsection (h), the salaries for such additional personnel shall be paid from State and Federal funds on a pro-rated basis.

Section 2. This Act shall become effective February 1, 1968.

Approved June 14, 1968.

CHAPTER 310

AN ACT TO AMEND CHAPTER 17, TITLE 14, DELAWARE CODE, RELATING TO METHOD OF CALCULATING NUMBER OF UNITS IN A SCHOOL DISTRICT.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 17, Title 14, Delaware Code, is amended by striking out § 1704 and substituting in lieu thereof a new § 1704 to read as follows:

§ 1704. Number of units in a school district; method of calculation

The number of units in each school district shall be calculated by the State Board of Education each year in the following manner:

As of the last day of September the number of units shall be calculated based on the total enrollment of pupils in each school district on that date.

Approved June 14, 1968.

CHAPTER 311

AN ACT TO AMEND TITLE 4, DELAWARE CODE, TO PERMIT THE ISSUANCE BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION OF A LICENSE FOR THE SALE OF ALCOHOLIC BEVERAGES TO SHIPS CHANDLERS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 516, Title 4, Delaware Code, is amended by designating the present paragraph of said section as subsection (a).

Section 2. § 516, Title 4, Delaware Code, is amended by adding thereto a new subsection to read as follows

(b) Notwithstanding the provisions of subparagraph (a) hereof, any person, firm or corporation duly licensed by the Government of the United States as a Ships Chandler, may apply for a license to purchase from or through the Commission, as provided in § 702 of this title, and to keep, sell and deliver off the premises, spirits, wine or beer. The Commission may issue said license if it is satisfied that: (a) the applicant is a Ships Chandler operating a customs bonded warehouse under a license issued by the United States Government, and (b) sales by Ships Chandler are limited to vessels of the United States or of a foreign country engaged in foreign trade pursuant to the provisions of Title 19, United States Code, Section 1309.

Section 3. § 555, Title 4, Delaware Code, is amended to add thereto a new subsection as follows:

(ab) For license to alcoholic liquors as a Ships Chandler the fee shall be \$225.

Approved June 14, 1968.

CHAPTER 312

AN ACT TO AMEND CHAPTER 41, TITLE 7, DELAWARE CODE, RELATING TO DRAINAGE ORGANIZATIONS BY ELIMINATING CERTAIN LIMITATIONS AND REQUIREMENTS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 4104, Title 7 of the Delaware Code, is amended by striking the words "No drainage organization shall be established or reorganized under any law of this state, other than this chapter. However," from sub-section (c) thereof.

Section 2. § 4110, Title 7 of the Delaware Code, is amended by striking out sub-section (b) thereof in its entirety.

Section 3. § 4130, Title 7 of the Delaware Code, is amended by striking sub-section (4) thereof in its entirety.

Approved June 20, 1968.

CHAPTER 313

**AN ACT TO AMEND TITLE 21, SECTION 4124, DELAWARE
CODE RELATING TO DRIVING ON DIVIDED HIGH-
WAY.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Title 21, Section 4124, Delaware Code, is amended by striking the word "roadways" where it appears in the section and inserting in lieu thereof the word "roads" and by striking the term "roadway" where it appears in the section and substituting the word "road".

Approved June 20, 1968.

CHAPTER 314

AN ACT TO AMEND TITLE 21, SECTION 4177 (a), DELAWARE CODE, RELATIVE TO STOPPING, STANDING OR PARKING.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 21, Section 4177 (a) Delaware Code, is amended by adding a comma after the word "highway" where it appears in the fourth line of subsection (a) and striking the remainder of subsection (a) and adding in lieu thereof the following language:

Except when necessary to avoid conflict with other traffic or where it is necessary for public utility vehicles to temporarily stop along the highway to make alterations in or repairs to utility facilities so long as proper warning flags are posted or where it is in compliance with the directions of a police officer or traffic control device.

Approved June 20, 1968

CHAPTER 315

AN ACT TO AMEND TITLE 21, MAKING IT UNLAWFUL TO ENGAGE IN ANY MOTOR VEHICLE SPEED CONTEST ON A PUBLIC HIGHWAY.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 4172 of Chapter 41, Title 21 of the Delaware Code, is repealed and a new Section 4172 is inserted in lieu thereof to read as follows:

§ 4172. Speed exhibitions; drag races; and other speed contests

(a) It shall be unlawful for any person to engage in any motor vehicle race, speed exhibition, or in any speed contest whatsoever, including those commonly known as drag races, on any public road, street or highway in this state, or to aid, abet, promote, or assist in any manner whatsoever any such race or contest.

(b) It shall be unlawful for any owner or any person in charge of a motor vehicle to permit his vehicle or any vehicle under his control to be used by another person in any motor vehicle race, or contest for speed on any public road, street or highway in this state.

(c) Whoever being an operator violates any of the provisions of this section shall be fined for the first offense not less than \$25 nor more than \$200 or imprisoned not less than 10 days nor more than 30 days, or both. Upon receiving notice of such conviction, the Commissioner shall forthwith suspend the operator's or chauffeur's license of the person convicted for a period of not longer than 6 months. For each subsequent like offense, he shall be fined not less than \$50 nor more than \$400 or imprisoned not less than 15 days nor more than 60 days or both. Upon receiving a court record of conviction for a subsequent like offense, the Commissioner shall suspend the operator's or chauffeur's license for a one year period.

(d) Whoever aids, abets, promotes, or assists in any manner whatsoever any such race or contest shall be fined for the first offense not less than \$25 nor more than \$200 or imprisoned not less than 10 days nor more than 30 days, or both. For each subsequent like offense he shall be fined not less than \$50 nor more than \$400 or imprisoned not less than 15 days nor more than 60 days or both.

Approved June 20, 1968.

CHAPTER 316

AN ACT TO AMEND TITLE 20, DELAWARE CODE, SECTION 122 (C), BY CHANGING THE APPOINTMENT OF THE ADJUTANT GENERAL OF THE DELAWARE NATIONAL GUARD FROM A TERM OF NINE YEARS TO SERVE AT THE PLEASURE OF THE GOVERNOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 20, Delaware Code, Section 122 (C) is hereby amended by deleting therefrom the following words: "for a term of 9 years from the date of his appointment," and inserting in lieu thereof the following words: "and shall hold office during the pleasure of the Governor."

Section 2. This Amendment shall take effect as of May 2, 1968, or on the expiration or termination of the current term of the present Adjutant General of the Delaware National Guard, whichever occurs first.

Approved June 20, 1968.

CHAPTER 317

**AN ACT TO AMEND CHAPTERS 9 AND 11, TITLE 10, AND
CHAPTER 3, TITLE 31, DELAWARE CODE, RELATING
TO THE DEFINITION OF DEPENDENT CHILDREN.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. § 901, Title 10, Delaware Code, is amended by striking out all the definition of "dependent child" therein, and enacting and substituting in lieu thereof the following:

"Dependent child" means a child who is homeless or destitute or without proper support or care through no fault of his or her parent, guardian or custodian; or who lacks proper care by reason of the mental or physical condition of the parent, guardian or custodian; or who has been placed in a non-related family home on a permanent basis without the consent and approval of the Department of Public Welfare or of any agency licensed thereby to place children in non-related family homes; or who has been placed with a licensed agency which certifies it cannot complete a suitable adoption plan.

Section 2. § 1101, Title 10, Delaware Code, is amended by striking out all of the definition of "dependent child" therein, and enacting and substituting in lieu thereof the following:

"Dependent child" means a child who is homeless or destitute or without proper support or care through no fault of his or her parent, guardian or custodian; or who lacks proper care by reason of the mental or physical condition of the parent, guardian or custodian; or who has been placed in a non-related family home on a permanent basis without the consent and approval of the Department of Public Welfare or of any agency licensed thereby to place children in non-related family homes; or who has been placed with a licensed agency which certifies it cannot complete a suitable adoption plan.

Section 3. § 301, Title 31, Delaware Code, is amended by striking out all of the definition of "dependent child" therein and enacting and substituting in lieu thereof the following:

"Dependent child" means a child who is homeless or destitute or without proper support or care through no fault of his or her parent, guardian or custodian; or who lacks proper care by reason of the mental or physical condition of the parent, guardian or custodian; or who has been placed in a non-related family home on a permanent basis without the consent and approval of the Department of Public Welfare or of any agency licensed thereby to place children in non-related family homes; or who has been placed with a licensed agency which certifies it cannot complete a suitable adoption plan.

Section 4. § 301, Title 31, Delaware Code, be further amended by striking out the phrase "under eighteen years of age" from the definition of "neglected child", and by the addition, before the definition of "dependent child" of the following definition:

"Child" means a person who has not yet attained his eighteenth birthday.

Approved June 21, 1968.

CHAPTER 318

AN ACT TO AMEND CHAPTER 1, TITLE 25, DELAWARE CODE, RELATING TO DEEDS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 153, chapter 1, title 25, Delaware Code, is hereby repealed and a new section 153 is substituted therefor as follows:

§ 153. Priority of deed concerning lands or tenements

A deed concerning lands or tenements shall have priority from the time that it is recorded in the proper office without respect to the time that it was signed, sealed and delivered.

Approved June 21, 1968.

CHAPTER 319

AN ACT TO AMEND SECTION 913 AND REPEAL SECTION 1114, OF TITLE 7, DELAWARE CODE, RELATING TO REGULATION OF FISHING WITH NETS IN DELAWARE TIDAL WATERS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 913, Title 7, Delaware Code, is amended to read as follows:

§ 913. Fishing with nets; lawful hours; violation and penalty

No person shall catch or take or attempt to catch or take, any food fish of any kind or description by means of a net or use a net of any character in the tidal waters of this State from Saturday at 12 o'clock midnight to Sunday at 12 o'clock midnight next ensuing in each week except that food fish may be lawfully taken from stake nets at any time from October 1 through May 31 of each successive year.

Whoever violates any of the provisions of this section shall be fined \$100 and shall forfeit all nets, boats and other appliances used.

Section 2. Section 1114, Title 7, Delaware Code, is hereby repealed in its entirety.

Approved June 21, 1968.

CHAPTER 320

AN ACT TO AMEND CHAPTER 39, TITLE 12, DELAWARE CODE, IN RESPECT TO EXPENDITURES OF INCOME AND PRINCIPAL OF A MINOR'S ESTATE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 3923, title 12, Delaware Code, is amended by striking out the said section and substituting the following in lieu thereof:

§ 3923. Expenditure of income and principal of a minor's estate

(a) Unless or until the Orphans' Court shall otherwise direct, a guardian of the property of a minor shall not be required to secure approval of the Orphans' Court before expending income of the personal and real estate of a minor for any one or more of the following purposes:

(1) The maintenance and education of a minor (up to \$1,200 per year);

(2) The protection, maintenance, management and repair of a minor's personal and real estate;

(3) The payment of any taxes, assessments or charges which may be imposed by law or by governmental authority acting pursuant to law upon a minor or upon the personal and real estate of a minor.

(b) The Orphans' Court may, in its discretion, direct the amount of income and principal of the personal estate and the amount of income from real estate of a minor that a guardian of the property of a minor may expend for any of the purposes set forth in subparagraphs (1) through (3) of (a) above, and in addition, for any of the following purposes:

(A) The reasonable burial expenses of a deceased indigent parent, spouse or child of a minor;

(B) The improvement of any real estate of a minor;

(C) Such other purposes as the court may deem proper.

Without prior order of the Orphans' Court, a guardian of the property of a minor shall not expend principal of a minor's estate for any purpose except as hereinafter provided; nor shall such guardian cut or dispose of any wood or timber growing upon land of a minor. Notwithstanding the foregoing, a guardian of the property of a minor may, without prior order of the court, expend principal of the personal estate of a minor (unless or until otherwise ordered by the court) for the payment of any taxes, assessments or charges which may be imposed by law or by governmental authority acting pursuant to law upon a minor or upon the personal and real estate of a minor.

(c) Unless or until the Orphans' Court shall direct otherwise in the order of appointment of a guardian of the property of a minor, or any subsequent order, a guardian shall treat any guardianship property received as follows:

(1) To the extent it shall consist of any property, tangible or intangible, received as a corporate distribution, upon or with respect to shares of stock held in guardianship, including shares of the same class:

(A) As income to the guardianship, to the extent that, in the judgment of the guardian, such corporate distribution would be regarded as income from an investment rather than a diminution of an income producing property, by men of prudence, discretion, and intelligence in the management of their own affairs; and in making this determination, the guardian may consider whether such distribution would be likely, of itself to have the effect of reducing materially the future earning capacity and the future earnings of the corporation, whether such distribution would be likely of itself, to have the effect of reducing materially the future income of the guardianship from the shares of stock upon or with respect to which such distribution shall be made (assuming that the guardian should continue to hold such shares of stock for an indefinite period), and any other circumstances and factors which the guardian may deem relevant and significant.

(B) As principal to the guardianship, to the extent that, in the judgment of the guardian, such distribution is not determined to be guardianship income under the provisions of subdivision (A) above.

(2) to the extent it shall consist of any property, tangible or intangible, received otherwise than as a corporate distribution upon or with respect to shares of stock held in guardianship, as defined in (1) above:

(A) As income to the guardianship, to the extent that such receipts would be treated as income by men of ordinary prudence, discretion and judgment in the management of their own affairs, provided that the following receipts shall be uniformly deemed to be income:

(i) rent from real or personal property of the minor, including sums received for cancellation or renewal of a lease;

(ii) interest on money lent, including sums received as consideration for the privilege of repayment of principal;

(iii) receipts from business, nursery and farming operations, to the extent of the net profits thereof, computed in accordance with generally accepted accounting practices for a comparable business or operation; and

(iv) periodic payments of insurance annuities, pensions, Social Security and Railroad Retirement Board, or like benefits, whether received from public, private or governmental sources.

(B) As principal to the guardianship, to the extent that such receipts would not be treated as income, as defined in (A) above.

(3) For purposes of applying the provisions of this section, any income in excess of \$500 which shall not have been expended by a guardian at the close of an accounting year will be transferred to and treated as principal in subsequent accounting years and shall not be further treated as income unless or until the Orphans' Court shall otherwise direct.

Approved June 21, 1968.

CHAPTER 321

AN ACT TO AMEND CHAPTER 39, TITLE 12, DELAWARE CODE, SO AS TO PERMIT THE ORPHANS' COURT TO DETERMINE WHAT DUTIES TO ASSIGN TO THE GUARDIAN OF A MINOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The first sentence of Section 3921, title 12, Delaware Code, is amended to read as follows:

A guardian shall have either the care of his minor's person, or the possession and management of all his real and personal property or both the care of the person and the possession and management of the property except to the extent the Orphans' Court may otherwise direct.

Approved June 21, 1968.

CHAPTER 322

AN ACT TO AMEND SECTION 2906, TITLE 29, DELAWARE CODE, RELATING TO QUARTERLY AUDITS OF THE OFFICE OF THE STATE TREASURER.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2906, Title 29, Delaware Code, is amended by adding a new paragraph thereto as follows:

At least quarterly during each fiscal year, the Auditor of Accounts shall arrange for an audit to determine that the books and records maintained by the office of the State Treasurer are kept in accordance with generally accepted accounting principles and are reconciled with the various bank accounts. In conjunction therewith, the Auditor of Accounts shall reconcile the records maintained by the office of the State Treasurer with the fund balances maintained and reported by the Budget Director.

Approved June 21, 1968.

CHAPTER 323

**AN ACT TO AMEND CHAPTER 9, TITLE 13, DELAWARE
CODE, RELATING TO ADOPTION BY MODIFYING
THE RELIGIOUS AFFILIATION RESTRICTIONS.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. § 911, Title 13, Delaware Code, is amended by
adding to that section an additional subsection to read:

(d) Whenever the provisions as set forth in subsections (a)
or (b) of this section appear to create a hardship for the child
to be adopted in obtaining a suitable and prompt adoptive place-
ment, the Orphans' Court may, in its discretion, waive these re-
quirements in the best interests of the child.

Approved June 21, 1968.

CHAPTER 324

AN ACT TO AMEND TITLE 11, SUBCHAPTER XVI, DELAWARE CODE, RELATING TO DEADLY WEAPONS AND FIREARMS, BY ADDING A NEW SECTION MAKING IT A FELONY TO POSSESS CERTAIN FIREARMS DURING THE COMMISSION OF ANOTHER FELONY, AND PROVIDING THAT ANYONE OVER THE AGE OF 16 YEARS SO ACCUSED SHALL BE TRIED AS AN ADULT.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 11, Subchapter XVI, is hereby amended by adding a new section to be designated "§ 469" as follows:

§ 469. Possession of a deadly firearm during commission of a felony

(a) Any person found to have had in his possession during the commission of a felony within the State any shotgun, rifle, pistol, revolver, zip gun, or other firearm or weapon capable of firing a missile or projectile with sufficient force to cause death or serious bodily injury shall be guilty of a felony and shall be imprisoned not less than 5 years nor more than 30 years and fined as the court in its discretion may prescribe.

(b) The minimum sentence of imprisonment required by subsection (a) shall not be subject to suspension and no person convicted under this section shall be eligible for probation or parole during the first 5 years of his sentence.

(c) Every person charged under this section over the age of 16 years shall be tried as an adult, notwithstanding any contrary provision of statutes governing the respective Family Courts or any other State law.

Approved June 21, 1968.

NOTE: This Act has been codified as § 468 (a), Title 11, Delaware Code.

CHAPTER 325

AN ACT TO AMEND SECTION 9220, TITLE 10, DELAWARE CODE, RELATING TO SALARIES OF THE JUSTICE OF THE PEACE CLERKS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 9220, title 10, Delaware Code, is amended to read:

§ 9220 Clerks; salary

The Chief Justice shall appoint a Chief Clerk for each location where the Justices hold Court and such Deputy Clerks as may from time to time be necessary to assist the Justices in the discharge of their duties. Each Chief Clerk shall receive an annual salary of not less than \$4,500 and not more than \$6,000; and each Deputy Clerk shall receive an annual salary of not less than \$4,000 and not more than \$5,500. All Clerks shall serve at the pleasure of the Chief Justice.

The State Treasurer shall pay from the General Fund the compensation provided for by this subchapter upon vouchers presented by the agency involved notwithstanding any other law of this State.

All Chief Clerks and Deputy Clerks shall be appointed by the Chief Justice at the respective minimum annual salary, as hereinabove provided, and each Chief Clerk or Deputy Clerk shall receive no salary increase during his or her respective first year of service. After each Chief Clerk or Deputy Clerk has served in his or her official capacity for more than one year, each such clerk may receive an annual salary increase, as approved by the Chief Justice; but such salary increase shall not exceed \$500 during any one fiscal year.

Approved June 21, 1968.

CHAPTER 326

AN ACT CREATING A STATE DEPARTMENT OF JUSTICE UNDER THE DIRECTION AND CONTROL OF THE ATTORNEY GENERAL AND PRESCRIBING THE DUTIES, AUTHORITY AND ORGANIZATION THEREOF BY REPEALING TITLE 29, CHAPTER 25 AND TITLE 11, CHAPTER 87 OF THE DELAWARE CODE AND SUBSTITUTING IN LIEU THEREOF A NEW CHAPTER 25, TITLE 29.

WHEREAS, with the growth of the State of Delaware there has been a growth in the need of various State agencies and officers for legal services; and

WHEREAS, the Office of the Attorney General as presently constituted, with limited personnel, does not now, and cannot furnish in the future all of said legal services; and

WHEREAS, there is a need for coordination and uniformity of legal services being rendered to officers and agencies of the State;

NOW THEREFORE,

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 25, Title 29, Delaware Code of 1953, is hereby repealed and in lieu thereof there is hereby enacted a new Chapter 25, Title 29, Delaware Code of 1953 as follows:

§ 2501. Purpose of act

The purpose of this chapter is to accomplish efficiency by centralizing in one department the State's facilities for the rendering of legal services to the Governor, General Assembly, officers, departments, boards, agencies, commissions, and instrumentalities of the State Government and to provide for the enforcement of the criminal law of the State.

§ 2502. Department of Justice established

There is hereby created a State Department of Justice under the supervision, direction and control of the Attorney General.

§ 2503. Definition of Attorney General

Whenever "Attorney General" is referred to or designated in the Constitution, any statute, rules of any court, contract, document, or usage, such reference or designation shall include the Chief Deputy Attorney General, Deputy Attorneys General and Special Deputy Attorneys General, except where the term Attorney General is immediately followed by "himself" or "in person", or where the context otherwise indicates.

§ 2504. Powers, duties and authority of the State Department of Justice

The State Department of Justice and the Attorney General shall have the following powers, duties and authority:

(a) To continue to exercise the powers and perform the duties by the Constitution, statutes, and common law heretofore vested in and imposed upon the Attorney General;

(b) Notwithstanding the provisions of any other laws, to provide legal advice, counsel and services for administrative offices, agencies, departments, boards, commissions, and officers of the State Government concerning any matter arising in connection with the exercising of their official powers or duties. The Legislative Reference Bureau shall continue to perform those duties not inconsistent herewith as provided in Chapter 13, Title 29 of the Delaware Code. The courts, counties, and incorporated municipalities are excepted from the provisions of this chapter;

(c) Notwithstanding the provisions of any other laws, to represent as counsel in all proceedings or actions which may be brought on behalf of or against them in their official capacity in any court, except in actions in which the State has a conflicting interest, all officers, agencies, departments, boards, commissions and instrumentalities of State Government;

(d) To investigate matters involving the public peace, safety and justice and to subpoena witnesses and evidence in connection therewith: Provided, however, that nothing in this subsection shall restrict the general powers of the General Assembly to investigate matters involving the public peace, safety and justice and to subpoena witnesses and evidence in connection therewith;

- (e) To direct the activities of State Detectives;
- (f) To have charge of all criminal proceedings as heretofore;
- (g) To recommend revisions in the Constitution and statutes of the State of Delaware with particular reference to law enforcement;
- (h) To perform the duties of the Delaware Code Revision Commission as set forth in Chapter 2, Title 1 of the Delaware Code.

§ 2505. Chief Deputy, Deputies and Assistants

(a) The Attorney General may appoint from the practicing members of the bar of this State a lawyer resident in this State who shall be his Chief Deputy Attorney General and who shall have such powers, duties and responsibilities as designated by the Attorney General and shall serve on a full-time basis.

(b) The Attorney General may appoint from the practicing members of the bar of this State six lawyers resident in New Castle County to be his Deputy Attorneys General and who shall have such powers, duties and responsibilities as designated by the Attorney General. One of this number may be designated as the "Deputy Attorney General for New Castle County".

(c) The Attorney General may appoint from the practicing members of the bar of this State three lawyers resident in Kent County who shall serve as Deputy Attorneys General and who shall have such powers, duties and responsibilities as designated by the Attorney General. One of this number may be designated as the "Deputy Attorney General for Kent County".

(d) The Attorney General may appoint from the practicing members of the bar of this State three lawyers resident in Sussex County who shall serve as Deputy Attorneys General and who shall have such powers, duties and responsibilities as designated by the Attorney General. One of this number may be designated as the "Deputy Attorney General for Sussex County".

(e) The Attorney General may appoint from the practicing members of the bar of this State four lawyers resident in this State who shall serve as Deputy Attorneys General at large. One of this number shall be designated as the State Solicitor and

shall serve on a full-time basis under the direct control of the Attorney General. The State Solicitor shall be responsible for all civil actions and matters wherein the State or its agencies or subdivisions are involved, and shall have such powers and duties as the Attorney General shall designate.

Another of such number shall be designated as the State Prosecutor shall serve on a full-time basis under the direct control of the Attorney General. The State Prosecutor shall be responsible for the prosecution of all criminal matters, and shall have such powers and duties as the Attorney General shall designate.

(f) The Attorney General may appoint an Administrative Assistant to serve full-time. He shall have such powers and perform such duties as the Attorney General may assign to him.

(g) The Attorney General may appoint a Supervisor of Records and Personnel to serve full-time and who shall have such powers and perform such duties as the Attorney General may assign.

(h) In addition to said Deputy Attorneys General, the Attorney General shall, within the limits of the appropriations made to the State Department of Justice, have the power to appoint and fix the compensation of such special Deputy Attorneys General as may be required to perform the aforesaid duties of the State Department of Justice.

(i) The Attorney General may assign a Deputy Attorney General to serve in any legal capacity in or for any offices, department, board, agency, commission or instrumentality of the State Government on a part-time or full-time basis whenever, in the judgment of the Attorney General, such assignment will contribute to the efficiency of the operation of such office, department, board, agency, commission, or instrumentality; but such Deputy shall remain under the supervision and control of the Attorney General while so serving and his compensation shall be payable solely from the appropriations made to the Department of Justice.

(j) The powers of all Deputies shall be state-wide and the duties to be performed by them shall be determined and fixed from time to time by the Attorney General.

(k) The Attorney General shall not be prohibited from engaging in the practice of law not inconsistent with this chapter. The Attorney General shall determine whether any of his Deputies other than those designated as full-time in this section, shall be excluded from the practice of law. The salaries of the of the Chief Deputy and the Deputies shall be as fixed by the Attorney General within the Appropriations of the Department of Justice and the limitations of § 2506 of this chapter.

§ 2506. Salaries of Attorney General; Chief Deputy; Deputies and Assistant

(a) The salary of the Attorney General shall be \$20,000 per annum. The Attorney General shall fix the salaries of all of the members of the Department of Justice within the limits set forth herein.

(b) The salary of the Chief Deputy Attorney General shall not be less than \$17,500 nor more than \$20,000 per annum.

(c) The salaries of the Deputy Attorneys General who have attained tenure shall not be less than \$12,500 nor more than \$17,500 per annum.

(d) The salaries of the Deputy Attorneys General shall not be less than \$10,000 nor more than \$15,000 per annum for full-time without tenure and shall be \$7,500 per annum otherwise.

(e) The salary of the Administrative Assistant shall not be less than \$10,000 nor more than \$15,000 per annum.

(f) The salary of the Supervisor of Records and Personnel shall be \$7,500 per annum.

(g) The salary or fee of Special Deputies shall be fixed by the Attorney General within the appropriations made to the State Department of Justice.

§ 2507. Prohibition on employment of attorneys by State officers, departments, boards, agencies, commissions or instrumentalities

No officer, department, board, agency, commission or instrumentality of State Government shall employ any person to act as attorney, counsel, solicitor, legal assistant or other legal

advisor to such officer, department, board, agency, commission or instrumentality except as herein otherwise set forth; provided, however, that such special counsel may be employed by such officer, department, board, agency, commission or instrumentality with the approval of the Attorney General and the Governor upon such terms and conditions as the Attorney General and the Governor may prescribe. Expenses of such employment shall be paid by the State Treasurer out of general funds not otherwise appropriated, upon the approval of the Attorney General and the Governor.

§ 2508. Power to administer oaths and affirmations; compelling attendance of persons and witnesses; delivery of witness lists

(a) The Attorney General or any Deputy may administer oaths and affirmations to any person including witnesses, at any time or in any place; and may issue process to compel the attendance of persons, witnesses and evidence at the office of the Attorney General, or at such other place as designated.

(b) The Attorney General shall have the right of access at all times to the books, papers, records and other documents of any officer, department, board, agency, instrumentality or commission of the State Government.

(c) The Attorney General shall transmit to the Prothonotaries of the counties of this State respectively a certified list giving the names and addresses of persons or witnesses subpoenaed under the provisions of this section, the time occupied in attendance, and the distance traveled by them respectively. The list shall be legal proof, and the same costs shall accrue and be paid in the same manner as is provided by law to be paid to witnesses for attendance at the courts of this State.

§ 2509. Conflict of interest

No member of the Department of Justice shall act as attorney or counsel in any controversy in which the State, a County, or a municipality has an interest except in his official capacity.

§ 2510. Duty to appeal from an order of filiation

On appeal from an order of filiation, the Attorney General shall answer the appeal, and conduct the case for the State.

§ 2511. Tenure

Any Attorney, or other employee regularly employed by the Department of Justice to render services shall be appointed by the Attorney General to serve at his pleasure and after three years full-time service shall have attained tenure and shall continue to be regularly employed during efficiency and good behavior and shall not be removed therefrom because of religious or political opinions or affiliations, or except for due cause, after a hearing before a court consisting of three judges of the Superior Court of the State of Delaware.

The term "full-time", when used in reference to attorneys herein, prohibits such attorneys from engaging in the private practice of law. The term "regularly employed" as used herein refers to those attorneys and other employees appointed or employed on a full-time basis by the Department of Justice. The Attorney General shall so designate such attorneys and other employees in writing at the time of their employment or at such other time, at his pleasure.

Nothing contained herein shall limit the power of the Attorney General to assign attorneys or other employees to any of the various positions provided for in this act and to change said personnel in said positions from time to time at his pleasure; provided, however, any attorney or other employee who shall have been regularly employed in a certain position may not be deprived of regular employment or tenure by virtue of such change of position.

§ 2512. Fees; collections and disposition

All fees which are by law taxable and payable to the Attorney General shall be paid to and received by the respective Prothonotaries in the county where the fees are taxed, and the Prothonotaries shall pay over the same to the State Treasurer.

§ 2513. Appointment of State Detectives; terms; compensation

(a) The Attorney General may appoint five qualified persons to be state detectives who shall hold office at the pleasure of the Attorney General. The Attorney General may designate one of the appointees to be Chief State Detective, and each of the others shall be known as State Detective. All of the State

Detectives shall perform duties anywhere, both within and without the State, under the direction of the Attorney General.

(b) The salary of the Chief State Detective shall not exceed \$7,500 per annum. The salary for each State Detective shall not exceed \$6,000 per annum.

§ 2514. Powers and duties of State Detectives

(a) State Detectives may conduct such investigations as directed by the Attorney General.

(b) Any State Detective or any police officer of the State or of any subdivision thereof shall, when so requested by the Governor or the Attorney General, serve requisitions made by the Governor and for this shall not receive any compensation, but shall receive actual expenses. Such expenses shall be paid by the State Treasurer out of general funds not otherwise appropriated, upon the production of vouchers, approved by the Attorney General.

(c) State Detectives may make arrests and serve writs anywhere in the State.

(d) The State Detective shall serve and return summonses, subpoenas, warrants and commitments issued by Presidents of Courtmartials.

§ 2515. Exceptions

The provisions of this chapter relating to the supplying of legal advice, counsel, services, and representation in proceedings and actions shall not apply to the University of Delaware, or any School District or Special School District of the State of Delaware, and these organizations may each employ their own attorney or attorneys, notwithstanding Sec. 2507 of this chapter, except that legal services in connection with all bond issues in which the faith and credit of the State of Delaware is pledged, and all legal services for any School District or Special School District bond issue which is for the purpose of providing funds for any project to which monies or bond issue funds of the State of Delaware are to be contributed on a matching or percentage basis, shall be provided solely by the State Department of Justice and the Attorney General.

Section 2. Transfer of personnel, quarters and equipment to Department of Justice

All Deputies, state detectives and other employees of the Attorney General are, on the effective date of this act, transferred to the Department of Justice.

The offices and quarters heretofore occupied by the Attorney General and all books, papers and documents of the Attorney General are hereby transferred to the Department of Justice as of the date upon which this Act becomes effective.

Section 3. Appropriations

All monies appropriated to the Attorney General at the time of this Act becomes effective shall be transferred and made available to the Department of Justice as of said date when such appropriations shall become available.

Section 4. Chapter 87, Title 11 of the Delaware Code of 1953, as amended, is hereby repealed.

Section 5. Inconsistent Laws

All laws and parts of laws inconsistent herewith shall be, and the same are hereby, repealed.

Section 6. Effective date

The effective date of this act shall be January 1, 1969. The passage of this act and/or any repeal in this act of any laws of this State shall not affect any existing proceeding wherein any action has been taken or any act done or omitted under prior law. This is intended to be a general savings clause.

Approved June 21, 1968.

CHAPTER 327

**AN ACT TO AMEND § 3507, TITLE 11, DELAWARE CODE,
RELATING TO EVIDENCE OF ALCOHOL IN BLOOD.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 3507, title 11, Delaware Code, is amended by striking out the word "operated" wherever it appears in said section and inserting in lieu thereof the word "driven".

Section 2. § 3507, title 11, Delaware Code, is amended by striking out the word "operating" wherever it appears in said section and inserting in lieu thereof the word "driving".

Approved June 21, 1968.

CHAPTER. 328

**AN ACT TO AMEND TITLE 5, PART III, DELAWARE CODE,
RELATING TO BUILDING AND LOAN ASSOCIATIONS,
IN ORDER TO MODERNIZE THE BUILDING AND
LOAN ASSOCIATIONS CODE TO CONFORM WITH
CURRENT BUSINESS PRACTICES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 1701, Title 5, Delaware Code, is hereby amended by adding to the list of definitions contained therein between the definition of "Association" and the definition of "Building and Loan Association", the following new definition:

" 'Borrower' means one who borrows from a Building and Loan Association and may include a stockholder of such association or a non-stockholder."

Section 2. Section 1701, Title 5, Delaware Code, is further amended by striking the semicolon at the end of the definition of "Building and Loan Association" and adding the following: "and includes Savings and Loan Associations;"

Section 3. Section 1902, Title 5, Delaware Code, is hereby amended by striking said section and substituting in lieu thereof a new Section 1902 as follows:

§ 1902. Special powers of domestic association

Building and Loan Associations organized under Title 8, may, in addition to the other powers granted in such Title and this chapter, make loans to and among their stockholders and also to and among non-stockholders, at a rate of interest not exceeding the legal rate or any higher contract rate as permitted by law, and for such premium as is authorized under this chapter.

Building and Loan Associations may also make loans secured by shares of their own capital stock, but such loans shall be limited to the legal rate of interest.

Section 4. Section 1906, Title 5, Delaware Code, is hereby amended by striking subsection (b) and substituting in lieu thereof a new subsection (b) as follows:

(b) A building and loan association may lend funds of the association either with or without charging the borrower a premium for the privilege of being granted such loan, but an association shall not charge any premium unless the borrower agrees in writing to pay such premium. Any premium charged shall not exceed three per centum of the original amount of the loan and may be deducted by the association in advance, or paid separately by the borrower at settlement, or if the association consents, may be paid in three equal annual installments with the first installment payable at settlement and the other two installments on the first and second anniversaries of the date of settlement.

A premium paid, pursuant to the provisions of this section, by a borrower from an association, shall not be deemed usurious, although when it is added to any interest paid upon such loan, it exceeds the legal or the contract rate of interest.

Section 5. Section 1911, Title 5, Delaware Code, is hereby amended by striking said section and substituting a new Section 1911 as follows:

§ 1911. Power to borrow generally

Any building and loan association doing business in this State may borrow money from sources other than a Federal Home Loan Bank, and may secure the same by the assignment or pledge of any mortgage, mortgages, or other assets held by the building and loan association, but the amount borrowed from all such other sources shall not at any time exceed in the aggregate 30 percent of the shareholders' invested capital in said association. The amount borrowed from all sources shall at all times, irrespective of whether or not the same are secured, constitute a preferred claim superior to all claims on account of the shares of the building and loan association.

Section 6. Section 1912, Title 5, Delaware Code, is hereby amended by striking said section and substituting in lieu thereof a new Section 1912 as follows:

**§ 1912. Limitation on loans not secured by first mortgage on
real estate**

Not more than 50 percent of the shareholders' invested capital in any building and loan association doing business in this State shall be loaned on real estate security on other than first liens.

Approved June 21, 1968.

CHAPTER 329

AN ACT TO AMEND CHAPTER 167, VOLUME 56, LAWS OF DELAWARE RELATING TO A SUPPLEMENTARY APPROPRIATION TO THE BOARD OF GAME AND FISH COMMISSIONERS BY EXTENDING THE REVERSION DATE OF THE FUNDS APPROPRIATED FROM JUNE 30, 1968 TO JUNE 30, 1969.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 167, Volume 56, Laws of Delaware, is hereby amended by striking the year "1968" wherever it appears, and substituting in lieu thereof the year "1969".

Approved June 21, 1968.

CHAPTER 330

AN ACT TO AMEND SECTION 503, TITLE 31, DELAWARE CODE, RELATING TO METHOD OF PAYMENT OF WELFARE ASSISTANCE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 503, Title 31, Delaware Code, is hereby amended by adding a new subsection (g) to read as follows:

(g) Such monetary assistance, as shall be granted under this chapter to any needy person who has insufficient income or other resources to provide a reasonable subsistence compatible with decency and health, shall be paid to such needy person only in the form of a check drawn upon the State of Delaware, which check shall be sent to the recipient by United States First Class Mail.

Section 2. Section 503, Title 31, Delaware Code, is hereby amended by striking the catch line which reads as follows:

§ 503. Eligibility for assistance; amount, and inserting in lieu thereof the following catch line:

§ 503. Eligibility for assistance; amount; method of payment.

Approved June 21, 1968.

CHAPTER 331

AN ACT TO AMEND CHAPTER 3, TITLE 11, DELAWARE CODE PERTAINING TO CRIMES REGULATING THE OFFENSES OF WEARING MASKS IN PUBLIC OR PRIVATE PLACES AND BURNING CROSSES ON PROPERTY OF ANOTHER WITHOUT WRITTEN PERMISSION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 3, Title 11, Delaware Code, is amended by adding the following new section thereto:

§ 363. Wearing masks

Whoever, being sixteen years of age or over, wears any mask, hood or other device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer while in any public place or upon any private property in this state without first having obtained from the owner or tenant thereof consent to do so in writing, shall be fined not less than \$100 nor more than \$1,000, and may also be imprisoned for not more than one year, and shall pay all costs of prosecution. Provided, however, that the provisions of this section shall not apply to persons wearing traditional holiday costumes, or to persons engaged in professions, trades, employment or other activities and wearing protective masks which are deemed necessary for the physical safety of the wearer or other persons, or to persons engaged in any bona fide theatrical production or masquerade ball.

Section 2. Chapter 3, Title 11, Delaware Code, is amended by adding the following new section thereto:

§ 364. Burning crosses

Whoever places or causes to be placed on the property of another in this State a burning or flaming cross, or any manner of exhibit in which a burning or flaming cross, real or simulated, is a whole or a part, without first obtaining written permission

of the owner or tenant of the premises so to do, shall be fined not less than \$100 nor more than \$1,000, and may also be imprisoned for not more than one year, and shall pay all costs of prosecution.

Section 3. Chapter 3, Title 11, Delaware Code, is amended by adding the following new section thereto:

§ 365. Acts of Intimidation

Whoever, while masked or unmasked, places or causes to be placed anywhere in this State any exhibit of any kind or commits or causes to be committed any act with the intention of intimidating any person or persons and thereby prevents them from doing any act which is lawful, or causes them to do any act which is unlawful, shall be fined not less than \$100 nor more than \$1,000, and may also be imprisoned for not more than one year, and shall pay all costs of prosecution.

Approved June 21, 1968.

CHAPTER 382

AN ACT TO AMEND TITLE 31, DELAWARE CODE, ENTITLED "WELFARE", BY CHANGING THE DEFINITION OF MEDICAL CARE AND BY PROVIDING FOR A MEDICAL ADVISORY COMMITTEE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 502, title 31, Delaware Code, is amended by striking out the word "and" between the words "elsewhere" and "(6)" in the first sentence in the definition of "Medical Care" and inserting a semicolon in lieu thereof; by inserting between the words "medicine" and "as" in the same sentence the words "and (7) such other health services and supplies"; and by inserting between the words "Department" and "within" in the same sentence the words "on recommendation of the Medical Advisory Committee".

Section 2. § 502, title 31, Delaware Code, is further amended by inserting between the words "enumerated" and "in" in the second sentence in the definition of "Medical Care" the words "in items (1) through (6)".

Section 3. §502, title 31, Delaware Code, is further amended by inserting between the definitions of "Department" and "Director" as they appear therein a new definition, as follows:

" 'Medical Advisory Committee' means a committee appointed by the Board, composed of representatives from the field of medicine, osteopathy, dentistry, nursing, pharmacy, hospital services and such other fields concerned with health as the Board may deem appropriate, to provide to the Board and the Department advice, recommendations and assistance in the formulation and administration of programs of medical and health care;".

Section 4. § 502, Title 31, Delaware Code, is further amended by adding a new paragraph at the end of paragraph entitled "Medical Care" to read as follows:

"When and as services which an optometrist may perform

within the scope of his license are at any time or in any way included in this program, the patient will have freedom to choose to have these services rendered between an optometrist and a physician skilled in diseases of the eye."

Section 5. The provisions of this Act shall become effective on February 1, 1968.

Approved June 21, 1968.

CHAPTER 333

AN ACT TO AMEND SECTION 4182, TITLE 21, DELAWARE CODE, RELATING TO MOTORCYCLE SAFETY HELMETS, SEATS, FOOTRESTS AND HANDLEBARS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 4182, Title 21, Delaware Code, is repealed and a new section 4182 is enacted in lieu thereof to read as follows:

§ 4182. Riding on Motorcycles

(a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the operator and said motorcycle shall be equipped with a passenger footrest.

(b) Every person operating or riding on a motorcycle shall wear a safety helmet and eye protection approved by the Motor Vehicle Commissioner.

(c) Handlebars on a motorcycle must not be more than 15 inches above the level of the operator's regular seat.

Approved June 21, 1968.

CHAPTER 384

**AN ACT TO REPEAL SECTIONS 712 AND 713, TITLE 4,
DELAWARE CODE, RELATING TO REGULATORY
PROVISIONS CONCERNING THE SALE OF ALCO-
HOLIC LIQUOR.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Sections 712 and 713, Title 4, Delaware Code, be
and hereby are repealed.

Approved June 21, 1968.

CHAPTER 335

AN ACT TO AMEND TITLE 4, DELAWARE CODE, RELATING TO THE REGULATION OF ALCOHOLIC LIQUORS IN CLUBS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 101 of Title 4, Delaware Code, is hereby amended by striking the semicolon which follows "Commission" in the last line of the paragraph therein which begins "Member of a club"; by substituting a period for that semicolon; and by adding to § 101 following said period the following additional definition:

"Member of a club" which is a multiple activity club means a person who, pursuant to the charter, by-laws or rules of the club, is a member in good standing of such club and whose name and address is supplied in writing to the Commission by the club within eight days after his admission to membership; or who holds a temporary membership in such club, pursuant to a charter provision, or by-law or rule approved by the Commission.

Section 2. § 101 of Title 4, Delaware Code, is further amended by inserting between the paragraph therein which begins "Member of a club" and the paragraph therein which begins "Peddle", the following new paragraph defining multiple activity club:

"Multiple activity club" is a club as to which, in the determination of the Commission, the service of spirits, wine or beer is not the principal activity in the premises of the club as established by the following:

1. Gross revenue of the club from the sale of spirits, wine and beer does not exceed 40% of its total annual revenue including dues, fees and assessments, and either
2. Meals are served by the club at regular hours on at least six days of the week, or
3. The club has a physical facility, regularly used by members of the club, which is devoted primarily to activities other than the sale or consumption of spirits, wine or beer;

Section 3. § 512 of Title 4, Delaware Code, is hereby amended by deleting the first paragraph thereof and inserting in lieu thereof that paragraph the following:

Any person, who is the owner or lessee or who is recognized by the Commission as being in charge of a hotel, motel, restaurant, club, or multiple activity club, may apply for a license to purchase spirits or wine from the Commission but not otherwise, or to purchase beer from the Commission or through the Commission as provided in Section 702 of Title 4, from a manufacturer or from an importer and to receive, keep and sell such spirits or wine either by the glass or by the bottle, or beer by the glass as draft beer or by the bottle for consumption on any portion of the premises approved by the Commission for that purpose. Such a license entitles a club to sell such spirits, wine or beer only to members of that club. A multiple activity club which holds such a license may apply for an additional license to sell such spirits, wine or beer to any person who is a guest of such club or of a member of such club who is duly registered in accordance with a by-law or rule of such club, approved by the Commission, provided that if the Commission determines that any applicant is not a multiple activity club as defined in Section 101 of Title 4, the application shall be denied.

Section 4. § 515 of Title 4, Delaware Code, is amended by deleting that section in its entirety and inserting in lieu thereof the following:

§ 515. Club and Multiple Activity Club; sale to members for keeping in locker

(a) A club or multiple activity club may apply for a license to purchase spirits, wine or beer from the Commission or through the Commission, as provided in section 702 of Title 4, but not otherwise, and to sell such spirits, wine or beer to a member of that club for keeping on the club premises in a suitable locker at the club in which such spirits, wine or beer may be securely kept under lock and key;

(b) Any club or multiple activity club which holds a license under this section either (1) shall assign a separate locker to each member applying therefor which shall be utilized solely for the storage of spirits, wine or beer and which shall be

accessible only to that member and designated employees of the club, or (2) with approval of the Commission shall provide a master locker, maintained solely for the storage of spirits, wine or beer, which shall be under the exclusive control of designated employees of the club and which shall be utilized in such manner as to maintain clear identification of the member to whom each bottle of spirits, wine or beer stored therein belongs.

Section 6. § 555 of Title 4, Delaware Code, is amended by deleting paragraph "(d)" therefrom and inserting therein a new paragraph "(d)" therein as follows:

(d) For a license to purchase spirits, wine or beer and to receive and keep such spirits, wine or beer and to sell such spirits, wine or beer in a club or multiple activity club to members of that club or multiple activity club, the license fee shall be \$100 if the club has an active membership in good standing of less than 400 members; or \$200 if the club has an active membership in good standing of 400 or more members.

Section 7. § 555 of Title 4, Delaware Code, is further amended by deleting paragraph "(w)" therefrom and inserting a new paragraph "(w)" therein as follows:

(w) For a license authorizing a club or multiple activity club to purchase alcoholic liquor and to sell it to members of the club or multiple activity club to be kept in a locker at the club, the license fee shall be \$50.

Section 8. § 555 of Title 4, Delaware Code, is further amended by adding thereto a new paragraph as follows:

(bb) For a license for a multiple activity club to purchase and to sell spirits, wine or beer to any person who is a guest of such club or a guest of a member of such club, the license fee shall be \$450.

Approved June 21, 1968.

CHAPTER 336

AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED BY THE DEPARTMENT OF MENTAL HEALTH FOR THE CONSTRUCTION OF THE SUSSEX COUNTY TREATMENT UNIT AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONEYS TO THE DEPARTMENT OF MENTAL HEALTH.

Be it enacted by the General Assembly of the State of Delaware (Three-fourths of all the members elected to each House thereof concurring therein.):

Section 1. There is appropriated to the Department of Mental Health the sum of One Hundred and Fifty Thousand Dollars (\$150,000.00), or so much thereof as shall be received from the sale of the bonds and notes hereinafter authorized, which shall be used for the construction of the Sussex County Treatment Unit.

Section 2. Any of said appropriated funds remaining unexpended at the end of any fiscal year shall not revert to the General Fund but shall remain to be used for the purpose set forth in this Act.

Section 3. The said sum of One Hundred and Fifty Thousand Dollars (\$150,000.00) shall be borrowed by the issuance of bonds and bond anticipation notes upon the full faith and credit of the State of Delaware. Such bonds and notes shall be issued in accordance with the provisions of Chapter 74, Title 29, Delaware Code. For purpose of identification, the bonds issued pursuant to this authorization Act may be known, styled or referred to as "Capital Improvement Bonds of 1968".

Section 4. There is hereby appropriated from the General Fund such sums as may be necessary for the expenses incident to the issuance of the bonds and notes herein authorized, and such further sums as may be necessary to pay any interest which becomes due on such bonds and notes during the current fiscal year and such further sums as may be necessary for the repayment

of the principal of any of the said bonds which become due during the current fiscal year. Vouchers for the payment of the expenses incident to the issuance of bonds and notes and for the interest and repayment of said notes shall be signed by the Secretary of State by and with the approval of the Issuing Officers. Any moneys received from the premium and accrued interest on the sale of said bonds shall be deposited to the credit of the General Fund.

Section 5. The Budget Appropriation Bill which shall be enacted and approved by the General Assembly for the fiscal year next following the effective date of this Act and for such subsequent fiscal year or biennium, shall contain under the Debt Service Item provisions for the payment of interest and principal maturities of the bonds (or notes which are not to be funded by the issuance of bonds) issued under the authority of this Act, and such of the revenues of the State of Delaware as are not prohibited by constitutional provisions or committed by preceding statutes for other purposes are hereby pledged for the redemption and cancellation of said bonds and payment of interest thereon.

Approved June 21, 1968.

CHAPTER 337

**AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE
OF THE STATE GOVERNMENT FOR THE FISCAL
YEAR ENDING JUNE 30 1969.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The several amounts named in this Act, or such part thereof as may be necessary and essential to the proper conduct of the business of the agencies named herein, during the fiscal year ending June 30, 1969, are hereby appropriated and authorized to be paid out of the Treasury of this State by the respective departments and divisions of State Government, and other specified spending agencies, subject to the limitations of this Act and to the provisions of Part VI, Title 29, Delaware Code, as amended or qualified by this Act, all other provisions of the Delaware Code notwithstanding. All parts or portions of the several sums appropriated by this Act which, on the first day of July, 1969, shall not have been paid out of the State Treasury, shall revert to the General Fund; provided, however, that no funds shall revert which are encumbered pursuant to Section 6521, Title 29, Delaware Code.

The several amounts hereby appropriated are as follows:

AGENCIES**LEGISLATIVE AND ELECTIONS**

<i>General Assembly</i>	<i>Year Ending June 30, 1969</i>
Salaries—House Members	\$ 210,000
Salaries—Senate Members	108,000
TOTAL	\$ 318,000

Legislative Reference Bureau

Salary of Director	\$ 9,000
Salaries of Assistant Directors (2)	15,000
Salaries and Wages of Employees (3)	13,100
Travel	600

Year Ending June 30, 1969

Contractual Services	1,750
Supplies and Materials	1,000
Capital Outlay	1,300
TOTAL	\$ 41,750

Commission on Modernization of State Laws

Travel	\$ 600
Contractual Services	600
TOTAL	\$ 1,200

Delaware Code Revision Commission

Salaries of Commissioners	\$ 4,800
Personal Services—Lawyers	5,000
Printing Pocket Parts—Delaware Code	20,000
TOTAL	\$ 29,800

Delaware Commission on Interstate Cooperation

Travel	
Legislative Travel Only	\$ 7,500
Other Travel	1,000
Contractal Services	
Council of State Governments	4,000
Delaware River Basin Advisory Committee	59,300
National Legislative Leaders Conference	1,000
Southern Nuclear Board	8,554
Other Contractual Services	1,200
Supplies and Materials	100
TOTAL	\$ 82,654

Legislative Council

Travel	\$ 500
Contractual Services	20,000
Supplies and Materials	20,000
TOTAL	\$ 40,500

State Election Commissioner Year Ending June 30, 1969

Salaries and Wages of Employees (4)	\$ 21,200
Extra Help	1,900
Contractual Services	13,144
Supplies and Materials	3,000
Capital Outlay	1,800
Vote Tabulation	6,000
TOTAL	\$ 47,044

New Castle County Department of Elections

Salaries of Board Members	\$ 11,500
Salary of Secretary to Board	11,500
Extra Help	15,700
Overtime	9,000
Salaries and Wages of Employees (13)	64,200
Personal Services	
Registration and Election Officers	121,700
Board of Canvass	7,500
Other Personal Services	10,236
Travel	800
Contractual Services	
Moving Voting Machines	17,000
Registration and Polling Place Rental ...	23,700
Other Contractual Services	27,725
Supplies and Materials	2,500
Capital Outlay	
Voting Machines	37,960
Other Capital Outlay	1,200
TOTAL	\$ 362,221

Kent County Department of Elections

Salary of Board Members	\$ 8,500
Salaries of Extra Employees	4,000
Overtime	1,000
Salaries and Wages of Employees (3)	14,750
Personal Services	
Registration and Election Officers	17,000
Other Personal Services	500

Year Ending June 30, 1969

Travel	300
Contractual Services	
Moving Voting Machines	2,500
Registration and Polling Place Rental	2,500
Other Contractual Services	6,000
Supplies and Materials	1,000
Capital Outlay	500
TOTAL	\$ 58,550

Sussex County Department of Elections

Salary of Board Members	\$ 8,500
Salaries of Extra Employees	6,000
Overtime	2,000
Salaries and Wages of Employees (4)	19,400
Personal Services	
Registration and Election Officers	22,000
Other Personal Services	2,500
Travel	800
Contractual Services	
Moving Voting Machines	2,100
Registration and Polling Place Rental	2,200
Other Contractual Services	7,700
Supplies and Materials	1,350
Capital Outlay	300
TOTAL	\$ 74,850

TOTAL LEGISLATIVE AND ELECTIONS ..\$ 1,056,569

EXECUTIVE AND FINANCIAL*Governor*

Salary of Governor	\$ 29,600
Salaries and Wages of Employees (10)	99,000
Travel	
Governors' Conference	750
Other Travel	12,250

Year Ending June 30, 1969

Contractual Services	5,000
Supplies and Materials	2,500
Capital Outlay	2,000
Contingent Expense	5,000

TOTAL\$ 156,100

Lieutenant Governor

Salary of Lieutenant Governor	\$ 9,000
Salaries and Wages of Employees (1)	5,700
Travel	
Other than Legislative	1,800
Contractual Services	640
Supplies and Materials	200

TOTAL\$ 17,340

Secretary of State

Salary of Secretary of State	\$ 15,000
Salary of Assistant Secretary of State	11,000
Overtime	1,000
Salaries and Wages of Employees (43)	197,300
Travel	3,500
Contractual Services	
Printing and Binding Session Laws	29,000
Dissolution Account	2,000
Other Contractual Services	24,000
Supplies and Materials	
Departmental Supplies	65,000
Other Supplies and Materials	3,200
Capital Outlay	1,800

TOTAL\$ 352,800

State Treasurer

Salary of State Treasurer	\$ 12,000
Salary of Deputy Treasurer	11,000
Overtime	3,000

Year Ending June 30, 1969

Salaries and Wages of Employees (22)	107,110
Travel	1,000
Contractual Services	
Machine Rental	42,000
Other Contractual Services	18,250
Supplies and Materials	2,500
Capital Outlay	1,000
Lost and Outdated Checks	2,500
TOTAL	\$ 200,360

Budget Director

Salary of Budget Director	\$ 17,500
Salaries and Wages of Employees (38)	234,900
Personal Services	10,000
Travel	1,800
Contractual Services	
Data Processing Equipment Rental	118,600
Other Contractual Services	12,500
Supplies and Materials	8,000
Capital Outlay	2,800
TOTAL	\$ 406,100

Budget Commission

Salaries and Wages of Employees (1.5)	\$ 8,900
Contractual Services	7,255
Supplies and Materials	500
TOTAL	\$ 16,655

Auditor of Accounts

Salary of Auditor	\$ 12,000
Salary of Deputy Auditor	11,000
Salaries—Part Time	7,800
Salaries and Wages of Employees (22)	140,780
Personal Services	35,000
Travel	3,000

Year Ending June 30, 1969

Contractual Services	4,025
Supplies and Materials	5,000
Capital Outlay	6,300

TOTAL	\$ 224,905
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Bond Issuing Officers

Expense of Issuing Bonds	\$ 30,000
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TOTAL	\$ 30,000
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State Tax Department

Salaries of Board Members	\$ 3,000
Salary of Commissioner	15,000
Salary of Deputy Tax Commissioner	12,000
Salary of Social Security Officer	8,100
Overtime	7,500
Salaries and Wages of Employees (155)	705,000

Personal Services

Lawyer	7,000
Other Personal Services	2,000

Travel

Social Security Division	850
Other Travel	3,000

Contractual Services

Social Security Division	650
Other Contractual Services	191,150

Supplies and Materials

Social Security Division	550
Other Supplies and Materials	30,900

Capital Outlay

Social Security Division	500
Other Capital Outlay	4,000

TOTAL	\$ 991,200
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Revenue Collector

Salary of Revenue Collector	\$ 2,500
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TOTAL	\$ 2,500
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*Year Ending June 30, 1969****Delaware State Development Department***

Salary of Director	\$ 9,000
Salaries and Wages of Employees (11)	58,000
Personal Services	1,000
Travel	5,000
Contractual Services	
Tourist Services for Legislative Hall	1,000
Promotional Advertising	14,000
Other Contractual Services	25,000
Supplies and Materials	10,000
Capital Outlay	2,900
Delmarva Advisory Council Grant	13,445
Miss America Pageant	1,000
TOTAL	\$ 140,445

State Planning Office

Salary of Director	\$ 18,500
Salaries and Wages of Employees (21)	156,900
Personal Services	2,000
Travel	
State Planning Council	1,100
Other Travel	3,100
Contractual Services	
New Castle Land Use Study	20,000
Other Contractual Services	22,150
Supplies and Materials	
State Planning Council	250
Other Supplies and Materials	6,600
Capital Outlay	2,000
TOTAL	\$ 232,600

State Personnel Commission

Salaries of Commissioners	\$ 2,250
Salary of Director	17,500
Salary of Deputy	14,400
Salaries and Wages of Employees (10)	55,200

Year Ending June 30, 1969

Personal Services	4,800
Travel	4,700
Contractual Services	
Examination Services	7,500
Wilmington Office Rental	4,200
Other Contractual Services	6,100
Supplies and Materials	3,700
Capital Outlay	6,600
Computer Service Contingency	3,000
TOTAL	\$ 129,950

The sums herein set forth for the State Personnel Commission do not constitute an appropriation, but rather establish an expenditure authorization for the Commission and such sums shall be available to the Commission as follows: The Commission shall pro-rate the sums set forth among the State agencies served by the Commission generally on the basis of the number of classified positions in each such agency on July 1, 1968, and the agencies shall transfer to the Commission these sums from their available funds.

TOTAL EXECUTIVE AND FINANCIAL ...\$ 2,771,005

JUDICIAL AND LEGAL*Supreme Court*

Salary of Chief Justice	\$ 25,000
Salaries of Associate Justices	49,000
Salaries—Part Time	600
Salaries and Wages of Employees (8)	51,100
Travel	2,550
Contractual Services	7,000
Supplies and Materials	2,500
Capital Outlay	3,500
TOTAL	\$ 141,250

*Year Ending June 30, 1969****Court of Chancery***

Salary of Chancellor	\$ 24,000
Salaries of Vice-Chancellors	47,000
Chancellor for Reporting	400
Salaries and Wages of Employees (7)	47,800
Personal Services	600
Travel	2,800
Contractual Services	
Chancellor's Report	5,750
Other Contractual Services	1,750
Supplies and Materials	2,900
Capital Outlay	3,200
TOTAL	\$ 136,200

Superior Court

Salary of President Judge	\$ 24,000
Salaries of Associate Judges	188,000
Kent Res. Judge for Reporting	400
Salaries and Wages of Employees (22)	162,100
Personal Services	1,500
Travel	12,500
Contractual Services	
Judge's Report	5,750
Other Contractual Services	3,650
Supplies and Materials	5,800
Capital Outlay	10,600
TOTAL	\$ 414,300

Common Pleas Court—Kent County

Salary of Judge	\$ 21,000
TOTAL	\$ 21,000

Common Pleas Court—Sussex County

Salary of Judge	\$ 21,000
TOTAL	\$ 21,000

*Year Ending June 30, 1969**Family Court for New Castle County*

Salaries of Judges	\$ 63,000
Salary of Director	12,500
Overtime	3,000
Salaries and Wages of Employees (70)	402,000
Personal Services—Masters	4,500
Travel	4,000
Contractual Services	6,200
Supplies and Materials	4,000
Capital Outlay	
Files	8,000
Other Capital Outlay	3,500
TOTAL	\$ 510,700

Family Court for Kent and Sussex Counties

Salaries of Judges	\$ 42,000
Salary of Director	8,000
Salaries and Wages of Employees (28)	151,120
Personal Services—Masters	3,000
TOTAL	\$ 204,120

New Castle County Law Library

Salaries and Wages of Employees (1)	\$ 5,500
Contractual Services	1,300
Supplies and Materials	50
Capital Outlay	9,600
TOTAL	\$ 16,450

State Law Library in Kent County

Salaries and Wages of Employees (2)	\$ 8,200
Contractual Services	1,800
Supplies and Materials	100
Capital Outlay	9,000
TOTAL	\$ 19,100

Sussex County Law Library**Year Ending June 30, 1969**

Personal Services	\$ 750
Contractual Services	1,000
Supplies and Materials	100
Capital Outlay	6,500
TOTAL	\$ 8,350

Attorney General

Salary of Attorney General	\$ 15,000
Salary of Administrative Assistant—Full Time	15,000
Salary of Chief Deputy	8,500
Salaries of County Deputies (3)	22,500
Salaries of County Assistant Deputies (8)	56,000
Salaries of State Detectives (3)	10,500
Salaries—Part Time	3,500
Salaries and Wages of Employees (15)	71,200
Personal Services	5,000
Travel	5,000
Contractual Services	18,000
Supplies and Materials	7,850
Capital Outlay	4,600
TOTAL	\$ 242,650

Board of Post Mortem Examiners

Salary of Medical Examiner	\$ 21,000
Salaries of Assistant Medical Examiners (2) ..	16,000
Salaries and Wages of Employees (7)	44,000
Personal Services	6,000
Travel	2,500
Contractual Services	5,400
Supplies and Materials	5,000
Capital Outlay	5,500
TOTAL	\$ 105,400

Public Defender

Salary of Public Defender	\$ 12,500
Salary of Assistant Public Defender—Full Time	12,000

Year Ending June 30, 1969

Salary of Administrative Assistant	8,000
Salaries and Wages of Employees (4)	18,900
Personal Services	
Lawyers	57,000
Court Reporters and Other Personal Services	7,500
Travel	2,000
Contractual Services	7,500
Supplies and Materials	1,800
Capital Outlay	1,000
TOTAL	\$ 128,200

Council on Administration of Justice

Travel	\$ 200
Contractual Services	300
TOTAL	\$ 500

Supervisor of Justices of Peace

Salary of Deputy Administrator	\$ 15,000
Salary of Assistant Deputy Administrator	9,000
Salaries of Justices of Peace (53)	424,000
Salaries of Constables (26)	130,000
Salaries of Chief Clerks (15)	67,500
Salaries of Deputy Clerks (45)	180,000
Salaries and Wages of Employees (4)	18,400
Personal Services	8,500
Travel	
Constables	32,500
Other Travel	500
Contractual Services	
J.P. Court Rental	51,150
Other Contractual Services	20,100
Supplies and Materials	20,400
Capital Outlay	7,500
TOTAL	\$ 984,550

TOTAL JUDICIAL AND LEGAL\$ 2,953,770

*Year Ending June 30, 1969***PROFESSIONAL AND OCCUPATIONAL BOARDS*****State Board of Accountancy***

Salaries of Board Members	\$ 1,000
Salaries and Wages of Employees	1,200
Personal Services	100
Travel	500
Contractual Services	1,885
Supplies and Materials	125
TOTAL	\$ 4,810

Board of Examiners and Registration of Architects

Salaries and Wages of Employees	\$ 2,000
Travel	250
Contractual Services	850
Supplies and Materials	100
TOTAL	\$ 3,200

State Board of Barber Examiners

Salaries of Board Members	\$ 1,400
Salary of Secretary	300
Travel	700
Contractual Services	800
Supplies and Materials	300
TOTAL	\$ 3,500

Board of Chiropody and/or Podiatry Examiners

Salaries of Board Members	\$ 160
Travel	30
Contractual Services	95
Supplies and Materials	65
Capital Outlay	150
TOTAL	\$ 500

Year Ending June 30, 1969

State Board of Chiropractic Examiners

Salaries of Board Members	\$	150
Travel		50
Contractual Services		140
Supplies and Materials		40
		<hr/>
TOTAL	\$	380

Board of Cosmetology

Salaries of Board Members	\$	1,500
Salary of Secretary		2,300
Personal Services		800
Travel		900
Contractual Services		1,100
Supplies and Materials		450
		<hr/>
TOTAL	\$	7,050

State Board of Dental Examiners

Salaries of Board Members	\$	780
Salaries and Wages of Employees		500
Travel		500
Contractual Services		800
Supplies and Materials		150
		<hr/>
TOTAL	\$	2,730

***State Board of Registration for Professional
Engineers and Land Surveyors***

Salary of Secretary	\$	4,440
Salaries and Wages of Employees		800
Personal Services		300
Travel		1,000
Contractual Services		4,260
Supplies and Materials		1,200
		<hr/>
TOTAL	\$	12,000

Medical Council of Delaware **Year Ending June 30, 1969**

Salaries of Board Members	\$ 2,500
Salaries—Part-time	2,000
Salaries and Wages of Employees (1)	7,000
Personal Services	100
Travel	3,000
Contractual Services	1,300
Supplies and Materials	850
TOTAL	\$ 16,750

Delaware Board of Nursing

Salaries of Board Members	\$ 800
Salary of Executive Director	12,000
Salaries and Wages of Employees (2)	11,000
Travel	1,300
Contractual Services	5,705
Supplies and Materials	400
Capital Outlay	200
TOTAL	\$ 31,405

State Board of Examiners in Optometry

Salaries of Board Members	\$ 300
Travel	150
Contractual Services	100
Supplies and Materials	50
TOTAL	\$ 600

State Board of Pharmacy

Salaries of Board Members	\$ 1,500
Personal Services	4,200
Travel	1,750
Contractual Services	1,000
Supplies and Materials	100
Capital Outlay	100
TOTAL	\$ 8,650

*Year Ending June 30, 1969**State Examining Board of Physical Therapists*

Personal Services	\$ 50
Travel	35
Contractual Services	200
Supplies and Materials	25
Capital Outlay	175
TOTAL	\$ 485

State Board of Examiners of Psychologists

Personal Services	\$ 200
Travel	100
Contractual Services	300
Supplies and Materials	50
Capital Outlay	50
TOTAL	\$ 700

Delaware Real Estate Commission

Salaries of Board Members	\$ 1,080
Salaries of Wages and Employees	2,400
Travel	200
Contractual Services	1,150
Supplies and Materials	400
TOTAL	\$ 5,230

State Board of Examiners of Undertakers

Salaries of Board Members	\$ 300
Salaries and Wages of Employees	300
Personal Services	100
Travel	150
Contractual Services	350
Supplies and Materials	100
TOTAL	\$ 1,300

Year Ending June 30, 1969

State Board of Veterinary Examiners

Salaries and Wages of Employees	\$	150
Personal Services		25
Travel		160
Contractual Services		35
Supplies and Materials		10
TOTAL	\$	380

State Board of Electrical Examiners

Salary of Board Members	\$	1,260
Salary of Secretary-Treasurer		300
Salaries and Wages of Employees (1)		4,500
Personal Services		500
Travel		1,600
Contractual Services		3,050
Supplies and Materials		300
Capital Outlay		300
TOTAL	\$	11,810

TOTAL PROFESSIONAL AND OCCUPATIONAL BOARDS	\$	111,480
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REGULATORY BOARDS AND AGENCIES

Alcoholic Beverage Control Commission

Salaries of Board Members	\$	4,200
Salary of Secretary		10,500
Salaries and Wages of Employees		118,800
Personal Services		
Lawyers		6,000
Court Reporters		4,500
Accountant		4,000
Travel		6,000
Contractual Services		29,840

Year Ending June 30, 1969

Supplies and Materials	3,500
Capital Outlay	6,500
TOTAL	\$ 193,840

State Athletic Commission

Salaries of Board Members	\$ 900
Salaries and Wages of Employees	150
Travel	600
Contractual Services	100
Supplies and Materials	50
TOTAL	\$ 1,800

State Bank Commissioner

Salaries of Board Members	\$ 240
Salary of Bank Commissioner	15,500
Salaries and Wages of Employees (6)	47,100
Personal Services	100
Travel	2,500
Contractual Services	2,000
Supplies and Materials	900
Capital Outlay	3,200
TOTAL	\$ 71,540

Bingo Control Commission

Salaries of Board Members	\$ 2,000
Salaries and Wages of Employees (3)	12,725
Travel	3,300
Contractual Services	550
Supplies and Materials	100
TOTAL	\$ 18,675

Board of Boiler Rules

Salary of Chief Inspector	\$ 8,000
Salaries and Wages of Employees (5)	25,500

Year Ending June 30, 1969

Travel	3,700
Contractual Services	2,880
Supplies and Materials	1,250
Capital Outlay	500
TOTAL	\$ 41,830

***State Fire Prevention Commission—
Office of State Fire Marshal***

Salary of Fire Marshal	\$ 9,500
Salaries and Wages of Employees (9)	51,100
Travel	1,500
Contractual Services	
Printing Fire Codes	700
New Castle County Office	1,000
Other Contractual Services	3,600
Supplies and Materials	4,500
Capital Outlay	5,200
Fire Prevention Conference	750
TOTAL	\$ 77,850

***State Fire Prevention Commission—
Delaware State Fire School***

Salary of Director	\$ 9,500
Salaries and Wages of Employees (3)	14,500
Travel	5,600
Contractual Services	4,700
Supplies and Materials	3,500
Capital Outlay	7,300
TOTAL	\$ 45,100

State Human Relations Commission

Salary of Executive Secretary	\$ 4,500
Salaries and Wages of Employees (2)	6,000
Personal Services	
Lawyer	1,500

Year Ending June 30, 1969

Other Personal Services	500
Travel	1,500
Contractual Services	4,500
Supplies and Materials	1,000
Capital Outlay	500

TOTAL	\$ 20,000
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State Insurance Commissioner

Salary of Commissioner	\$ 12,000
Salary of Deputy	11,000
Salaries and Wages of Employees (10)	55,400
Personal Services	
Lawyer	7,500
Travel	3,500
Contractual Services	
Insurance Premiums	319,400
Other Contractual Services	9,718
Supplies and Materials	1,500
Capital Outlay	800

TOTAL	\$ 420,818
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Public Service Commission

Salaries of Board Members	\$ 13,500
Salaries and Wages—Part-Time	700
Salaries and Wages of Employees (6)	41,700
Personal Services	
Lawyer	7,500
Other Personal Services	4,000
Travel	3,500
Contractual Services	5,200
Supplies and Materials	3,000
Capital Outlay	2,400

TOTAL	\$ 81,500
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Delaware Harness Racing Commission

Salaries of Board Members	\$ 3
Salary of Executive Secretary	12,500

Year Ending June 30, 1969

Salaries and Wages of Employees (3)	15,000
Travel	3,000
Contractual Services	3,850
Supplies and Materials	1,300
Capital Outlay	300
TOTAL	\$ 35,953

Delaware Racing Commission

Salaries of Board Members	\$ 4
Salaries and Wages of Employees	2,400
Travel	1,000
Contractual Services	3,791
Supplies and Materials	105
TOTAL	\$ 7,300

**TOTAL REGULATORY BOARDS
AND AGENCIES** \$ 1,016,206

DEFENSE*Delaware National Guard*

Salary of Adjutant General	\$ 15,000
Salaries and Wages of Employees	77,000
Travel	5,000
Contractual Services	
Painting Dover Armory	10,000
Other Contractual Services	101,000
Supplies and Materials	
Uniform Allowance—Officers	22,000
Other Supplies and Materials	25,000
Capital Outlay	10,000
Unit Fund Allowance	18,500
Bethany Beach Contingency	6,500
TOTAL	\$ 290,000

Department of Civil Defense *Year Ending June 30, 1969*

Salary of Director (Total \$11,000; State \$5,500; Other Sources \$5,500)	\$ 5,500
Salary of Deputy (Total \$8,610; State \$4,305; Other Sources \$4,305)	4,305
Salary of Personal Secretary (Total \$4,800; State \$2,400; Other Sources \$2,400)	2,400
Salaries and Wages of Employees (5.5)	34,165
Personal Services	200
Travel	800
Contractual Services	7,200
Supplies and Materials	3,300
Capital Outlay	5,000
Contingency—Contractual Services for Added Locations	1,600
TOTAL	\$ 64,470
TOTAL DEFENSE	\$ 354,470

LABOR

State Department of Labor and Industrial Relations

Salary of Executive Secretary	\$ 10,000
Salaries and Wages of Employees (15)	97,000
Personal Services—Lawyers	5,000
Travel	4,500
Contractual Services	13,700
Supplies and Materials	2,600
Capital Outlay	900
TOTAL	\$ 133,700

Apprenticeship and Training Council

Salaries of Board Members	\$ 1,440
Salary of Director	7,800
Salaries and Wages of Employees (1)	3,500
Travel	500
Contractual Services	350

Year Ending June 30, 1969

Supplies and Materials	200
Capital Outlay	150
TOTAL	\$ 13,940

Industrial Accident Board

Salaries of Board Members	\$ 15,000
Salary of Secretary	6,000
Salaries and Wages of Employees (4)	19,100
Personal Services	
Legal Fees	5,300
Court Reporters	6,000
Travel	3,800
Contractual Services	5,850
Supplies and Materials	800
Capital Outlay	500
Contingency—Rent	4,000
TOTAL	\$ 66,350

Office of Economic Opportunity

Contingency—Matching Federal Programs (Administered by Budget Commission) ..	\$ 20,000
TOTAL	\$ 20,000
TOTAL LABOR	\$ 233,990

CULTURAL, HISTORIC AND RECREATIONAL*Public Archives Commission*

Salary of Archivist	\$ 12,000
Overtime—Part Time	3,500
Salaries and Wages of Employees (16)	81,700
Personal Services	1,000
Travel	1,000
Contractual Services	5,720

Year Ending June 30, 1969

Supplies and Materials	
Film	3,000
Other Supplies and Materials	4,100
Capital Outlay	
Historic Markers	1,000
Other Capital Outlay	4,700
TOTAL	\$ 117,720

***Public Archives Commission—
State Museum***

Salaries and Wages of Employees (8.5)	\$ 40,700
Personal Services	1,000
Travel	250
Contractual Services	1,600
Supplies and Materials	1,200
Capital Outlay	3,000
TOTAL	\$ 47,750

***Public Archives Commission—
John Dickinson Mansion***

Salaries and Wages of Employees (3)	\$ 16,200
Personal Services	1,500
Contractual Services	350
Supplies and Materials	500
Capital Outlay	1,550
TOTAL	\$ 20,100

***Public Archives Commission—
Fort Christina Monument***

Salaries and Wages of Employees (2)	\$ 7,200
Personal Services	400
Contractual Services	2,300
Supplies and Materials	550
Capital Outlay	200
TOTAL	\$ 10,650

Public Archives Commission— **Year Ending June 30, 1969**
Governor's House

Salaries and Wages of Employees	\$	600
Supplies and Materials		8,000
Capital Outlay		2,000
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TOTAL	\$	10,600

Public Archives Commission—
Buena Vista

Salaries and Wages of Employees (5.5)	\$	26,000
Personal Services		1,000
Contractual Services		4,400
Supplies and Materials		9,000
Capital Outlay		2,500
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TOTAL	\$	42,900

Portrait Commission

Travel	\$	25
Contractual Services		150
Supplies and Materials		25
Capital Outlay		2,500
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TOTAL	\$	2,700

Lewes Memorial Commission

Salaries—Part Time	\$	800
Salaries and Wages of Employees (3)		11,400
Personal Services		50
Travel		100
Contractual Services		1,600
Supplies and Materials		300
Capital Outlay		300
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TOTAL	\$	14,550

Public Archives Commission—
New Castle Historic Buildings Division

Salaries and Wages of Employees (4)	\$	15,640
Contractual Services		3,500

Year Ending June 30, 1969

Supplies and Materials	500
Capital Outlay	500
TOTAL	\$ 20,140

Delaware Day Commission

Contractual Services	\$ 450
TOTAL	\$ 450

Delaware Archaeological Board

Salary of Archaeologist	\$ 8,500
Salaries—Part Time	2,500
Salaries and Wages of Employees (3)	11,190
Personal Services	1,000
Travel	500
Contractual Services	2,400
Supplies and Materials	1,100
Capital Outlay	1,250
TOTAL	\$ 28,440

Library Commission

Salary of Librarian (Total \$15,000; State \$8,500; Other Sources \$6,500)	\$ 8,500
Salary of Ass't Librarian (Total \$9,000; State \$6,500; Other Sources \$2,500)	6,500
Salaries—Part Time	1,000
Salaries and Wages of Employees (9)	40,600
Travel	1,000
Contractual Services	
Library Service—Blind and Handicapped ..	15,000
Other Contractual Services	1,400
Supplies and Materials	2,000
Capital Outlay	6,000
TOTAL	\$ 82,000

**State Park Commission—
Administration****Year Ending June 30, 1969**

Salary of Director	\$ 13,000
Salaries and Wages of Employees (54)	304,600
Personal Services	100
Travel	1,900
Contractual Services	72,745
Supplies and Materials	49,985
Capital Outlay	100,350
TOTAL	\$ 542,680

**TOTAL CULTURAL, HISTORIC AND
RECREATIONAL** \$ 940,680

STATE PROPERTIES**Custodian**

Salary of Custodian	\$ 12,000
Salary of Deputy	7,500
Salaries and Wages of Employees (79)	293,700
Personal Services	1,000
Travel	500
Contractual Services	153,550
Supplies and Materials	38,000
Capital Outlay	
Building Alterations	15,000
Other Capital Outlay	2,800
TOTAL	\$ 524,050

State Buildings and Grounds Commission

Personal Services	\$ 200
Travel	250
Contractual Services	150
Supplies and Materials	200
TOTAL	\$ 800

State Distribution Agency**Year Ending June 30, 1969**

Salary of Director	\$ 10,500
Salaries and Wages of Employees (16)	102,000
Personal Services	1,000
Travel	1,200
Contractual Services	25,250
Supplies and Materials	6,800
Capital Outlay	
Materials Handling Equipment	11,000
Other Capital Outlay	2,300
TOTAL	\$ 160,050
TOTAL STATE PROPERTIES	\$ 684,900

HEALTH AND WELFARE**State Board of Health**

Salary of Executive Secretary	\$ 24,000
Salaries and Wages of Employees (133)	849,900
Personal Services	
School Examination Fees	30,000
Other Personal Services	7,000
Travel	5,000
Contractual Services	
New Jersey Virus Lab. Service	9,240
Other Contractual Services	58,000
Supplies and Materials	
Glasses—Optometry Division	3,000
Polio, Measles and other Vaccine	25,000
Other Supplies and Materials	29,000
Capital Outlay	14,600
Contingency—Family Planning	100,000
TOTAL	\$ 1,154,740

Emily P. Bissell Hospital

Salary of Superintendent	\$ 14,500
Salaries and Wages of Employees (169)	836,000

Year Ending June 30, 1969

Personal Services	
Medical Fees	15,000
Other Personal Services	3,000
Travel	3,000
Contractual Services	
Contracts—Other Hospitals	10,000
Repair and Service—	
Buildings and Grounds	20,000
Other Contractual Services	68,900
Supplies and Materials	
Food	80,000
Drugs and Medical Supplies	70,000
Other Supplies and Materials	35,200
Capital Outlay	35,000
TOTAL	\$ 1,190,600

Water and Air Resources Commission

Salary of Executive Director (Total \$18,000; State \$9,500; Other Sources \$8,500)	\$ 9,500
Salary of Summer Help	3,000
Salaries and Wages of Employees (41)	254,000
Personal Services	
Lawyer	6,000
Other Personal Services	6,500
Travel	7,500
Contractual Services	20,150
Supplies and Materials	13,600
Capital Outlay	
Air Pollution Monitoring Stations	100,000
Other Capital Outlay	17,000
Contingency: A.D.P. (Highway Department)	18,000
TOTAL	\$ 455,250

*Department of Mental Health—
Administration*

Salary of Board Members	\$ 3,300
Salary of Commissioner	33,000

Year Ending June 30, 1969

Salary of Alcoholic Program (3)	36,900
Salaries and Wages of Employees (40)	243,000
Personal Services	
Lawyer	5,000
Travel	
Alcoholic Program	1,300
Other Travel	4,000
Contractual Services	
A.D.P. Equipment Rental	16,220
Other Contractual Services	27,580
Supplies and Materials	7,300
Capital Outlay	7,100
TOTAL	\$ 384,700

*Department of Mental Health—
Delaware State Hospital*

Salary—Overtime	\$ 47,000
Salaries and Wages of Employees (798)	3,626,000
Personal Services	
Payments to Patients	21,800
Other Personal Services	89,500
Travel	3,000
Contractual Services	
Buildings and Grounds Repairs	75,000
Other Contractual Services	195,600
Supplies and Materials	
Food	410,000
Drugs	150,000
Buildings Repair Materials	32,000
Other Supplies and Materials	136,500
Capital Outlay	86,200
TOTAL	\$ 4,872,600

*Department of Mental Health—
Mental Hygiene Clinic*

Salaries—Children's Hospital (3)	\$ 17,000
Salaries and Wages of Employees (59)	456,000

Year Ending June 30, 1969

Personal Services	1,000
Travel	2,000
Contractual Services	15,300
Supplies and Materials	
Drugs and Medical Supplies	85,000
Other Supplies and Materials	3,600
Capital Outlay	13,000
TOTAL	\$ 592,900

***Department of Mental Health—
Governor Bacon Health Center***

Salaries—Overtime	\$ 20,000
Salaries and Wages of Employees (273)	1,216,500
Personal Services	
Payments to Patients	1,750
Other Personal Services	18,240
Travel	1,000
Contractual Services	
Repair and Service—	
Buildings and Grounds	12,000
Hospital Contracts	5,000
Other Contractual Services	69,300
Supplies and Materials	
Drugs and Medical Supplies	25,000
Other Supplies and Materials	136,000
Capital Outlay	20,800
TOTAL	\$ 1,525,590

***Department of Mental Health—
Hospital for the Mentally Retarded***

Salary—Overtime	\$ 25,000
Salaries and Wages of Employees (423)	1,727,000
Personal Services	
Payments to Patients	9,600
Other Personal Services	25,700
Travel	1,200

Year Ending June 30, 1969

Contractual Services	
Repairs and Service—	
Buildings and Grounds	22,000
Other Contractual Services	122,500
Supplies and Materials	287,000
Capital Outlay	37,000
TOTAL	\$ 2,257,000

***Department of Mental Health—
Daytime Care Centers***

Salary—Substitute Aides	\$ 3,000
Salaries and Wages of Employees (49)	209,800
Travel	1,000
Contractual Services	16,000
Supplies and Materials	19,500
Capital Outlay	
Buses and/or Carryalls	19,000
Other Capital Outlay	5,000
TOTAL	\$ 273,800

***Delaware Home and Hospital for
Chronically Ill at Smyrna***

Salary of Board Members	\$ 840
Salary of Medical Director	22,000
Salary—Overtime	20,000
Salaries and Wages of Employees (539)	2,172,500
Personal Services	
Lawyer	4,000
Other Personal Services	21,000
Travel	2,500
Contractual Services	
A. D. P. Equipment Rental	7,500
Repairs and Service—	
Buildings and Grounds	20,000
Food Service Contract	33,000
Other Contractual Services	123,100

Year Ending June 30, 1969

Supplies and Materials	
Drugs and Medical Supplies	120,000
Other Supplies and Materials	413,500
Capital Outlay	52,000
TOTAL	\$ 3,011,940

Commission for the Aging

Salary of Director (Total \$10,500; State \$5,250;	
Other Sources \$5,250)	\$ 5,250
Salaries and Wages of Employees (2.5)	13,100
Travel	1,000
Contractual Services	2,100
Supplies and Materials	300
Older American Act Grants	65,000
TOTAL	\$ 86,750

Delaware Commission on Children and Youth

Salary of Executive Secretary	\$ 5,300
Salaries and Wages of Employees	1,600
Travel	600
Contractual Services	900
Supplies and Materials	800
Capital Outlay	100
Contingency—Youth Council	1,000
TOTAL	\$ 10,300

Interagency Committee on Mental Retardation

Salary of Director	\$ 18,000
Salary of Secretary	5,500
Part Time Employee	500
Travel	500
Personal Services	200
Contractual Services	1,600
Supplies and Materials	800
Capital Outlay	400
TOTAL	\$ 27,500

*Year Ending June 30, 1969**Delaware Commission for the Blind*

Salary of Director (Total \$13,500; State \$5,750; Other \$7,750)	\$ 5,750
Salaries and Wages of Employees (18)	96,000
Personal Services	4,000
Travel	4,600
Contractual Services	
Education Services	95,000
Other Contractual Services	15,300
Supplies and Materials	
Vocational Training	20,000
Other Supplies and Materials	3,250
Capital Outlay	
Two Vehicles	1,700
Contingency—Federal Matching Workshop	5,000
Stand Construction	5,000
Other Capital Outlay	2,400
Assistance Grants	170,000
TOTAL	\$ 428,000

Department of Public Welfare

Salary of Director (Total \$16,000; State \$10,000; Other Sources \$6,000)	\$ 10,000
Salary of Intake, P.A. C.W.S. and G.A. Super- visors (20)	150,400
Salary of Intake P.A., C.W.S. and G.A. Case- workers (80)	460,800
Salaries and Wages of Employees (65)	414,000
Personal Services	3,000
Travel	5,100
Contractual Services	
Blue Cross Contract	60,000
Other Contractual Services	85,000
Supplies and Materials	27,800
Capital Outlay	12,000
G. A. Pensions	6,600
Old Age Assistance Grants	460,000

Year Ending June 30, 1969

Aid to Disabled Grants	630,000
Aid and Service to Needy Families	1,050,000
Direct Care—Child Welfare Service	1,450,000
Medical Aid Program—Drugs	250,000
General Assistance Grants	500,000

TOTAL	\$ 5,574,700
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TOTAL HEALTH AND WELFARE	\$ 21,846,370
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REHABILITATION*Department of Correction*

Salary of Board Members	\$ 4,500
Salary of Commissioner	16,000
Salary of Director of Institutions	13,000
Salary of Parole and Probation Program (35)	223,000
Salary of Custodial Force (127)	691,900
Salary of Medical Personnel (Title II, Section 6536) (4)	20,300
Salary of Bail Bond Program (5)	31,600
Salary of Casual and Part-Time	22,000
Salary—Overtime	15,000
Salaries and Wages of Employees (81)	460,320
Personal Services	
Payment to Inmates	25,000
Medical Services (Title II, Section 6536) ..	29,000
Other Personal Services	7,000
Travel	9,200
Contractual Services	
Hospital Services (Title II, Section 6536) ..	12,000
Other Contractual Services	136,300
Supplies and Materials	
Drugs and Medical Supplies (Title II, Section 6536)	12,000
Other Supplies and Materials	263,300

Year Ending June 30, 1969

Capital Outlay	
Sussex Refrigerator	10,000
Other Capital Outlay	30,800
Contingency—New Building Utilities	30,000
	<hr/>
TOTAL	\$ 2,062,220

Youth Services Commission

Salary of Executive Director	\$ 15,500
Salary—Overtime	6,000
Salaries and Wages of Employees (170)	843,360
Personal Services	17,000
Travel	4,500
Contractual Services	72,800
Supplies and Materials	
Food	88,000
Other Supplies and Materials	72,100
Capital Outlay	24,000
Contingency—New Ferris Cottages	75,000
Contingency—New WH-K Unit	25,000
	<hr/>
TOTAL	\$ 1,243,260

Board of Parole

Salaries of Board Members	\$ 2,160
Salary of Executive Secretary	7,000
Salaries and Wages of Employees (1)	5,000
Travel	1,800
Contractual Services	1,200
Supplies and Materials	200
Capital Outlay	1,000
	<hr/>
TOTAL	\$ 18,360

Board of Pardons

Salary of President	\$ 244
Personal Services	96

Year Ending June 30, 1969

Travel	100
TOTAL	\$ 440
TOTAL REHABILITATION	\$ 3,324,280

AGRICULTURE, FORESTRY AND CONSERVATION*State Board of Agriculture*

Salaries of Board Members	\$ 1,950
Salary of Secretary	10,000
Salaries—Casual and Part Time	9,000
Salaries and Wages of Employees (30)	199,000
Personal Services	26,000
Travel	4,000
Contractual Services	
U.S.D.A. Market News	1,250
U.S.D.A. Inspector Service	12,000
Hog Cholera Indemnities	10,000
Other Contractual Services	12,850
Supplies and Materials	20,700
Capital Outlay	
Vehicles	4,000
Other Capital Outlay	17,800
TOTAL	\$ 328,550

*State Board of Agriculture—
Meat Inspection Division*

Salaries and Wages of Employees (11)	\$ 92,500
Personal Services	2,000
Travel	4,000
Contractual Services	4,200
Supplies and Materials	5,000
Capital Outlay	200
TOTAL	\$ 107,900

State Board of Agriculture— **Year Ending June 30, 1969**
Weights and Measures

Salary of Chief Inspector	\$ 8,300
Salaries and Wages of Employees (8)	47,900
Personal Services	100
Travel	700
Contractual Services	1,600
Supplies and Materials	3,350
Capital Outlay	
Vehicles	1,800
Other Capital Outlay	2,600
TOTAL	\$ 66,350

Soil and Water Conservation Commission

State Drainage Engineer (Director)	\$ 14,000
Salaries and Wages of Employees (9)	60,300
Travel	2,700
Contractual Services	
Highway Crossing Contracts	65,000
Other Contractual Services	5,700
Supplies and Materials	
Highway Crossings	48,000
Other Supplies and Materials	1,900
Capital Outlay	3,000
Tax Ditches—Sussex County*	22,500
Tax Ditches—Kent County*	10,000
Tax Ditches—New Castle County*	30,000
*Pursuant to Chapter 414, Volume 55, Delaware Code	
TOTAL	\$ 263,100

State Poultry Commission

Salary of Executive Secretary	\$ 2,000
Salaries and Wages of Employees	1,400
Travel	600
Contractual Services	10,525
Supplies and Materials	25
TOTAL	\$ 14,550

*Year Ending June 30, 1969****State Forestry Department—Administration***

Salary of State Forester (Total \$12,000; State \$6,000; Other Sources \$6,000)	\$ 6,000
Salary of Chief Deputy	9,000
Salary of Personal Secretary	6,800
Salaries and Wages of Employees (13.25)	48,800
Personal Services	
Forest Patrol	100
Other Personal Services	400
Travel	600
Contractual Services	5,000
Supplies and Materials	4,000
Capital Outlay	
Land Improvement	1,000
Other Capital Outlay	2,500
TOTAL	\$ 84,200

State Forestry Department—***Special Fire Protection and Extinction***

Salaries and Wages of Employees (5)	13,300
Personal Services	
Fire Fighters	1,000
Other Personal Services	50
Travel	50
Contractual Services	2,000
Supplies and Materials	600
Capital Outlay	2,900
TOTAL	\$ 19,900

Delaware Game and Fish Commission

Salaries of Board Members	\$ 2,700
Salary of Director (Total \$12,000; State \$7,000; Other Sources \$5,000)	7,000
Salaries and Wages of Employees (19)	107,200
Personal Services	550

Year Ending June 30, 1969

Travel	1,000
Contractual Service	
New Castle County Dog Control	25,000
Kent County Dog Control	10,000
Other Contractual Services	12,550
Supplies and Materials	16,200
Capital Outlay	11,500
TOTAL	\$ 193,700

Delaware Commission of Shell Fisheries

Salary of Executive Secretary	\$ 5,000
Salaries and Wages of Employees (14)	66,000
Personal Services	300
Travel	1,200
Contractual Services	
Boat Repairs	4,000
Other Contractual Services	6,100
Supplies and Materials	7,800
Capital Outlay	1,800
TOTAL	\$ 92,200

Atlantic States Marine Fisheries Commission

Travel	\$ 300
Contractual Services	1,500
TOTAL	\$ 1,800

State Geologist

Salary of State Geologist	\$ 9,000
Salaries—Casual Labor	1,200
Salaries and Wages of Employees (4.5)	39,700
Travel	1,000
Contractual Services	
River Master Program	15,500
Federal Co-op Program	24,700
Other Contractual Services	1,900

Year Ending June 30, 1969

Supplies and Materials	1,100
Capital Outlay	
Well Logging Equipment	10,400
Other Capital Outlay	500
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TOTAL	\$ 105,000
TOTAL AGRICULTURE, FORESTRY AND CONSERVATION	\$ 1,277,250

HIGHWAYS, POLICE, ETC.***State Highway Department—
Controller's Office***

Salary of Controller	\$ 17,000
Salaries and Wages of Employees (35.5)	208,000
Personal Services	5,000
Travel	3,000
Contractual Services	
Office and E.D.P. Equipment Rental	243,000
Other Contractual Services	26,950
Supplies and Materials	22,400
Capital Outlay	3,800
Social Security Contribution (Administered by State Treasurer)	270,000
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TOTAL	\$ 799,150

***State Highway Department—
Engineering Division***

Salary of Director of Operations	\$ 22,500
Salary of Administrative Assistant	11,100
Salary of Chief Engineer	19,000
Salary—Overtime	80,000
Base Wages—Hourly Employees (608)	2,530,000
Base Salaries—Salaried Employees (343)	1,965,000
Personal Services	
Lawyers	12,000
Maintenance Study	30,000

Year Ending June 30, 1969

Other Personal Services	6,500
Travel	8,500
Contractual Services	
Resurfacing Contracts	1,300,000
Mowing Contracts	90,000
Bridge Repair Contracts	100,000
Moving Expense—New Building	20,000
Other Contractual Services	529,000
Supplies and Materials	1,404,600
Capital Outlay	590,000
Lines—Center and Edge of Highways	50,000
Contingency Fund: Overtime and Contractual Snow Removal and Ice Control	300,000
TOTAL	\$ 9,068,200

*State Highway Department—**Motor Vehicle Division*

Salary of Commissioner	\$ 15,500
Salaries and Wages of Employees (179)	799,000
Personal Services	100
Travel	
Reciprocity Travel	500
Other Travel ..	1,000
Contractual Services	65,700
Supplies and Materials	
Tags, Stickers and Numerals	160,000
Other Supplies and Materials	28,000
Capital Outlay	8,500
TOTAL	\$ 1,078,300

*State Highway Department—**Safety Responsibility Division*

Salary of Director	\$ 8,500
Salaries and Wages of Employees (5)	20,440
Travel	400
Contractual Services	1,650

Year Ending June 30, 1969

Supplies and Materials	1,200
Capital Outlay	300
TOTAL	\$ 32,490

State Highway Department—***Motor Fuel Tax Division***

Salary of Director	\$ 8,500
Salaries—Part-time	1,000
Salaries and Wages of Employees (5)	30,600
Travel	4,000
Contractual Services	4,100
Supplies and Materials	1,525
Capital Outlay	400
TOTAL	\$ 50,125

State Highway Department—***State Police Division***

Salary of Superintendent	\$ 14,000
Salary of Director of Operations	12,600
Salaries of Uniformed Division (308)	1,887,300
Salaries and Wages of Employees (64)	282,000
Personal Services	1,200
Travel	5,000
Contractual Services	
Security Guards—Governor's House	13,000
Other Contractual Services	155,300
Supplies and Materials	200,030
Capital Outlay	
Vehicle Replacement	80,000
Additional Vehicles and Related Equipment	90,000
Other Capital Outlay	37,000
Pension Fund Contribution	35,500
Police Information Network Contingency	50,000
TOTAL	\$ 2,862,930

State Highway Department— **Year Ending June 30, 1969**
Communications Division

Salaries and Wages of Employees (14)	\$ 89,480
Travel	1,700
Contractual Services	
School Contracts	1,000
Other Contractual Services	6,750
Supplies and Materials	
Materials for Resale	18,000
Other Supplies and Materials	4,200
Capital Outlay	15,000
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TOTAL	\$ 136,130

State Highway Department—
Mosquito Control Division

Salary of Superintendent	\$ 10,500
Salaries—Overtime	5,000
Salaries and Wages of Employees (25)	117,000
Travel	600
Contractual Services	
Research Contracts—University of Delaware	15,000
Other Contractual Services	74,600
Supplies and Materials	69,800
Capital Outlay	
Trench Hoe	12,000
Other Capital Outlay	5,500
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TOTAL	\$ 310,000

Federal-State Highway Safety Coordinator

Salary of Coordinator (Total \$15,000; State \$7,500; Other \$7,500)	7,500
Salaries and Wages of Employees	5,000
Travel	1,300
Contractual Services	4,000

Year Ending June 30, 1969

Supplies and Materials	600
Capital Outlay	400
TOTAL	\$ 18,800

TOTAL HIGHWAYS, POLICE, ETC. \$ 14,356,125

DEBT SERVICE

Redemptions	\$ 25,244,000
Interest (Total \$9,411,000; General Fund \$8,411,000; Capital Investment Fund Inter- est \$1,000,000)	8,411,000
TOTAL	\$ 33,655,000

County Obligations

Redemptions	\$ 50,000
Interest	2,625
TOTAL	\$ 52,625

TOTAL DEBT SERVICE \$ 33,707,625

PENSIONS AND SOCIAL SECURITY*State Employees Pension Plan*

Salaries—Part Time	\$ 1,000
Salaries and Wages of Employees (2)	8,600
Travel	100
Contractual Services	1,600
Supplies and Materials	400
Capital Outlay	1,000
Benefits	3,355,000
Survivors' Pension—Spouse	300,000
TOTAL	\$ 3,667,700

*Year Ending June 30, 1969****Board of State Employees' Pension Trustees***

Salaries and Wages of Employees (0.5)	\$	2,600
TOTAL	\$	2,600

State Judiciary Retirement Fund

Contributions	\$	30,000
TOTAL	\$	30,000

State Police Retirement Fund

Personal Services	\$	250
Supplies and Materials		250
Contributions—Regular Pensions		379,300
Survivors' Pensions		102,500
TOTAL	\$	482,300

Paraplegic Veterans' Pensions

Benefits	\$	7,200
TOTAL	\$	7,200

Retired and Disabled Teachers' Penisons

Benefits	\$	170,000
TOTAL	\$	170,000

State Share—Social Security

Contributions	\$	3,630,000
TOTAL	\$	3,630,000

TOTAL PENSIONS AND SOCIAL SECURITY	\$	7,989,800
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GRANTS-IN-AID*Year Ending June 30, 1969****Municipalities***

Street Improvement Aid Funds	\$ 2,000,000
TOTAL	\$ 2,000,000

Peninsula Horticultural Society

Contractual Services	\$ 900
TOTAL	\$ 900

Crop Improvement Association

Contractual Services	\$ 800
TOTAL	\$ 800

Public Libraries

Grants-in-Aid	\$ 37,000
TOTAL	\$ 37,000

TOTAL GRANTS-IN-AID	\$ 2,038,700
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CONTINGENCY FUND**(Administered by State Budget Commission)**

Delaware Military Pay Commission	\$ 100,000
Youth Services Commission—Growth and Upgrading	35,000
Emergency Fund Only	150,000
Boiler and Roof Repair	50,000
Fire and Storm Damage	100,000
Public Service Commission—Hearing Contingency	10,000
Department of Corrections—Overtime Contingency	15,000
Commission on Status of Women	2,500

Year Ending June 30, 1969

Guaranteed Loan Reserve—Higher Education .	25,000
Merit System Pay Plan Implementation	500,000
Agency Payments to Personnel Commission . . .	129,950
Contingency—Vehicles	18,000

TOTAL	\$ 1,135,450
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TOTAL AGENCIES GRANTS-IN AID AND CONTINGENCY FUND	\$ 95,798,670
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EDUCATION**HIGHER EDUCATION***University of Delaware*

Operations	\$ 9,512,000
Diagnostic Poultry Service	10,000
General Scholarships	37,500
Aid to Needy Students (Section 5520-5524, Title 14, Delaware Code)	57,000
Teaching Scholarships (Section 5502, Title 14, Delaware Code)	50,000
Scholarship Fund (Section 5501, Title 14, Dela- ware Code)	50,000
Shellfish Research	10,000
Employer's Share, Social Security (Adminis- tered by the State Treasurer)	462,600
State Employees' Pension Benefits (Adminis- tered by the State Treasurer)	245,520
TOTAL	\$ 10,434,620

Delaware State College

Salaries and Wages of Employees	\$ 818,000
Salaries of Security Guards (8)	40,000
Personal Services	
Work Study Program	10,000
Other Personal Services	3,000
Travel	3,000

Year Ending June 30, 1969

Contractual Services	120,000
Supplies and Materials	92,000
Capital Outlay	58,000
Scholarships (Section 6510, Title 14, Delaware Code)	50,000
TOTAL	\$ 1,194,000

***Delaware Technical and Community College—
Administration***

Salary of Executive Director	\$ 23,000
Salaries and Wages of Employees	52,300
Personal Services	3,000
Travel	2,500
Contractual Services	9,000
Supplies and Materials	1,800
Capital Outlay	1,400
Contingency Fund	50,000
TOTAL	\$ 143,000

***Delaware Technical and Community College—
Northern and Southern Branches***

Salaries and Wages of Employees	\$ 1,360,000
Personal Services	8,000
Travel	6,900
Contractual Services	
Rental of Buildings	158,250
University of Delaware	150,000
Other Contractual Services	198,300
Supplies and Materials	74,200
Capital Outlay	24,500
TOTAL	\$ 1,980,150

***Higher Educational Aid Advisory Commission
(Delaware Higher Education and Vocational Loan Program)***

Salaries and Wages of Employees	\$ 4,500
Supplies and Materials	1,200

Year Ending June 30, 1969

Guaranteed Loan Reserves	23,500
Vocational Student Loan Plan	10,000
TOTAL	\$ 39,200
TOTAL HIGHER EDUCATION	\$ 13,790,970

PUBLIC EDUCATION*State Board of Education***DIVISION I—SALARIES**

Board Members	\$ 2,700
Superintendent	24,000
Deputy Superintendent (All Other Funds \$20,300)	34,360
Assistant Superintendents (2)	49,560
Directors	
Level 2 (3) State Funds	61,760
Level 1 (6)	
(4) State Funds	30,280
(2) All Other Funds \$30,280	
Administrative Assistant (1)	
All Other Funds, Director 1 Level \$15,500	
Supervisors	
Level 2 (19)	
(9) State Funds	126,300
(6) Total \$85,020; State \$42,510; Other \$42,510 .	42,510
(4) All Other Funds \$56,560	176,340
Level 1 (22) (13) State Funds	11,490
(2) Total \$25,320; State \$11,490; Other \$13,830 .	86,940
(7) All Other Funds \$86,940	
Specialists (1) State Funds	9,300
(1) All Other Funds \$9,400	
Teachers	
Driver Education (58—10 months)	416,700
A. I. duPont Institute (1)	7,500

Year Ending June 30, 1969

Attendance Officers (4—10 months)	28,800
Psychologists (8—10 months)	70,800
Speech and Hearing (8—10 months)	60,600
Homebound (10—10 months)	68,600
Substitutes in Districts	385,000
Clerical (48)	202,805
Janitorial (1)	3,150
Others	
Education of the Foreign Born	8,480
Bus Drivers and Attendants	140,000
E.D.P. Coordinator (Total \$11,000; State \$3,500; Other \$7,500)	3,500
E.D.P. Operations Supervisor (Total \$8,500; State \$2,000; Other \$6,500) . .	2,000
E.D.P. Programmer (Total \$9,000; State \$2,500; Other \$6,500)	2,500
Graphic Arts (All Other Funds \$6,240) . .	_____
Machine Operator (All Other Funds \$6,000)	_____
Publicity Assistant (All Other Funds \$6,240)	_____
Coordinator of School Plant Services (All Other Funds \$12,240)	_____
 TOTAL SALARIES FROM STATE FUNDS	 \$ 1,938,755

DIVISION II

Personal Services	
Lawyers	\$ 3,000
Other Personal Services	4,000
Travel	
Reimbursement to Parents	25,000
Staff Travel	25,000
Contractual Services	
Tuition and Initiation of Deaf Program .	131,000
Transportation—Bus Contracts	3,250,000
Evening School	105,000
Other Contractual Services	85,000
Supplies and Materials	47,000

Year Ending June 30, 1969

Capital Outlay	
Films	15,000
Buses	25,000
Other Capital Outlay	9,000
Scholarship Fund (Chapter 34, Title 14, Delaware Code)	110,000
Governor's Committee on Employment of Handicapped	500
Delaware Education Council—Compact	9,000
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TOTAL NON-SALARIES—STATE FUNDS ...\$	3,843,500
TOTAL STATE BOARD OF EDUCATION—	
STATE FUNDS	\$ 5,782,255

State Board of Vocational Education

DIVISION I.—SALARIES

Assistant Superintendent (1) (Total \$17,780; State \$8,890; Other \$8,890)	8,890
Director—Level 2 (Total \$16,680; State \$8,340; Other \$8,340)	8,340
Supervisors	
Level 2—(2) (Total \$28,160; State \$14,080; Other \$14,080)	14,080
(1) (All Other Funds \$14,080)	—
Level 1—(4) (Total \$52,980; State \$26,490; Other \$26,490)	26,490
(5) (All Other Funds \$64,260)	—
Teachers	
Fire School	7,500
Vocational Programs	69,100
Clerical	20,750
Student Work Study	5,000

 TOTAL SALARIES—STATE FUNDS\$ 160,150

DIVISION II—OTHER COSTS

Personal Services	\$ 1,000
Travel	4,000
Contractual Services	2,850
Apprentice Registration	1,000

Year Ending June 30, 1969

Supplies and Materials	
Textbooks and Supplies—Vocational Programs	8,500
Other Supplies and Materials	2,400
Capital Outlay	1,800
TOTAL NON-SALARIES	\$ 21,550
TOTAL STATE BOARD OF VOCATIONAL EDUCATION	
	\$ 181,700

***State Board of Vocational Education—
Rehabilitation Division***

Salaries (All Other Funds \$314,508)	
Personal Services	\$ 73,000
Travel	7,000
Contractual Services	
Case Service	31,000
Other Contractual Services	134,000
Supplies and Materials	25,000
TOTAL REHABILITATION DIVISION	\$ 270,000

Educational Television Board

Salary of Director	\$ 17,000
Salaries and Wages of Employees	413,700
Personal Services	13,000
Travel	5,000
Contractual Services	
University of Delaware Film Production .	5,000
Film Processing	6,000
Videotape Rental	52,500
Cable Rental	507,000
Delaware State College	1,000
Other Contractual Services	57,100
Supplies and Materials	59,400
Capital Outlay	39,000
TOTAL	\$ 1,175,700

*Year Ending June 30, 1969***SPECIAL SCHOOL DISTRICTS*****Caesar Rodney*****DIVISION I—SALARIES**

Chief School Officer	\$	13,800
Directors	1	13,800
Principals—Full Time	5	58,860
Principals—Part Time	1	6,560
Vice-Principals	1	9,080
Administrative Assistants	1	12,500

TOTAL ADMINISTRATIVE SALARIES\$ 114,600

Teachers	197	\$ 1,368,420
Teachers — Psychologists	1	9,000
Teachers — Speech and Hearing	1	7,400
Clerical	14	68,250
Janitorial	31	156,600
Health	5	28,400
Cafeteria	6	29,200

DIVISION II—OTHER COSTS

All Other Costs	204	\$ 183,600
Capital Outlay	204	30,600

TOTAL\$ 1,996,070

Caesar Rodney Trainable School**(Administered by Caesar Rodney)****DIVISION I—SALARIES**

Teachers	4	\$ 26,400
Clerical	PT	3,302
Janitorial	1	5,400
Health	PT	3,200
Attendants and Aides	4	12,800

DIVISION II—OTHER COSTS

All Other Costs	9	8,100
Capital Outlay	9	1,350

TOTAL\$ 60,552

Claymont**Year Ending June 30, 1969****DIVISION I—SALARIES**

Chief School Officer	\$	13,800
Principals	4	47,360
Vice-Principals	1	11,000
Administrative Assistants	1	12,500

TOTAL ADMINISTRATIVE SALARIES	\$	84,660
Teachers	131	991,800
Clerical	9	48,600
Janitorial	22	118,150
Health	3½	21,800
Cafeteria	5	22,800

DIVISION II—OTHER COSTS

All Other Costs	136	122,400
Capital Outlay	136	20,400

TOTAL	\$	1,430,610
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Dover**DIVISION I—SALARIES**

Chief School Officer	\$	14,280
Directors	1	13,800
Principals—Full Time	9	100,300
Vice-Principals	1	11,300
Administrative Assistants	1	12,500

TOTAL ADMINISTRATIVE SALARIES	\$	152,180
Teachers	240	\$ 1,719,400
Teachers — Psychologists	1	9,000
Teachers — Speech and Hearing	1	7,400
Clerical	16	81,400
Janitorial	53	263,400
Health	6	34,600
Cafeteria	9	44,350

DIVISION II—OTHER COSTS

All Other Costs	250	225,000
Capital Outlay	250	37,500

TOTAL	\$	2,574,230
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Alexis I. duPont**Year Ending June 30, 1969****DIVISION I—SALARIES**

Chief School Officer	\$	14,280
Principals	4	47,260
Vice-Principals	1	10,240
Administrative Assistants	1	12,980

TOTAL ADMINISTRATIVE SALARIES\$ 84,760

Teachers	102	\$ 778,400
Clerical	8	43,400
Janitorial	33	168,400
Health	3	18,600
Cafeteria	6	26,350

DIVISION II—OTHER COSTS

All Other Costs	107	96,300
Capital Outlay	107	16,050

TOTAL\$ 1,232,260

Alfred I. duPont**DIVISION I—SALARIES**

Chief School Officer	\$	14,280
Assistant Superintendent	1	14,800
Directors	2	28,080
Supervisors	8	67,200
Principals	10	123,000
Vice-Principals	2	21,880
Principals—Part Time	1	8,750
Administrative Assistants	1	12,500

TOTAL ADMINISTRATIVE SALARIES\$ 290,490

Teachers	398	\$ 3,054,800
Teachers — Psychologists	2	18,000
Teachers — Speech and Hearing	2	14,800
Teachers — Visiting	2	13,200
Clerical	34	164,000
Janitorial	72	371,000
Health	10½	64,500
Cafeteria	12	53,100

Year Ending June 30, 1969

DIVISION II—OTHER COSTS

All Other Costs	411	369,900
Capital Outlay	411	61,650
TOTAL		\$ 4,475,440

C. W. Bush Trainable School
(Administered by Alfred I. duPont)

DIVISION I—SALARIES

Principals	1	\$ 11,800
TOTAL ADMINISTRATIVE SALARIES		\$ 11,800
Teachers	8	\$ 61,400
Clerical	1	5,200
Janitorial	1	5,200
Health	1	4,800
Cafeteria	1	3,450
Attendants and Aides	6	19,800

DIVISION II—OTHER COSTS

All Other Costs	15	13,500
Capital Outlay	15	2,250
TOTAL		\$ 127,400

Georgetown

DIVISION I—SALARIES

Chief School Officer		\$ 13,800
Principals	2	22,660
Vice-Principals	1	10,280
Administrative Assistants	1	11,540
TOTAL ADMINISTRATIVE SALARIES		\$ 58,280
Teachers	75	\$ 560,020
Clerical	7	37,300
Janitorial	10	54,500
Health	2	18,000
Cafeteria	1	4,500

DIVISION II—OTHER COSTS *Year Ending June 30, 1969*

All Other Costs	78	70,200
Capital Outlay	78	11,700

TOTAL\$ 809,500

Harrington**DIVISION I—SALARIES**

Chief School Officer	\$	12,580
Principals	2	24,200

TOTAL ADMINISTRATIVE SALARIES\$ 36,780

Teachers	58	\$ 425,400
Clerical	4	22,000
Janitorial	10	52,950
Health	1½	8,700
Cafeteria	2	9,000

DIVISION II—OTHER COSTS

All Other Costs	60	54,000
Capital Outlay	60	9,000

TOTAL\$ 617,830

Laurel**DIVISION I—SALARIES**

Chief School Officer	\$	13,800
Principals	3	34,140
Vice-Principals	1	10,580
Administrative Assistants	1	12,500

TOTAL ADMINISTRATIVE SALARIES\$ 71,020

Teachers	91	\$ 674,640
Clerical	8	42,100
Janitorial	17	92,500
Health	2½	16,000
Cafeteria	3	11,700

DIVISION II—OTHER COSTS

All Other Costs	95	85,500
Capital Outlay	95	14,250

TOTAL\$ 1,007,710

*Lewes**Year Ending June 30, 1969*

DIVISION I—SALARIES

Chief School Officer	\$	13,800
Principals	2	24,400
Principals—Part Time	1	8,600

 TOTAL ADMINISTRATIVE SALARIES\$ 46,800

Teachers	71	\$ 524,200
Clerical	5	26,600
Janitorial	13	66,050
Health	2	12,500
Cafeteria	3	13,200

DIVISION II—OTHER COSTS

All Other Costs	74	66,600
Capital Outlay	74	11,100

 TOTAL\$ 767,050
Milford

DIVISION I—SALARIES

Chief School Officer	\$	13,080
Principals	5	56,700
Vice-Principals	1	10,480
Administrative Assistants	1	12,500

 TOTAL ADMINISTRATIVE SALARIES\$ 92,760

Teachers	131	\$ 963,400
Clerical	9	46,900
Janitorial	25	130,650
Health	3½	19,800
Cafeteria	5	22,500

DIVISION II—OTHER COSTS

All Other Costs	137	123,300
Capital Outlay	137	20,550

 TOTAL\$ 1,419,860

Mount Pleasant**Year Ending June 30, 1969****DIVISION I—SALARIES**

Chief School Officer	\$	13,800
Directors	1	13,080
Principals	7	82,320
Vice-Principal	1	10,380
Administrative Assistants	1	12,500

TOTAL ADMINISTRATIVE SALARIES\$ 132,080

Teachers	233	\$ 1,839,720
Teachers — Psychologists	1	9,000
Teachers — Speech and Hearing	1	7,400
Clerical	16	83,900
Janitorial	41	206,200
Health	6	38,200
Cafeteria	8	37,850

DIVISION II—OTHER COSTS

All Other Costs	241	216,900
Capital Outlay	241	36,150

TOTAL\$ 2,607,400

New Castle**DIVISION I—SALARIES**

Chief School Officer	\$	13,080
Directors	1	13,800
Principals—Full Time	8	95,340
Vice-Principals	1	11,380
Administrative Assistants	1	12,500

TOTAL ADMINISTRATIVE SALARIES\$ 146,100

Teachers	278	\$ 2,006,300
Teachers — Psychologists	2	16,800
Teachers — Speech and Hearing	2	14,800
Clerical	18	91,734
Janitorial	44	218,275
Health	7	43,800
Cafeteria	9	40,350

Year Ending June 30, 1969

DIVISION II—OTHER COSTS

All Other Costs	287	258,300
Capital Outlay	287	43,050

TOTAL\$ 2,879,509

Newark

DIVISION I—SALARIES

Chief School Officer	\$	14,280
Assistant Superintendents	1	15,280
Directors	3	41,400
Supervisors	10	98,000
Principals — Full Time	16	192,840
Vice-Principals	2	21,680
Administrative Assistants	1	12,500

TOTAL ADMINISTRATIVE SALARIES\$ 395,980

Teachers	517	\$ 3,808,620
Teachers — Psychologists	3	27,000
Teachers — Speech and Hearing	3	22,200
Teachers — Visiting	2	13,200
Clerical	43	209,141
Janitorial	75	383,475
Health	13	81,700
Cafeteria	15	69,000

DIVISION II—OTHER COSTS

All Other Costs	535	481,500
Capital Outlay	535	80,250

TOTAL\$ 5,572,066

Margaret S. Sterck School

(Administered by Newark)

DIVISION I—SALARIES

Principals — Full Time (Exclusive of unit)	1	\$	10,280
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TOTAL ADMINISTRATIVE SALARIES\$ 10,280

Year Ending June 30, 1969

Teachers	5	\$	32,800
Teachers — Media Specialist	1		6,000
Clerical	1		4,000
Janitorial	1		4,500
Health	1		5,400
Attendants and Aides	4		11,200

DIVISION II—OTHER COSTS

All Other Costs	5		4,500
Capital Outlay	5		750
Consultant Services			2,500

TOTAL		\$	81,930
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Rehoboth**DIVISION I—SALARIES**

Chief School Officer		\$	12,800
Principals	1		10,680
Principals — PartTime	1		8,750

TOTAL ADMINISTRATIVE SALARIES		\$	32,230
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Teachers	26	\$	203,810
Clerical	2		10,400
Janitorial	6		31,650
Health	1		4,600
Cafeteria	2		9,000

DIVISION II—OTHER COSTS

All Other Costs	28		25,200
Capital Outlay	28		4,200

TOTAL		\$	321,090
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Seaford**DIVISION I—SALARIES**

Chief School Officer		\$	13,080
Directors	1		13,800
Principals — Full Time	5		57,860

Year Ending June 30, 1969

Vice Principals	1	11,300
Administrative Assistants	1	11,780
TOTAL ADMINISTRATIVE SALARIES		\$ 107,820
Teachers	158	\$ 1,139,500
Teachers — Psychologists	1	9,000
Teachers — Speech and Hearing	1	7,400
Clerical	12	59,425
Janitorial	31	162,950
Health	5	28,600
Cafeteria	6	28,850
Attendants and Aides	4	13,200
All Other Costs		164 147,600
Capital Outlay	164	24,600
TOTAL		\$ 1,728,945

Smyrna

DIVISION I—SALARIES

Chief School Officer	\$	13,800
Principals	4	45,240
Administrative Assistants	1	11,780
TOTAL ADMINISTRATIVE SALARIES		\$ 70,820
Teachers	108	\$ 789,900
Clerical	8	42,300
Janitorial	18	95,650
Health	3	18,400
Cafeteria	6	28,100
Attendants and Aides	1	3,200

DIVISION II—OTHER COSTS

All Other Costs	112	100,800
Capital Outlay	112	16,800
TOTAL		\$ 1,165,970

TOTAL SPECIAL SCHOOL DISTRICTS .. \$ 30,875,422

LOCAL SCHOOL DISTRICTS***Gunning Bedford, Jr. School No. 53******Year Ending June 30, 1969*****DIVISION I—SALARIES**

Chief School Officer	\$	13,300
Principals	2	23,280
		<hr/>
TOTAL ADMINISTRATIVE SALARIES	\$	36,580
Teachers	46 \$	333,000
Clerical	4	21,000
Janitorial	12	64,350
Health	1½	9,500
Cafeteria	3	13,500

DIVISION II—OTHER COSTS

All Other Costs	48	43,200
Capital Outlay	48	7,200
		<hr/>
TOTAL	\$	528,330

Henry C. Conrad School No. 131**DIVISION I—SALARIES**

Chief School Officer	\$	13,300
Principals	1	12,800
Vice-Principals	1	11,100
		<hr/>
TOTAL ADMINISTRATIVE SALARIES	\$	37,200
Teachers	67 \$	518,000
Clerical	5	26,600
Janitorial	10	52,600
Health	2	11,400
Cafeteria	1	4,500

DIVISION II—OTHER COSTS

All Other Costs	69	62,100
Capital Outlay	69	10,350
		<hr/>
TOTAL	\$	722,750

John Dickinson No. 133**Year Ending June 30, 1969****DIVISION I—SALARIES**

Chief School Officer		\$	13,800
Principals	2		23,880
Vice-Principals	2		21,880
Administrative Assistants	1		12,500

TOTAL ADMINISTRATIVE SALARIES		\$	72,060
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Teachers	87	\$	650,400
Clerical	7		36,700
Janitorial	20		101,900
Health	2½		14,700
Cafeteria	2		9,000

DIVISION II—OTHER COSTS

All Other Costs	91		81,900
Capital Outlay	91		13,650

TOTAL		\$	980,310
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Marshallton School No. 77**DIVISION I—SALARIES**

Chief School Officer		\$	13,800
Principals	5		58,600
Administrative Assistants	1		12,500

TOTAL ADMINISTRATIVE SALARIES		\$	84,900
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Teachers	133	\$	984,000
Clerical	9		48,300
Janitorial	24		127,200
Health	3½		21,200
Cafeteria	6		27,850

DIVISION II—OTHER COSTS

All Other Costs	138		124,200
Capital Outlay	138		20,700

TOTAL		\$	1,438,350
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Middletown School No. 60**Year Ending June 30, 1969****DIVISION I—SALARIES**

Chief School Officer	\$	13,080
Principals	4	47,600
Administrative Assistants	1	12,980

TOTAL ADMINISTRATIVE SALARIES	\$	73,660
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Teachers	94	\$ 662,700
Clerical	8	42,700
Janitorial	18	89,450
Health	2½	14,800
Cafeteria	3	15,750
Attendants and Aides	1	3,400

DIVISION II—OTHER COSTS

All Other Costs	99	89,100
Capital Outlay	99	14,850

TOTAL	\$	1,006,410
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Newport School No. 21**DIVISION I—SALARIES**

Chief School Officer	\$	13,800
Principals	2	23,780
Principals — Part-time	1	280

TOTAL ADMINISTRATIVE SALARIES	\$	37,860
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Teachers	71	\$ 522,400
Clerical	5	26,200
Janitorial	11	58,300
Health	2	11,200
Cafeteria	2	8,250

DIVISION II—OTHER COSTS

All Other Costs	73	65,700
Capital Outlay	73	10,950

TOTAL	\$	740,860
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Oak Grove School No. 130**Year Ending June 30, 1969****DIVISION I—SALARIES**

Chief School Officer	\$	13,800
Principals	3	34,040
Administrative Assistants	1	12,500

TOTAL ADMINISTRATIVE SALARIES	\$	60,340
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Teachers	82	\$ 587,400
Clerical	7	35,000
Janitorial	11	57,700
Health	2½	15,200
Cafeteria	2	9,900

DIVISION II—OTHER COSTS

All Other Costs	85	76,500
Capital Outlay	85	12,750

TOTAL	\$	854,790
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Odessa School No. 61**DIVISION I—SALARIES**

Chief School Officer	\$	8,600
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TOTAL ADMINISTRATIVE SALARIES	\$	8,600
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Teachers	5	\$ 36,200
Clerical	PT	1,000
Janitorial	1	4,800
Health	PT	1,200
Cafeteria	1	4,500

DIVISION II—OTHER COSTS

All Other Costs	6	5,400
Capital Outlay	6	900

TOTAL	\$	62,600
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Richardson Park School No. 20**DIVISION I—SALARIES**

Chief School Officer	\$	13,300
Principals	1	11,080

TOTAL ADMINISTRATIVE SALARIES	\$	24,380
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Year Ending June 30, 1969

Teachers	44	\$	312,800
Clerical	3		15,500
Janitorial	6		32,300
Health	1½		8,900
Cafeteria	1		4,500
DIVISION II—OTHER COSTS			
All Other Costs	45		40,500
Capital Outlay	45		6,750
TOTAL			\$ 445,630

*De La Warr School No. 47***DIVISION I—SALARIES**

Chief School Officer		\$	14,280
Directors	1		13,800
Principals	6		69,740
Vice-Principals	1		10,380
Administrative Assistants	1		12,100

TOTAL ADMINISTRATIVE SALARIES \$ 120,300

Teachers	187	\$	1,346,700
Teachers — Psychologists	1		9,000
Teachers — Speech and Hearing	1		7,400
Clerical	13		67,400
Janitorial	28		143,500
Health	5		30,800
Cafeteria	7		34,200

DIVISION II—OTHER COSTS

All Other Costs	194		174,600
Capital Outlay	194		29,100

TOTAL \$ 1,963,000

John G. Leach School

(Administered by De La Warr No. 47)

DIVISION I—SALARIES

Principals	1	\$	11,080
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TOTAL ADMINISTRATIVE SALARIES \$ 11,080

Year Ending June 30, 1969

Teachers	8	\$	52,400
Clerical	1		5,200
Janitorial	2		9,600
Health	1		6,400
Attendants and Aides	8		20,900
DIVISION II—OTHER COSTS			
All Other Costs	8		7,200
Capital Outlay	8		1,200
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TOTAL		\$	113,980

*Stanton School No. 38***DIVISION I—SALARIES**

Chief School Officer		\$	13,800
Directors	1		14,280
Principals	6		70,240
Administrative Assistants	1		12,500

TOTAL ADMINISTRATIVE SALARIES		\$	110,820
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Teachers	167	\$	1,221,800
Teachers — Psychologists	1		9,000
Teachers — Speech and Hearing	1		7,400
Clerical	12		62,300
Janitorial	31		161,300
Health	4½		26,000
Cafeteria	7		32,150

DIVISION II—OTHER COSTS

All Other Costs	173		155,700
Capital Outlay	173		25,950

TOTAL		\$	1,812,420
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Stanton Trainable

(Administered by Stanton No. 38)

DIVISION I—SALARIES

Principals		\$	12,000
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TOTAL ADMINISTRATIVE SALARIES		\$	12,000
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Year Ending June 30, 1969

Teachers	12	\$	81,600
Clerical	1		4,800
Janitorial	2		9,600
Health	1		5,800
Cafeteria	1		3,600
Attendants and Aides	8		24,200
DIVISION II—OTHER COSTS			
All Other Costs	21		18,900
Capital Outlay	21		3,150
TOTAL			\$ 163,650

*Felton School No. 54***DIVISION I—SALARIES**

Chief School Officer		\$	13,780
Principals	2		23,280

TOTAL ADMINISTRATIVE SALARIES \$ 37,060

Teachers	51	\$	355,600
Clerical	4		21,000
Janitorial	7		35,000
Health	1½		7,600
Cafeteria	1		4,500

DIVISION II—OTHER COSTS

All Other Costs	53		47,700
Capital Outlay	53		7,950

TOTAL \$ 516,410

*Frederica School No. 32***DIVISION I—SALARIES**

Chief School Officer		\$	11,580
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TOTAL ADMINISTRATIVE SALARIES \$ 11,580

Teachers	16	\$	112,400
Clerical	1		5,200
Janitorial	2		10,600

Year Ending June 30, 1969

Health	1	4,400
Cafeteria	1	4,500
DIVISION II—OTHER COSTS		
All Other Costs	16	14,400
Capital Outlay	16	2,400
TOTAL		\$ 165,480

*Hartly School No. 96***DIVISION I—SALARIES**

Chief School Officer		\$ 10,620
TOTAL ADMINISTRATIVE SALARIES		\$ 10,620
Teachers	13	\$ 89,600
Clerical	1	5,200
Janitorial	2	9,650
Health	1	2,600
Cafeteria	1	4,500
DIVISION II—OTHER COSTS		
All Other Costs	13	11,700
Capital Outlay	13	1,950
TOTAL		\$ 135,820

*Houston School No. 125***DIVISION I—SALARIES**

Chief School Officer		\$ 8,500
TOTAL ADMINISTRATIVE SALARIES		\$ 8,500
Teachers	3	\$ 19,500
Clerical	PT	1,000
Janitorial	1	5,500
Health	PT	800
Cafeteria	1	4,500
DIVISION II—OTHER COSTS		
All Other Costs	4	3,600
Capital Outlay	4	600
TOTAL		\$ 44,000

Magnolia School No. 50**Year Ending June 30, 1969****DIVISION I—SALARIES**

Chief School Officer	\$	9,350
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TOTAL ADMINISTRATIVE SALARIES	\$	9,350
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Teachers	11	\$ 79,300
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Clerical	1	5,200
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Janitorial	2	10,200
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Health	1	2,400
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Cafeteria	1	4,500
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DIVISION II—OTHER COSTS

All Other Costs	12	10,800
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Capital Outlay	12	1,800
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TOTAL	\$	123,100
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Bridgeville School No. 90**DIVISION I—SALARIES**

Chief School Officer	\$	14,280
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Principals	4	42,040
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Administrative Assistant	1	11,780
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TOTAL ADMINISTRATIVE SALARIES	\$	68,100
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Teachers	84	\$ 601,760
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Clerical	7	35,700
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Janitorial	14	72,400
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Health	2½	14,200
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Cafeteria	3	13,200
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DIVISION II—OTHER COSTS

All Other Costs	88	79,200
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Capital Outlay	88	13,200
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TOTAL	\$	897,760
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John M. Clayton School No. 97**DIVISION I—SALARIES**

Chief School Officer	\$	13,300
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Principals	2	21,920
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TOTAL ADMINISTRATIVE SALARIES	\$	35,220
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Year Ending June 30, 1969.

Teachers	42	\$	296,700
Clerical	3		16,800
Janitorial	8		41,450
Health	1½		9,000
Cafeteria	2		9,000
DIVISION II—OTHER COSTS			
All Other Costs	44		39,600
Capital Outlay	44		6,600
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TOTAL		\$	454,370

*Delmar School No. 163***DIVISION I—SALARIES**

Chief School Officer		\$	12,800
Principal — Part-Time	1		8,750

TOTAL ADMINISTRATIVE SALARIES\$ 21,550

Teachers	28	\$	214,500
Clerical	2		11,900
Janitorial	7		37,500
Health	1		5,400
Cafeteria	1		4,500

DIVISION II—OTHER COSTS

All Other Costs	29		26,100
Capital Outlay	29		4,350

TOTAL\$ 325,800

*Ellendale School No. 125***DIVISION I—SALARIES**

Chief School Officer		\$	9,400
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TOTAL ADMINISTRATIVE SALARIES\$ 9,400

Teachers	9	\$	62,500
Clerical	PT		1,800
Janitorial	1		5,400
Health	PT		2,000
Cafeteria	1		3,750

*Year Ending June 30, 1969***DIVISION II—OTHER COSTS**

All Other Costs	10	9,000
Capital Outlay	10	1,500
TOTAL	\$	95,350

Lincoln School No. 3**DIVISION I—SALARIES**

Chief School Officer	\$	9,400
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TOTAL ADMINISTRATIVE SALARIES	\$	9,400
Teachers	8 \$	54,000
Clerical	1	1,500
Janitorial	2	11,200
Health	1	1,800
Cafeteria	1	4,350

DIVISION II—OTHER COSTS

All Other Costs	9	8,100
Capital Outlay	9	1,350
TOTAL	\$	91,700

Lord Baltimore School No. 28**DIVISION I—SALARIES**

Chief School Officer	\$	11,580
Principals	1	10,680

TOTAL ADMINISTRATIVE SALARIES	\$	22,260
Teachers	24 \$	177,000
Clerical	2	11,900
Janitorial	5	25,450
Health	1	6,400
Cafeteria	1	3,600

DIVISION II—OTHER COSTS

All Other Costs	25	22,500
Capital Outlay	25	3,750
TOTAL	\$	272,860

Millsboro School No. 23**Year Ending June 30, 1969****DIVISION I—SALARIES**

Chief School Officer	\$	13,300
Principals	2	23,680

TOTAL ADMINISTRATIVE SALARIES	\$	36,980
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Teachers	64	\$ 445,700
Clerical	5	26,400
Janitorial	9	47,300
Health	2	10,000
Cafeteria	3	12,900

DIVISION II—OTHER COSTS

All Other Costs	66	59,400
Capital Outlay	66	9,900

TOTAL	\$	648,580
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Milton School No. 8**DIVISION I—SALARIES**

Chief School Officer	\$	13,300
Principals	2	22,400

TOTAL ADMINISTRATIVE SALARIES	\$	35,700
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Teachers	49	\$ 364,000
Clerical	4	21,900
Janitorial	9	49,700
Health	1½	9,000
Cafeteria	2	8,100

DIVISION II—OTHER COSTS

All Other Costs	51	45,900
Capital Outlay	51	7,650

TOTAL	\$	541,950
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Selbyville School No. 32**DIVISION I—SALARIES**

Chief School Officer	\$	12,800
Principals	2	22,280

TOTAL ADMINISTRATIVE SALARIES	\$	35,080
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Year Ending June 30, 1969

Teachers	37	\$	262,120
Clerical	3		16,000
Janitorial	7		37,500
Health	1		6,000
Cafeteria	2		7,950
DIVISION II—OTHER COSTS			
All Other Costs	39		35,100
Capital Outlay	39		5,850
TOTAL		\$	405,600

1-23 Teacher School

DIVISION I—SALARIES			
Teachers	7	\$	53,100
Clerical	PT		1,000
Janitorial	1		3,600
Health	PT		1,400
DIVISION II—OTHER COSTS			
All Other Costs	7		6,300
Capital Outlay	7		1,050
TOTAL		\$	66,450

Kenton No. 9

DIVISION I—SALARIES			
Principals	1	\$	500
TOTAL ADMINISTRATIVE SALARIES		\$	500
Teachers	7	\$	44,400
Clerical	1		1,000
Janitorial	1		4,800
Health	PT		1,400
Cafeteria	1		3,750
DIVISION II—OTHER COSTS			
All Other Costs	7		6,300
Capital Outlay	7		1,050
TOTAL		\$	63,200

*Year Ending June 30, 1969**New Castle County Vocational-Technical High School*

DIVISION I—SALARIES

Clerical	1	\$	5,800
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DIVISION II—OTHER COSTS

All Other Costs	3		2,700
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TOTAL		\$	8,500
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Kent County Vocational-Technical Center

DIVISION I—SALARIES

Chief School Officer		\$	12,230
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Principals — Full-Time	1		11,880
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TOTAL ADMINISTRATIVE SALARIES		\$	24,110
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Teachers — Vocational Education	26	\$	223,200
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Clerical	2		11,200
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Janitorial	7		34,100
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Health	1		5,520
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Cafeteria	1		4,500
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DIVISION II—OTHER COSTS

All Other Costs	27		72,900
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Capital Outlay	27		12,150
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TOTAL		\$	387,680
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Sussex County Vocational-Technical Center

DIVISION I—SALARIES

Chief School Officer		\$	11,140
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Principals — Full-Time	1		10,640
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TOTAL ADMINISTRATIVE SALARIES		\$	21,780
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Teachers	25	\$	224,160
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Clerical	2		10,300
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Janitorial	5		26,650
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Health	1		5,760
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Cafeteria	1		4,320
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Year Ending June 30, 1969

DIVISION II—OTHER COSTS

All Other Costs	26	70,200
Capital Outlay	26	11,700
TOTAL		<u>\$ 374,870</u>

TOTAL LOCAL SCHOOL DISTRICTS\$ 16,452,560

Wilmington Board of Education

DIVISION I—SALARIES

Superintendent		\$ 14,280
Assistant Superintendents	2	29,600
Directors	4	54,960
Supervisors	14	144,800
Principals	20	242,280
Vice-Principals	3	32,460
Administrative Assistants	1	11,780

TOTAL ADMINISTRATIVE SALARIES\$ 530,160

Teachers

General Education	680	\$ 5,117,900
Vocational Education	24	204,800
Visiting Teachers	3	25,800
Psychologists	5	45,800
Speech and Hearing	5	41,400
Homebound Instruction		5,000
Clerical	58	315,700
Janitorial	110	608,150
Health	24	152,600
Cafeteria	22	101,100
Trainable Attendants	6	19,800

TOTAL\$ 7,168,210

DIVISION II—OTHER COSTS

All Other Costs

General Education	701	\$630,900
Vocational Education	26	70,200
		<u>701,100</u>

*Year Ending June 30, 1969***Capital Outlay**

General Education	701	\$105,150	
	26	11,700	
			116,850
TOTAL WILMINGTON BOARD OF EDUCATION \$			7,986,160

Educational Contingency Fund

Growth and Upgrading	\$	1,661,600
Night School Growth		15,000
School Building Maintenance—State Board of Education		500,000
Summer Driver Education		82,500
All Federal funds received from Federal Ele- mentary and Secondary Education Act of 1965 or its successor not otherwise appro- priated in other sections of this Act. (Administered by Budget Commission) (Pursuant to Section II)		
TOTAL EDUCATIONAL CONTINGENCY FUND.	\$	2,259,100
TOTAL PUBLIC EDUCATION	\$	64,982,897
TOTAL EDUCATION	\$	78,773,867
TOTAL AGENCIES, GRANTS-IN-AID, AND CONTINGENCY FUND	\$	95,798,670
GRAND TOTAL AGENCIES, EDUCATION, GRANTS-IN-AID, AND CONTIN- GENCY FUNDS	\$	174,572,537

Section 2. The monies appropriated in Section 1. of this Budget Appropriation Act shall be paid by the State Treasurer from the General Fund except that an amount equal to all interest and earnings received from investment of the Capital Investment Fund during the fiscal year ending June 30, 1969 shall be paid from the Capital Investment Fund for the payment of interest on the State's bonded indebtedness.

Section 3. (a) If the estimated revenue of the State proves to be insufficient for the payment of the several appropriations provided for by the General Assembly, resulting in casual deficiencies of revenue for the fiscal year aforesaid, the Governor is authorized to issue revenue anticipation notes or certificates of indebtedness of the State of Delaware to such an amount as he shall, by and with the consent of the State Treasurer and the Secretary of State, deem necessary to meet and to pay any part or all of said appropriations.

(1) The revenue anticipation notes or certificates shall be numbered consecutively in such denominations and in such form as the Commission provided for under the provisions of subsection (5) of this Section shall determine.

(2) They shall be payable at any period not exceeding one year from date of the issuance thereof.

(3) They shall be redeemable at the Farmers Bank of Dover on the date of their maturity.

(4) They shall be signed by the Governor, the Secretary of State and the State Treasurer and shall have the State Seal affixed.

(5) The Governor, Secretary of State and State Treasurer shall constitute a Commission to negotiate and arrange for the sale or disposition of the revenue anticipation notes or certificates of indebtedness.

(6) The faith and credit of the State of Delaware is pledged for the payment of the principal and interest of the revenue anticipation notes or certificates of indebtedness which shall be exempt from taxation for any purpose by this State.

(7) All expense incident to the advertising, preparing, issuing and delivering of the revenue anticipation notes or certificates, principals and interest thereon shall be paid by the State Treasurer. There is appropriated such sums as may be necessary to pay costs, principals and interest of such revenue anticipation notes or certificates.

(b) If at any time during the fiscal year ending June 30, 1969, but prior to June 15, 1969, there should be a temporary insufficiency of General Fund monies in the State Treasury to

pay then current General Fund obligations, the State Treasurer shall pay such obligations from any other funds on deposit with the State Treasurer. Any other funds so used to pay General Fund obligations shall be reimbursed as soon as sufficient General Fund monies become available but not later than June 15, 1969. Subsection (a) of this Section shall not become operative until such time as the Budget Commission determines that the total of all funds on deposit with the State Treasurer are insufficient to meet all obligations chargeable against such funds or until June 15, 1969, whichever is the earlier date.

Section 4. All monies received by the State Treasurer from the sale of the revenue anticipation notes or certificates of indebtedness shall be specially pledged and appropriated to and for the payment of the several appropriations in whole or in part.

Section 5. In the case of any school consolidation as defined in Sections 1108 and 1109, Title 14, Delaware Code, the unexpended balance, or any part thereof, of any appropriation for the closed district shall be transferred to the appropriation of the district with which any such closed district is consolidated.

Section 6. Any amount of money derived from the income from the State School Funds shall, for the purpose of this Act, be considered as received by the State Treasurer and thereupon act to reduce to that extent the total amount to be paid by the General Fund of this State for the purpose of meeting the expense incurred in accordance with appropriations provided in Section 1. of this Act.

Section 7. For the purpose of matching any appropriation made for such educational acts as have been or may be passed by the Congress of the United States, the State Board of Vocational Education is hereby directed and empowered to prescribe to the Board of Public Education in Wilmington, to each of the Boards of Education of Special School Districts, to each of the several Boards of School Trustees and to the Boards of Trustees of any University or College supported by State Funds, the amount necessary to be allocated by said respective Boards to comply with the purpose and intent of said educational acts which require the matching of funds.

The amount of funds received from the United States Government by the State Board for Vocational Education shall not be paid to the several boards and districts, hereinbefore mentioned as reimbursements to such boards and/or districts for expenditures incurred in accordance with the provisions of the Delaware State Plan for vocational education, but rather shall be treated as a return of monies advanced by the State for vocational education and paid to the State Treasurer and by him deposited to the credit of the General Fund.

Section 8. The sums appropriated to the schools as "Unit Cost" shall be used for all school costs except salaries, debt services, "Capital Outlay" and transportation of pupils to and from the regular sessions of school as provided for in the appropriation to the State Board of Education for this purpose.

Section 9. In the event that any school district shall have more certified units of pupils based on the actual enrollment for September 30, 1968, than the number of units for which appropriation is made in this Act, such district is hereby authorized and empowered:

(a) To employ an additional number of teachers with State Funds not to exceed the difference between the number of certified units of pupils as of September 30, 1968, and the number of units of pupils for which teachers are provided by Section 1. of this Act.

(b) To employ an additional number of administrative, clerical, health and custodial employees, not to exceed the difference between the number of such employees to which the district would be entitled in accordance with the formula used to determine the number of such employees in Section 1. of this Act, and based on the number of certified pupil units in the district on September 30, 1968, and the number of such employees provided for the district by Section I. of this Act. In cases which use a school building or parts thereof in the determination of the number of employees, such employees shall be charged against State appropriated funds, according to State Board of Education regulations.

(c) In the event that any school district shall have fewer certified units of pupils based on the actual enrollment for Sep-

tember 30, 1968, than the number of units for which appropriation is made in this Act, such district's appropriation may be reduced by the State Board of Education to comply with the number of units based on the actual enrollment for September 30, 1968.

Section 10. The State Board of Education and the State Board of Vocational Education shall employ no persons except those whose salary or wages are paid wholly or in part from the funds appropriated by this Act except as provided in Section 11. of this Act. Except for casual or part-time "Teachers," "Clerical" or "Janitorial" employees, all persons employed by the State Board of Education or the State Board of Vocational Education and paid wholly or in part from the funds appropriated by this Act and allocated in the line item under the headings "Deputy Superintendents," "Associate Superintendents," "Assistant Superintendents," "Directors," "Supervisors," "Specialists," "Teachers," "Clerical" and "Janitorial" shall be paid in accordance with the salary schedules for these classifications set forth in Chapter 13, Title 14, Delaware Code; provided, however, that no employee shall be paid a salary during the fiscal year covered by this Act which is lower than the salary such employee received during the fiscal year ending June 30, 1968, except in the event such employee is reduced in classification or in months employed.

Section 11. (a) The State Board of Education and the State Board for Vocational Education may employ such additional personnel who are paid entirely from Federal or other than State General Funds provided provision for such personnel is made by line item in this Act. All personnel employed pursuant to this subsection shall be paid in accordance with the salary schedule set forth in Chapter 13, Title 14, Delaware Code, for the classification heading under which said line item position appears, or in accordance with the specific salary specified in the line item.

(b) The State Board of Education and the State Board for Vocational Education may employ such additional personnel who are paid entirely from Federal or other than State General Funds provided such personnel are certified (or qualified where no certification standards have been established), classified, and paid as "Teachers," "Clerical" or "Janitorial," pursuant to Chap-

ter 13, Title 14, Delaware Code. Said boards may also employ such other additional personnel who are paid entirely from Federal or other than State General Funds subject to the prior approval of the Budget Commission.

(c) The Board of Public Education in Wilmington, the Boards of Education in Special School Districts, the Boards of School Trustees of School Districts, and the various School Building Commissions may employ personnel who are paid wholly or in part from Federal and/or School Construction Funds provided that such personnel shall be classified and paid in accordance with the salary schedules set forth in Chapter 13, Title 14, Delaware Code. In the event any of the aforementioned Boards or Commissions shall have a uniform local district salary supplement to the salary schedules set forth in said Chapter 13, such Board or Commission may also pay employees covered by this subsection an additional amount from Federal and/or School Construction Funds not in excess of that set forth in the uniform local district salary supplement.

(d) Personnel employed pursuant to this section shall not be covered by the provisions of Chapter 14, Title 14, Delaware Code.

(e) None of the various school boards or school building commissions shall enter into contracts with or pay individuals to provide consultant educational or related services from State, Federal or School Construction Funds when such individual is a salaried employee of the public school system of this State. This subsection shall not be construed to prohibit the employment of professional personnel to teach special classes such as night school and in-service courses in the same or other districts.

Section 12. The sum appropriated to the State Board of Education in Section 1. of this Act for "School Building Maintenance" shall be allocated to the school district in accordance with the following provisions:

(a) The maximum allocation to any district shall be the sum of the allotments for each school building in the district based upon the following formula: \$7 for each year since the date of pupil occupancy of the building up to a maximum of 30 such years multiplied by the full number of units of 25 pupils in the building on a full-time basis as of September 30, 1967.

(b) The allotment for each school district as computed in (a) shall be expended only for the purpose of maintenance of buildings and such integral parts as the heating plant, plumbing and electrical system; it shall not be used for the purchase of routine janitorial supplies, upkeep of grounds nor the repair of any equipment not a basic part of the building.

(c) Before the State Board of Education shall make any allotment pursuant to this Section, it shall require that the school district submit a plan of the maintenance and the estimated cost thereof.

(d) The State Board of Education shall establish such rules and regulations as it deems necessary to assure that the purpose of this appropriation is carried out.

Section 13. No funds appropriated by this Act or otherwise available to an agency of this State shall be expended except for purposes necessary to carry out the functions of such agency; no such funds shall be expended for purposes such as, but not limited to, greeting cards, flowers and tickets to athletic events when unrelated to the agency's function, and the Budget Director shall, in executing his duty under Section 6518, Title 29, Delaware Code, refuse to approve such expenditures. An agency so affected by this Section shall have the right to appeal to the Budget Commission.

Section 14. No full-time employee of the State of Delaware whose salary is paid wholly or in part by the State of Delaware shall receive any additional stipend for the purchase of food, or be supplied with food, or be reimbursed for food that was consumed during normal working hours within the State; provided, however, that this Section shall not apply to employees of State Agencies who regularly receive wages-in-kind in addition to their salary nor to State Police recruits during the period of their training.

Section 15. Transfer of any funds appropriated by this Act shall be subject to the authority and limitations set forth in Part VI, Title 29, Delaware Code; provided, however, that no funds may be transferred into salaries or wages and salaries from non-salary appropriations nor shall any funds be trans-

ferred from salaries to non-salary appropriations. No funds may be transferred into a line-item salary appropriation for a specific position from any emergency or contingency fund, except to the extent authorized in Section 16 of this Act, and to maintain the salary schedules set forth for school employees in Chapter 13, Title 14, Delaware Code.

Section 16. (a) Except as specifically authorized to the contrary by the Delaware Code or subsection (b) of this Section, no State employee whose title is designated in a line item in Section 1. of this Act shall receive total compensation, whether in wages, salary, wages-in-kind or food allotment, bonus or overtime, from agencies of this State in excess of the total amount specified in such line item, regardless of the source of the funds involved. In the event that an employee shall receive such excessive compensation, the amount of the appropriation from the General Fund shall be reduced by the amount of such excessive compensation and the Attorney General shall take such steps as are necessary to recover from such employee any such excessive amount as has actually been paid at the end of the fiscal year. In the event the "All Others" part of a line item salary is made up entirely of Federal Aid monies, and further in the event such Federal Aid monies should not be forthcoming to the extent indicated, the State appropriation is hereby increased to the extent necessary to provide the "Total Salary" indicated in the line item. An agency may provide housing for such line item employee without reduction in the line item salary provided such housing is on the site of the principal location of employment; the agency board, commission or head has determined that such location of the employee is necessary to the operation of the agency; and the employee has no other employment, public or private. No agency shall provide any employee with a housing allowance or compensation for housing, nor shall any agency provide any employee or prospective employee an allowance for moving his household.

(b) A State employee whose salary is a line item in this Act may perform additional duties for a State agency other than his principal employer, with the consent of his principal employer, and be paid additional compensation therefor, provided such additional duties are not a part of the regular duties of the principal employer.

Section 17. (a) For the purpose of this Section the term "agency" means all State agencies except public school districts.

(b) Where the number of employee positions have been set forth in the salary or wage line appropriation for an agency in Section 1. of this Act such number shall be interpreted to mean equivalent full time positions. Each agency having such a designation shall file with the Budget Director a listing of the employee positions as provided and the salary or wage for each such position. The total of such salaries and wages for each agency shall not exceed the appropriation therefor plus a reasonable estimate of salary savings and, regardless of the amount of the appropriation, the number of employee positions shall not be changed except upon approval by the Governor or as provided in subsection (c) of this section.

(c) In the event the number of employee positions for an agency has been specified as indicated in subsection (b), and in the event such positions are covered in the classified service, the pay grade level for each such position and the salary or wage of the employee filling such position shall be in accordance with the rules and regulations of the State Personnel Commission. In the event the salary and wage appropriation to an agency is insufficient to cover the number of positions specified after reasonable allowance is made for salary savings the Budget Commission may, upon recommendation of the State Personnel Commission, transfer such sums as it may deem necessary into the salary and wage appropriation of such agency from the Contingency Fund set forth for this purpose in Section 1. The classification of a position shall not be changed after July 1, 1968 except within the limit of the agency's salary and wage appropriation. The total number of employee positions as specified shall not be changed except upon approval by the Governor based upon certification by the Budget Director that the necessary funds are available in the agency's salary and wage appropriation and certification by the State Personnel Commission that the change is necessary for the agency in the accomplishment of its function.

(d) In the event an agency whose employees are in the classified service has excess funds in its line item appropriation for salaries and wages of employees after salary allocation has been made for the number of fulltime equivalent positions specified for such agency based upon the State Personnel Commis-

sion's Classification and Pay Plan, the Budget Commission shall have the authority to transfer such excess salary funds to another agency whose employees are in the classified service if such transfer is necessary in order to provide adequate salary funds for the number of full time equivalent positions specified for such agency based upon the State Personnel Commission's Classification and Pay Plan.

Section 18. The sums appropriated to the Communications Division of the State Highway Department in Section I. of this Act are intended to cover the expense of services performed by the Communications Division pursuant to Chapter 16, Title 17, Delaware Code. Any funds received by the Communications Division pursuant to said Chapter 16 shall be considered as revenue to the State and deposited in the General Fund. No division of the Highway Department, other than the Engineering Division, shall expend any sums authorized by any Highway Construction Bond Authorization Act or any Capital Improvement Bond Authorization Act for any purposes not specifically authorized in such Act, or any Federal monies received as a reimbursement for expenditures of State funds provided by such Bond Authorization Acts for any purposes not specifically authorized in such Bond Authorization Act.

Section 19. In the event the sum appropriated in Section I. of this Act is insufficient for benefits to be paid pursuant to the Teachers' Retirement and Disability Pensions (Chapter 39, Title 14, Delaware Code) and the State Employees' Pension Plan (Chapter 55, Title 29, Delaware Code) and for the employer's share of Social Security to be paid pursuant to the State Employee's Pension Plan, such additional sums as may be required for these purposes are hereby appropriated and shall be paid from the General Fund.

Section 20. Any agency, other than those covered by the classified service or the provisions of Section II. of this Act, which receives Federal or other than State appropriated funds, shall, when establishing salary and wage rates for employees to be paid from such funds, establish rates that are comparable to rates paid from State appropriated funds to employees with similar training and experience and in similar positions.

Section 21. From the contingency Fund for "Merit System Pay Plan Implementation" in Section I. of this Act the Budget Director shall transfer to each agency of the State having classified positions such sum as shall be necessary to meet the agency's share of the cost of the operations of the State Personnel Commission as set forth in said Section I. less such amount as may be properly charged to the Federal or other special funds.

Section 22. All purchases of passenger motor vehicles and standard motor vehicles by agencies of this State from monies appropriated by Section I. of this Act, except by the State Highway Department for the State Police and school buses by the State Board of Education, shall be made by the State Distribution Agency and the State Distribution Agency shall, on behalf of the agencies, dispose of all surplus passenger motor vehicles by trade-in, auction or sealed bid, the provisions of Section 7002, Title 29, Delaware Code, notwithstanding.

Section 23. All State-owned boats and motor vehicles, except the Governor's car and State Police motor vehicles, shall bear prominent identification on the rear and each side thereof, identifying such vehicles as State-owned vehicles.

Section 24. Nothing contained in Titles 14 and 31, Delaware Code, shall be construed as authorizing appropriations or expenditures of General Fund monies during the fiscal year ending June 30, 1969 in excess of or other than the amounts set forth in this Act and as may be authorized in Supplementary Appropriation Acts enacted by the 124th General Assembly.

Section 25. Any previous Act inconsistent with the provisions of this Act is hereby repealed to the extent of such inconsistency.

Approved June 28, 1968.

CHAPTER 338

AN ACT TO AMEND TITLE 11, DELAWARE CODE, RELATING TO CRIMES, BY PROVIDING PENALTIES FOR FRAUDULENT PRACTICES UNDER THE UNIFORM COMMERCIAL CODE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 11, Delaware Code, is amended by adding thereto a new section to read:

§ 560. Fraudulent practices under the Uniform Commercial Code

(a) Definitions

As used in this section—

“Bailee” shall have the same meaning as it has in the Uniform Commercial Code and shall also include any agent, servant or officer of a bailee.

“Issue” includes aiding in issuing.

“Person” in addition to the definition contained in Section 302, Title 1, also includes any agent, servant or officer thereof.

“Document”, “document of title”, “negotiable document of title”, “non-negotiable document of title”, “negotiable warehouse receipt”, “security interest” and “warehouseman” shall have the same meanings as they have in the Uniform Commercial Code.

“Uniform Commercial Code” means the Uniform Commercial Code as it appears in title 5A.

(b) Fraudulent practices of bailees

No person, being a bailee—

(1) shall issue a document of title—

(i) knowing that the goods covered by the document of title have not been actually received by him, or are not under his control at the time the document is issued, or

(ii) knowing that it contains any false statement.

(2) except as provided in Section 7-60 of the Uniform Commercial Code, shall issue a duplicate or additional negotiable document of title knowing that a former negotiable document of title for the same goods or any part of them is outstanding and uncanceled.

(c) Fraudulent negotiation of document of title

No person, with intent to defraud, shall obtain a negotiable document of title for goods to which he does not have title, or which are subject to a security interest, and negotiate the document for value, without disclosing his want of title or the existence of the security interest.

(d) Negotiation of document of title when goods are not in bailee's possession

No person, with intent to defraud, shall negotiate or transfer for value a document of title which by the terms thereof represents that goods are in possession of the bailee which issued the document, knowing that the bailee is not in possession of the goods or any part thereof, without disclosing this fact.

(e) Inducing bailee to issue document of title when goods have not been received

No person, with intent to defraud, shall secure the issue by a bailee of a negotiable document of title knowing at the time of issue that any or all of the goods are not in possession of the bailee, by inducing the bailee to believe that the goods are in the bailee's possession.

(f) Passing off of non-negotiable document of title as being negotiable

No person, with intent to defraud, shall mislead or assist in misleading any person to reasonably believe a non-negotiable document of title is a negotiable document of title.

(g) Delivery of goods by bailee without obtaining negotiable document

Except as provided in Sections 7-403 and 7-601 of the Uniform Commercial Code, no person, being a bailee, shall deliver goods knowing that they are covered by an outstanding document of title, the negotiation of which would transfer the right to possession thereof, without obtaining the negotiable document.

(h) Noting ownership of goods on negotiable warehouse receipts

No person, being a warehouseman or any agent, servant or officer thereof, in possession of goods which he owns in part, wholly or jointly, shall issue a negotiable warehouse receipt therefor, without noting his ownership on the receipt.

(i) Penalties; jurisdiction.

Whoever is convicted of violating the provisions of this section shall be fined not more than \$5,000 or be imprisoned for not more than 5 years, or both. Each act shall be deemed a separate offense. The Superior Court of New Castle County and the Courts of Common Pleas of Kent County and Sussex County shall have jurisdiction of offenses under this section.

Approved June 28, 1968.

CHAPTER 339

AN ACT TO AMEND SECTION 902, CHAPTER 9, TITLE 19, DELAWARE CODE, RELATING TO MINIMUM WAGE BY ADDING CERTAIN PROVISIONS DEALING WITH EMPLOYEES WHO CUSTOMARILY RECEIVE GRATUITIES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 902, Chapter 9, Title 19, Delaware Code, is hereby amended by striking subsection (b) and inserting in lieu thereof a new subsection (b) as follows:

“(b) Every employer shall pay wages to employees engaged in any occupation in which gratuities have customarily and usually constituted and have been recognized as part of the remuneration for hiring purposes at a rate of not less than the following schedule:

- (i) \$1.15 an hour beginning July 1, 1968;
- (ii) \$1.30 an hour beginning February 1, 1969;
- (iii) \$1.45 an hour beginning February 1, 1970;
- (iv) \$1.60 an hour beginning February 1, 1971.

Gratuities received by such employees engaged in occupations in which gratuities customarily constitute part of the remuneration may be considered wages for purposes of this chapter to an amount not to exceed 50% of the applicable minimum rate as set forth in this subsection, the specific percentage to be determined by the employer and made known to the employee. For the purposes of this subsection an employee engaged in an occupation in which gratuities customarily constitute part of the remuneration shall be any worker engaged in an occupation in which workers customarily and regularly receive more than \$20 per month in tips or gratuities.”

Approved June 28, 1968.

CHAPTER 340

**AN ACT TO AMEND TITLE 16, § 6606(a), DELAWARE CODE,
RELATING TO THE SALARY OF THE STATE FIRE
MARSHAL AND APPROPRIATING MONEY THERE-
FOR.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 6606(a), title 16, Delaware Code, is amended by striking the sentence "He shall receive an annual salary of \$6,000." where it appears therein and inserting in lieu thereof the sentence "He shall receive such salary as may be set by the Commission within the limits set by the annual appropriation to the Commission."

Section 2. This Act is effective July 1, 1967.

Approved June 28, 1968.

CHAPTER 341

**AN ACT TO AID CERTAIN FIRE COMPANIES WHICH
ARE ORGANIZED TO EXTINGUISH FIRES OR MAIN-
TAIN AMBULANCES OR RESCUE TRUCKS, BY MAK-
ING APPROPRIATIONS FOR THEM.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House concurring therein) :

Section 1. There is appropriated to the listed fire companies, for the fiscal year beginning July 1, 1968, the following sums to be used for the prevention and extinguishment of fires throughout the state and for the maintenance of apparatus and equipment:

New Castle County

Aetna Hose, Hook and Ladder Co., Newark	\$2,500
Belvedere Volunteer Fire Co., Belvedere	2,500
Brandywine Hundred Fire Co., Bellefonte	2,500
Christiana Fire Co., Christiana	2,500
Claymont Fire Co., Claymont	2,500
Cranston Heights Fire Co., Cranston Heights	2,500
Delaware City Fire Co., Delaware City	2,500
Elsmere Fire Co., Elsmere	2,500
Five Points Fire Co., Richardson Park	2,500
Goodwill Fire Co., New Castle	2,500
Hockessin Fire Co., Hockessin	2,500
Holloway Terrace Fire Co., Holloway Terrace	2,500
Mill Creek Fire Co., Marshallton	2,500
Minquadale Fire Co., Minquadale	2,500
Minquas Fire Co., Newport	2,500
Odessa Fire Co., Inc., Odessa	2,500
Port Penn Volunteer Fire Co., Port Penn	2,500
Talleyville Fire Co., Talleyville	2,500
Townsend Fire Co., Townsend	2,500
Volunteer Hose Co., Inc., Middletown	2,500
Wilmington Manor Fire Co., Wilmington Manor ...	2,500

Kent County

Bowers Volunteer Fire Co., Bowers	2,500
Camden-Wyoming Fire Co., Camden	2,500

Carlisle Fire Co., Milford	2,500
Cheswold Volunteer Fire Co., Cheswold	2,500
Citizens' Hose Co., Inc. No. 1, Smyrna	2,500
Clayton Fire Co., Clayton	2,500
Dover Fire Dept., Dover	2,500
Farmington Volunteer Fire Co., Farmington	2,500
Felton Community Fire Co., Felton	2,500
Frederica Volunteer Fire Co., Frederica	2,500
Harrington Volunteer Fire Co., Harrington	2,500
Hartly Volunteer Fire Co., Hartly	2,500
Houston Volunteer Fire Co., Houston	2,500
Leipsic Volunteer Fire Co., Leipsic	2,500
Little Creek Volunteer Fire Co., Little Creek	2,500
Magnolia Volunteer Fire Co., Magnolia	2,500
Mary-Del Volunteer Fire Co., Mary-Del	2,500
South Bowers Fire Co., Inc., South Bowers	2,500
Sussex County	
Bethany Beach Volunteer Fire Co., Bethany Beach..	2,500
Blades Volunteer Fire Co., Blades	2,500
Bridgeville Volunteer Fire Co., Bridgeville	2,500
Dagsboro Fire Co., Dagsboro	2,500
Delmar Fire Department, Inc., Delmar	2,500
Ellendale Volunteer Fire Co., Ellendale	2,500
Frankford Volunteer Fire Co., Frankford	2,500
Georgetown Fire Company, Inc., Georgetown	2,500
Greenwood Volunteer Fire Co., Greenwood	2,500
Gumboro Volunteer Fire Co., Gumboro	2,500
Indian River Volunteer Fire Co., Indian River	2,500
Laurel Volunteer Fire Co., Laurel	2,500
Lewes Fire Department, Lewes	2,500
Millsboro Fire Co., Millsboro	2,500
Milton Volunteer Fire Co., Milton	2,500
Millville Volunteer Fire Co., Millville	2,500
Rehoboth Volunteer Fire Co., Rehoboth Beach	2,500
Roxanna Volunteer Fire Co., Roxanna	2,500
Seaford Volunteer Fire Co., Seaford	2,500
Selbyville Volunteer Fire Co., Selbyville	2,500
Slaughter Beach Memorial Volunteer Fire Co., Slaughter Beach	2,500
<hr/>	
\$150,000.	

Section 2. There is appropriated to the following listed fire companies, for the fiscal year beginning July 1, 1968, the following sums, to be used for the maintenance and operation of ambulances in the public service:

Aetna Hose, Hook and Ladder Co., Newark	\$ 750
Blades Volunteer Fire Co., Blades	750
Bridgeville Volunteer Fire Co., Bridgeville	750
Bowers Volunteer Fire Co., Bowers	750
Brandywine Hundred Fire Co., Bellefonte	750
Camden-Wyoming Fire Co., Camden	750
Carlisle Fire Co., Inc., Milford	750
Cheswold Volunteer Fire Co., Cheswold	750
Claymont Fire Co., Claymont	750
Cranston Heights Fire Co., Cranston Heights	750
Delmar Fire Department, Delmar	750
Ellendale Volunteer Fire Co., Ellendale	750
Elsmere Fire Co., Elsmere	750
Felton Community Fire Co., Felton	750
Five Points Fire Co., Richardson Park	750
Frankford Volunteer Fire Co., Frankford	750
Goodwill Fire Co., New Castle	750
Gumboro Volunteer Fire Co., Gumboro	750
Harrington Volunteer Fire Co., Harrington	750
Hartly Volunteer Fire Co., Hartly	750
Holloway Terrace Fire Co., Holloway Terrace	750
Hockessin Fire Co., Hockessin	750
Laurel Volunteer Fire Department, Laurel	750
Leipsic Volunteer Fire Co., Inc., Leipsic	750
Lewes Fire Department, Lewes	750
Mill Creek Fire Co., Marshallton	750
Millville Volunteer Fire Co., Millville	750
Milton Volunteer Fire Co., Milton	750
Minquadale Fire Co., Minquadale	750
Minquas Fire Co., Newport	750
Rehoboth Volunteer Fire Co., Rehoboth Beach	750
Seaford Volunteer Fire Co., Seaford	750
Slaughter Beach Memorial Volunteer Fire Co., Slaughter Beach	750
Talleyville Fire Co., Talleyville	750
Wilmington Manor Fire Co., Wilmington Manor ...	750
TOTAL	\$26,250

Section 3. There is appropriated to the following listed fire companies, for the fiscal year beginning July 1, 1968, the following sums, to be used for the maintenance and operation of rescue trucks in the public service:

Aetna, Hose and Ladder Co., Newark	\$ 750
Bethany Beach Fire Co., Bethany Beach	750
Brandywine Hundred Fire Co., Bellefonte	750
Bridgeville Volunteer Fire Co., Bridgeville	750
Camden-Wyoming Fire Co., Camden	750
Carlisle Fire Co., Milford	750
Christiana Fire Co., Christiana	750
Citizens' Hose Co., No. 1, Inc., Smyrna	750
Claymont Fire Co., Claymont	750
Clayton Fire Co., Clayton	750
Delaware City Fire Co., Delaware City	750
Delmar Fire Dept., Inc., Delmar	750
Dover Fire Dept., Dover	750
Elsmere Fire Co., Elsmere	750
Five Points Fire Co., Richardson Park	750
Greenwood Volunteer Fire Co., Greenwood	750
Goodwill Fire Co., New Castle	750
Harrington Volunteer Fire Co., Harrington	750
Hartly Volunteer Fire Co., Hartly	750
Holloway Terrace Fire Co., Holloway Terrace	750
Leipsic Volunteer Fire Co., Leipsic	750
Lewes Fire Dept., Lewes	750
Little Creek Fire Co., Little Creek	750
Magnolia Volunteer Fire Co., Magnolia	750
Mill Creek Fire Co., Marshallton	750
Millville Volunteer Fire Co., Millville	750
Milton Volunteer Fire Dept., Milton	750
Minquadale Fire Co., Minquadale	750
Minquas Fire Co., Newport	750
Port Penn Volunteer Fire Co., Port Penn	750
Rehoboth Volunteer Fire Co., Rehoboth Beach	750
Roxanna Volunteer Fire Co., Roxanna	750
Seaford Volunteer Fire Dept., Seaford	750
Selbyville Volunteer Fire Co., Selbyville	750
Slaughter Beach Memorial Volunteer Fire Co., Slaughter Beach	750
Talleyville Fire Co., Talleyville	750

Volunteer Hose Co., Middletown	750
Wilmington Manor Fire Co., Wilmington Manor	750
	<hr/>
TOTAL	\$28,500

Section 4. There is appropriated to the Mayor and Council of Wilmington, for the fiscal year beginning July 1, 1968, the following sum to be used for the prevention and extinguishment of fires throughout the City of Wilmington and for the maintenance of the apparatus and equipment of the 12 fire companies organized and equipped in the City:

\$ 30,000
GRAND TOTAL \$234,750

Section 5. The above said sums shall be paid by the State Treasurer within three months after the beginning of the fiscal year for which appropriated.

Section 6. This Act is a supplementary appropriation act and the moneys appropriated shall be paid by the State Treasurer out of any moneys in the General Fund of the State of Delaware not otherwise appropriated.

Approved June 28, 1968.

CHAPTER 342

AN ACT TO AMEND SECTION 5501, TITLE 14, DELAWARE CODE, RELATING TO ESTABLISHING SCHOLARSHIPS AT DELAWARE COLLEGE, UNIVERSITY OF DELAWARE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 5501, Title 14, paragraph (a), Delaware Code, is amended by striking "\$50,000." and inserting in lieu thereof "\$100,000."

Section 2. Section 5501, Title 14, paragraph (b), Delaware Code, is amended by striking "40" and inserting in lieu thereof "60".

Section 3. Section 5501, Title 14, paragraph (d), Delaware Code, is amended by striking "\$50,000." and inserting in lieu thereof "\$100,000."

Approved June 28, 1968.

CHAPTER 343

**AN ACT TO AMEND § 1731 (d) TITLE 24, DELAWARE
CODE RELATING TO MEDICINE AND SURGERY TO
EXEMPT THE PRACTICE OF RITUAL CIRCUMCISION
PURSUANT TO THE REQUIREMENTS OR TENETS
OF A RELIGION.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1731 (d), Title 24, Delaware Code, is hereby amended by adding thereto a new subsection to be known as subsection (5) as follows:

"(5) The practice of ritual circumcision performed pursuant to the requirements or tenets of any religion; provided, however, that a member certified by the American Board of Obstetrics and Gynecology, or Urology or Surgery licensed to practice in this state shall have certified in writing that in his opinion the practitioner has sufficient knowledge and competence to perform such procedures according to accepted medical standards, and shall not have withdrawn such certification."

Approved June 28, 1968.

CHAPTER 344

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE DEPARTMENT OF PUBLIC WELFARE FOR
THE FISCAL YEAR ENDING JUNE 30, 1968.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. In addition to any other sums heretofore appropriated, there is appropriated to the Department of Public Welfare for the fiscal year ending June 30, 1968, the sum of \$54,500 to be extended as follows:

Contractual Services	\$10,000
Accounting Service, Blue Cross, 1967	11,500
Accounting Service, Blue Cross, 1968	31,000
Supplies and Materials	2,000
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Total	\$54,500

Section 2. The funds appropriated hereby shall be used only for the purposes specified and any unexpended funds shall revert to the General Fund of the State of Delaware on June 30, 1968.

Section 3. This is a Supplementary Appropriation Act and the funds hereby appropriated shall be paid out of sums in the General Fund of the State Treasury not otherwise appropriated.

Approved June 28, 1968.

CHAPTER 345

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE DELAWARE STATE POLICE FOR FOOD SUP-
PLIED DURING A STATE OF AN EMERGENCY.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$10,000 is appropriated to the Delaware State Police to be used to pay for food supplied to persons serving the State during a state of emergency declared such by the Governor, for the fiscal year ending June 30, 1969.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall revert to the General Fund of the State of Delaware on June 30, 1969.

Approved June 28, 1968.

CHAPTER 346

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE STATE ARCHIVIST FOR THE ADMINISTRATION
OF THE VETERANS MILITARY PAY ACT No. III
(HOUSE BILL No. 275, AS AMENDED).**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$6,000.00 is appropriated to the State Archivist to pay for expenses connected with the administration of the Veterans' Military Pay Act No. III (House Bill No. 275, as amended) for the fiscal year ended June 30, 1968.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any funds hereby appropriated and not used by June 30, 1968, for the purpose set forth in Section 1 shall revert to the General Fund of the State of Delaware.

Approved June 28, 1968.

CHAPTER 347

AN ACT TO AMEND TITLE 31, DELAWARE CODE. RELATING TO CHILD WELFARE BY EMPOWERING THE DEPARTMENT OF PUBLIC WELFARE TO ESTABLISH AND AID PRIVATE, NONPROFIT FACILITIES FOR CHILD DAY CARE CENTERS AND MAKING A SUPPLEMENTARY APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 31, Chapter 3, Delaware Code, is amended by adding thereto a new subchapter to read as follows:

**CHAPTER 3. CHILD WELFARE
SUBCHAPTER VII. CHILD DAY CARE CENTERS**

§ 387. Definition

As used in this subchapter—

“Child Day Care Center” means a facility designed and prescribed to meet the daily physical, mental and social needs of children from infancy through six years, who would be eligible to be served, in a consistent, wholesome and efficient manner.

§ 388. Intent and purposes

The intent and purposes of this subchapter are to:

(1) Provide child day care facilities available within this State so as to provide safe, adequate, economical care for children whose mothers, fathers, guardians, or custodians are employed or are seeking employment or are enrolled in training or education courses or where this service would contribute to the resolution of family problems;

(2) Secure by decentralized neighborhood management the highest attainable degree of assurance that each child day care center will properly and economically meet the needs of those children who can meet the best use of that service within their neighborhoods, under supervision of the Department, consistent with the objectives in view.

§ 389. General powers and duties of Department in respect to children in day care centers

In order that the State may provide day care facilities and services, the Department shall

- (1) Establish and operate day care centers;
- (2) Charge such fees as it deems desirable; but such fees may be based on the ability of the mother, father, guardian, or custodian of the child to pay;
- (3) Aid in the establishment of privately or publicly operated nonprofit child day care centers by granting funds to private or public organizations agreeing to operate child day care centers in accordance with standards set by the Department;
- (4) Pay all or part of the fees charged by the organizations established under section 389 (3) of this subchapter for the care of children whose mother, father, guardian, or custodian is financially unable to pay all or part of such fees.

§ 390. Application for aid; requirements

Application for aid under this subchapter shall be made to the office of the Department. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the Department. Such application shall be made by the legally constituted body organized for the express purpose of the operational and managerial functions of child day care centers and shall contain information as to the organizational structure, stated purposes and objectives of the organization and such other information as may be required by the Department.

§ 391. Investigation of applications

Whenever the Department receives notification of an application for aid, an investigation shall be made by a member of the child care consultant staff of the Department of Public Welfare and a record shall be made of the circumstances in order to ascertain the eligibility of the applicant organization.

§ 392. Grant of aid; notification; payment

Upon the completion of the investigation, the Department shall decide whether the organization is eligible for aid under

the provisions of this subchapter, and determine the amount of such aid and the date on which such aid shall begin. The Department shall notify the applicant organization of its decision. Such aid shall be allocated and dispensed in a ratio, to be determined by the Department, that recognizes degree of need in proportion to the most effective utilization of the available money.

§ 393. Periodic reconsideration and changes in amount of aid

All grants made under this subchapter shall be reconsidered by the Department as frequently as it may deem necessary but at least annually. The amount of aid may be changed or aid may be entirely withdrawn if the Department finds that the delegated organization's program is inconsistent with the purposes and intent of this subchapter.

§ 394. Federal financial participation

The State Treasurer shall receive all money paid to the State by the Secretary of the Treasury of the United States on account of aid provided under the provisions of this subchapter, and shall make payments from such moneys and moneys appropriated by this or any other act, in accordance with provisions of this subchapter, and under provisions of the United States Social Security Act.

Section 2. The sum of \$300,000 is appropriated to the Department of Public Welfare for the fiscal year ending June 30, 1968, for the purpose of effectuating this Act.

Section 3. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 4. Any money appropriated herein and unexpended shall not revert to the General Fund of the State of Delaware until June 30, 1969.

Approved June 28, 1968.

CHAPTER 348

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE STATE PARK COMMISSION FOR THE PURPOSES OF ADMINISTERING AND IMPLEMENTING THE RECREATION ASSISTANCE FUND ESTABLISHED BY TITLE 7, SECTION 4706, DELAWARE CODE.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House concurring therein).

Section 1. In addition to any other sums appropriated to the State Park Commission for the fiscal year ending June 30, 1968, the sum of \$340,000 is hereby appropriated to the State Park Commission in order to administer and fund the Recreation Assistance Fund established by Title 7, Section 4706, Delaware Code and administered by the State Park Commission and the Recreation Advisory Council pursuant to Sections 4706, 4707, and 4708, Title 7, Delaware Code.

Section 2. The monies hereby appropriated shall be used as follows:

Recreation Assistance Fund	\$300,000
Administration	
Chief of Recreation	\$11,520
Salaries	18,324
Travel	160
Contractual Services	3,790
Supplies and Materials	2,560
Capital Outlay	3,646
	<hr/> \$ 40,000

Any money appropriated herein and unexpended shall not revert to the General Fund of the State of Delaware until June 30, 1969.

Section 3. This is a supplementary appropriation act and the monies hereby appropriated shall be paid out of the General Fund of the State Treasury from monies not otherwise appropriated.

Approved June 28, 1968.

CHAPTER 349

AN ACT TO APPROPRIATE MONEYS TO CERTAIN HOSPITALS AND THE DEPARTMENT OF PUBLIC WELFARE FOR CERTAIN HEALTH SERVICES.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members of each Branch thereof concurring therein):

Section 1. There is appropriated for maintenance, equipment and operation of the Hospitals hereinafter mentioned, for the fiscal year ending June 30, 1969, the sums of money set after the names of such hospitals respectively:

<i>Hospital</i>	<i>Amount</i>
Beebe Hospital of Sussex County, Inc.	\$ 86,240.00
Kent General Hospital	86,913.75
Milford Memorial Hospital, Inc.	94,998.75
Nanticoke Memorial Hospital	55,982.50
Riverside Hospital	32,340.00
St. Francis Hospital, Inc.	121,275.00
Wilmington Medical Center, Inc.	747,250.00
	<hr/>
	\$1,225,000.00

Section 2. There is likewise appropriated for the migrant health program the sum of \$25,000.00 to be disbursed by the Department of Welfare to the hospitals participating in this program on a per diem basis for the cost of services provided.

Section 3. The State Auditor may from time to time verify the expenditures and the cost basis for billing of said hospitals and report to the State Treasurer and the Budget Director.

Section 4. The provisions of Sections 1, 2, and 3 of this Act notwithstanding, the Budget Commission shall administer this Act and shall have the power to reduce the amounts to be paid to the individual hospitals to the extent that the funds withheld are allocated and transferred to the Department of Public Welfare as provided for in Section 5 of this Act, and the State Treasurer shall make no payment under this Act except upon the prior approval of the Budget Commission and of the Budget Director as elsewhere required by law. In reducing the amounts

to be paid to the hospitals pursuant to this section, the Budget Commission shall make such reduction on as nearly a uniform basis as possible; provided, however, that the Commission shall endeavor to assure that each hospital shall receive during the fiscal year payments from the Department of Public Welfare for medical benefits and grants pursuant to this Act which total not less than the amount specified for such hospital in Sections 1 and 2 of this Act.

Section 5. The Budget Commission shall have the power to allocate and transfer to the Department of Public Welfare from the sums herein appropriated to the hospitals amounts not to exceed \$300,000.00 for any fiscal quarter, for the purpose of continuing the program of medical assistance within the requirements of Section 121 (a) of P. L. 89-97 enacted by the Congress of the United States and commonly known as Title XIX of the Social Security Act. After the requirements of Section 47 of this Act have been met, the Budget Commission shall have the additional power to transfer remaining funds to the Department of Public Welfare within the requirements of Section 121 (a) of P. L. 89-97. The Budget Commission shall not allocate to the Department of Public Welfare any of the sums herein mentioned except upon the following conditions:

(A) The State Plan of Medical Care to be carried out by the Department of Public Welfare meets the requirements for federal financial participation under the aforementioned Title XIX, and

(B) The sums expended by the Department pursuant to this Act shall be limited to:

- (1) inpatient hospital services,
- (2) outpatient hospital services,
- (3) other laboratory and x-ray services,
- (4) skilled nursing home services for individuals 21 years of age or older, and
- (5) physicians' services, whether furnished in the office, the patient's home, a hospital, or a skilled nursing home, or elsewhere, and

- (6) health services to migrant labor as provided in Section 2 of this Act not to exceed \$25,000.00.

Section 6. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer from the General Fund of the State.

Approved June 28, 1968.

CHAPTER 350

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE DELAWARE STATE DEVELOPMENT DE-
PARTMENT FOR PROGRAM DEVELOPMENT AND
DELAWARE PARTICIPATION IN THE BICENTEN-
NIAL CELEBRATIONS ATTENDANT TO THE INDE-
PENDENCE OF THE UNITED STATES AS PROPOSED
FOR THE PHILADELPHIA REGION IN 1976.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$5,000.00 is hereby appropriated to the Delaware State Development Department for the fiscal year ending June 30, 1968, for the program development and Delaware participation in the bicentennial celebrations attendant to the Independence of the United States as proposed for the Philadelphia region in 1976.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. The funds hereby appropriated are to be used only for the purposes specified and any unexpended funds shall revert to the General Fund of the State of Delaware on June 30, 1969.

Approved June 28, 1968.

CHAPTER 351

**AN ACT TO AMEND SECTION 1108, TITLE 17, DELAWARE
CODE, RELATING TO OUTDOOR ADVERTISING
SIGNS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 1108 (b), title 17, Delaware Code, is hereby amended by striking therefrom the figures "1968" as they appear on the last line of said subsection, and inserting in lieu thereof, the figures "1969".

Approved June 28, 1968.

CHAPTER 352

AN ACT TO AMEND SECTION 2, CHAPTER 290, VOLUME 56, LAWS OF DELAWARE, RELATING TO REVERSION DATE OF ANY UNEXPENDED FUNDS APPROPRIATED TO THE RESPECTIVE DEPARTMENTS OF ELECTIONS FOR NEW CASTLE, KENT AND SUSSEX COUNTIES AND TO THE STATE ELECTION COMMISSIONER.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2, Chapter 290, Volume 56, Laws of Delaware, is hereby amended by striking the words and figures "June 30, 1968" as they appear in the last line of said section, and inserting in lieu thereof the following words and figures: "July 31, 1968".

Approved June 28, 1968.

CHAPTER 353

**AN ACT TO AMEND SECTION 8303, CHAPTER 83, PART V,
TITLE 11, DELAWARE CODE, RELATING TO THE
SALARIES OF STATE POLICE AND PROVIDING FOR
A SUPPLEMENTAL APPROPRIATION TO CARRY OUT
THE PROVISIONS OF THIS ACT.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 8303, Chapter 83, Part V, Title 11, Delaware Code is hereby amended by striking § 8303 in its entirety and substituting in lieu thereof a new § 8303 to read as follows:

§ 8303. Salaries

Each of the State Police shall receive a salary based on the following pay scale:

	<i>Trooper</i>	<i>Detective Corporal</i>	<i>Sergeant</i>	<i>Lieutenant</i>
Start	\$ 6,800.00			
1 Year *	7,100.00			
2 Years*	7,300.00			
3 Years*	7,500.00	\$ 8,000.00		
5 Years*	7,700.00	8,200.00	\$ 8,600.00	\$ 9,000.00
8 Years*	7,900.00	8,400.00	8,800.00	9,250.00
11 Years*	8,100.00	8,600.00	9,000.00	9,500.00
14 Years*	8,300.00	8,800.00	9,200.00	9,750.00
17 Years*	8,500.00	9,000.00	9,400.00	9,900.00
	<i>Captain</i>	<i>Staff Captain</i>	<i>Major</i>	<i>Lieutenant Colonel</i>
8 Years*	9,600.00	9,900.00		
11 Years*	10,000.00	10,300.00	12,200.00	14,700.00
14 Years*	10,400.00	10,800.00	13,200.00	15,700.00
17 Years*	10,800.00	11,300.00	14,200.00	17,000.00
<i>Superintendent</i> —\$17,000.00 prior to 17 years service and \$20,000.00 thereafter.				

*Years service completed as of January 1, or July 1, of each year.

NOTE—Longevity increases cease after 17 years have been completed.

Section 2. There is appropriated the sum of \$355,250.00 to the State Highway Department Salary Account of the State Police, Uniform Division for the fiscal year beginning July 1, 1968, for the purposes of carrying out the provisions of this act.

Section 3. This is a Supplemental Appropriation Act and the money appropriated shall be paid by the State Treasurer out of the General Fund of the State of Delaware out of monies not otherwise appropriated. Any monies hereby appropriated and not expended by the State Highway Department Salary Account of the State Police, Uniform Division, for the purposes of carrying out the provisions of this Act shall revert to the General Fund on June 30, 1969.

Section 4. The provisions of Section 1 of this Act shall become effective on July 1, 1968.

Approved June 28, 1968.

CHAPTER 354

AN ACT TO AID ORGANIZATIONS MAINTAINING RESIDENTIAL FACILITIES BY MAKING APPROPRIATIONS THERETO.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. The sum of \$5,000 is appropriated to Palmer Home, Incorporated, a corporation of the State of Delaware, for the care and maintenance of old age persons at the Old Folk's Home at Dover, for operation expenses.

Section 2. The sum of \$5,000 is appropriated to the Layton Home for Aged Colored Persons for the care and maintenance of old age persons for operation expenses.

Section 3. The sum of \$34,000 is appropriated to the Correctional Council of Delaware to cover the expenses of the 308 West Residence in operating the program as provided by Chapter 322, Volume 51, Laws of Delaware.

Section 4. The sum of \$5,000 is appropriated to Boys Home of Delaware, Inc., a Delaware corporation.

Section 5. The sums appropriated herein are for the fiscal year ending June 30, 1969.

Section 6. This Act is a supplementary appropriation and the moneys appropriated shall be paid by the State Treasurer out of any moneys in the General Fund of the State not otherwise appropriated.

Approved June 28, 1968.

CHAPTER 355

AN ACT MAKING AN APPROPRIATION TO BIG BROTHERS ASSOCIATION OF NORTHERN DELAWARE, INC.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. The sum of \$2,500 is appropriated to Big Brothers Association of Northern Delaware, Inc., for the fiscal year ending June 30, 1969.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State not otherwise appropriated.

Approved June 28, 1968.

CHAPTER 356

AN ACT TO AID VETERANS' ORGANIZATIONS BY MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. The sum of \$6,000 is appropriated to the American Legion, Department of Delaware.

Section 2. The sum of \$6,000 is appropriated to the Veterans of Foreign Wars, Department of Delaware.

Section 3. The funds appropriated by Sections 1 and 2 hereof shall be used to furnish services through a duly selected service officer to veterans of the Armed Forces of the United States.

Section 4. The sum of \$2,000 is appropriated to the Veterans of Foreign Wars, Department of Delaware, for operating expenses.

Section 5. The sum of \$2,000 is appropriated to the American Legion, Department of Delaware, for operating expenses.

Section 6. The sum of \$1,000 is appropriated to the Disabled American Veterans of Delaware for operation expenses.

Section 7. The sum of \$1,000 is appropriated to the Department of Delaware Jewish War Veterans of the United States for operational expenses.

Section 8. The sum of \$1,000 is appropriated to the Delaware Veterans of World War I for operational expenses.

Section 9. The sum of \$750 is appropriated to the American Legion Department of Delaware for the bearing of expenses incident to the holding of Boys' State.

Section 10. The sum of \$750 is appropriated to the American Legion Auxiliary Department of Delaware for the bearing of expenses incident to the holding of the Girls' State.

Section 11. The sums appropriated herein are for the fiscal year ending June 30, 1969 and shall be paid to the Finance Officer of the respective Veterans Organizations, upon warrants signed by the proper Finance Officer and approved by the Budget Director.

Section 12. This Act is a supplementary appropriation and the moneys appropriated shall be paid by the State Treasurer out of any moneys in the General Fund of the State not otherwise appropriated.

Approved June 28, 1968.

CHAPTER 357

**AN ACT APPROPRIATING MONEYS FOR EDUCATION
AND TRAINING OF CHILDREN OF MILITARY VET-
ERANS WHO DIED WHILE IN THE ARMED SERVICES
OF THE UNITED STATES OR WHO DIED FROM DIS-
EASE, WOUNDS OR DISABILITIES RESULTING FROM
SUCH SERVICE.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. The sum of \$15,000 is appropriated for the fiscal year ending June 30, 1969, for the benefit of the children of members of any branch of the armed forces of the United States of America who were killed while in such service or who may have died from disease, wounds or disabilities arising or resulting from service in the Vietnam conflict or any other armed conflict of the United States.

Section 2. The word "children" as used in Section 1 of this Act means those children who are not under 16 years of age or over 25 years of age, who have been domiciled in the State of Delaware for 3 or more consecutive years prior to the application for assistance under this Act, and who are attending or may hereafter attend any educational or training institution in the State of Delaware. Provided, however, that if their training cannot be secured in any institution or agency within the State of Delaware the Director of the State Board of Vocational Education may use these funds for such training in any institution outside of the bounds of the State, and provided further, that any child having entered upon a course of training or education, under the provisions of this Act, consisting of a course of not more than 4 years, and arriving at the age of 25 years before the completion of said course, may continue in said course and receive all the benefits of the provisions of this Act until said course is completed.

Section 3. The moneys appropriated by this Act shall be used for any expenses in connection with the education and train-

ing of such children in a sum not to exceed \$500 for any one child for any one year.

Section 4. The amounts that may be due or become due to any such educational or training institution not in excess of the amount specified in Section 3 thereof, shall be payable to said institution as herein mentioned from the fund hereby created on vouchers approved by the Director of the State Board for Vocational Education. It shall be the duty of the Director to ascertain and pass on the eligibility of the children who make application for the benefits provided in this Act, to satisfy himself of the attendance of such children at any such institution as is herein specified, and of the accuracy of the charge or charges submitted to said Director by the authorities of any such institution, on account of the attendance thereat of any such children as is herein provided for; provided that the necessary expenses incidental to the administration of the provisions of this Act shall be paid by the State Treasurer upon vouchers signed by the State Auditor, but the expenses shall not exceed the sum of \$1,000 in any one year, and further provided that said incidental expenses so appropriated shall be in addition to the moneys appropriated in Section 1 of this Act.

Section 5. This Act is a supplementary appropriation act and the money hereby appropriated shall be paid by the State Treasurer out of any moneys in the General Fund of the State of Delaware not otherwise appropriated.

Approved June 28, 1968.

CHAPTER 358

AN ACT TO APPROPRIATE MONEYS TO CERTAIN HOSPITALS AND THE DEPARTMENT OF PUBLIC WELFARE FOR CERTAIN HEALTH SERVICES.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. There is appropriated for the maintenance, equipment and operation of the Hospitals hereinafter mentioned, for the fiscal year ending June 30, 1968, the sums of money set after the names of such hospitals respectively:

<i>Hospital</i>	<i>Amount</i>
Beebe Hospital of Sussex County, Inc.	\$ 9,216.00
Kent General Hospital	9,288.00
Milford Memorial Hospital, Inc.	10,152.00
Nanticoke Memorial Hospital	6,480.00
Riverside Hospital	3,456.00
St. Francis Hospital, Inc.	12,960.00
Wilmington Medical Center	79,848.00
	<hr/>
	\$131,300.00

Section 2. The Budget Director shall administer this Act and shall have the power to reduce the amounts to be paid to the individual hospitals to the extent that the funds withheld are allocated and transferred to the Department of Public Welfare as provided for in Section 3 of this Act, and the State Treasurer shall make no payment under this Act except upon the prior approval of the Budget Director.

Section 3. The Budget Director shall allocate to the Department of Public Welfare any of the sums herein mentioned provided the following conditions are met:

(a) The State Plan of Medical Care to be carried out by the Department of Public Welfare meets the requirements for federal financial participation under Title XIX of P. L. 89-97; and

(b) The sums expended by the Department pursuant to this Act shall be limited to:

- (1) inpatient hospital services;
- (2) outpatient hospital services;
- (3) other laboratory and x-ray services;
- (4) skilled nursing home services for individuals 21 years of age or older; and
- (5) physicians services, whether furnished in the office, the patient's home, a hospital, or a skilled nursing home, or elsewhere.

Section 4. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer from the General Fund of the State.

Section 5. Any money appropriated herein and unexpended shall revert to the General Fund of the State of Delaware on June 30, 1969.

Approved June 28, 1968.

CHAPTER 359

**AN ACT TO AID CERTAIN CIVIC ORGANIZATIONS
WHICH MAINTAIN EMERGENCY VEHICLES BY MAK-
ING APPROPRIATIONS THEREFOR.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House concurring therein):

Section 1. There is appropriated to the listed organizations the following sums to be used for the operation and maintenance of ambulances in the public service:

American Legion, Sussex Post #8, Georgetown, Delaware	\$ 750
American Legion, Kent Post #14, Smyrna, Delaware	750
Selbyville American Post #39, Inc., Selbyville, Delaware	750
Sussex Memorial Post #7422, V.F.W., Millsboro, Delaware	750
TOTAL....	\$3,000

Section 2. The above said sums shall be paid by the State Treasurer to said organizations within 3 months after the beginning of the fiscal year for which appropriated.

Section 3. This Act is a supplementary appropriation for the fiscal year ending June 30, 1969, and the moneys appropriated shall be paid by the State Treasurer out of any moneys in the General Fund of the State of Delaware not otherwise appropriated.

Approved June 28, 1968.

CHAPTER 360

**AN ACT TO AMEND TITLE 16, DELAWARE CODE, TO
PROVIDE FOR THE DEVELOPMENT, ESTABLISH-
MENT AND ENFORCEMENT OF STANDARDS FOR
THE CONSTRUCTION, MAINTENANCE AND OPERA-
TION OF HOSPITALS AND THE LICENSING THERE-
OF.**

*Be it enacted by the General Assembly of the State of
Delaware:*

Section 1. Title 16, Delaware Code, is amended by adding thereto a new chapter reading as follows:

**CHAPTER 10
HOSPITALS**

§ 1001. Definitions

A. As used in this chapter "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not less than 24 hours in any week or four or more non-related individuals suffering from illness, disease, injury, or deformity, or a place devoted primarily to providing for not less than 24 hours in any week of obstetrical or other medical or nursing care for two or more non-related individuals, but does not include Sanatoriums, Rest Homes, Nursing Homes, or Boarding Homes.

B. "Government Unit" means The United States, State, County, Municipality, or other political sub-division, or any department, division, board or other agency of any of the foregoing.

C. "Person" means person, firm, association or corporation.

D. "State Board" means Delaware State Board of Health.

§ 1002. Purpose

The purpose of this chapter is to provide for the development, establishment, and enforcement of standards for the construction, maintenance, and operation of hospitals, which, in the

light of advancing knowledge, will promote safe and adequate treatment of such individuals in hospitals.

§ 1003. License requirement

No person or government unit, acting severally or jointly with any other person or government unit shall construct, establish, conduct or maintain a hospital in this State without a license under this law.

§ 1004. Application for license

An application for license shall be made to the State Board of Health upon forms provided by it and shall contain such information as the State Board may reasonably require, which may include affirmative evidence of ability to comply with such reasonable standards, rules and regulations as are lawfully prescribed hereunder.

§ 1005. Issuance and renewal of license

Upon receipt of an application for license and the license fee of Twenty-five (\$25.00) Dollars, the State Board shall issue a license if the applicant and hospital facilities meet the requirements established under this law. A license, unless sooner suspended or revoked, shall be renewed annually without charge upon filing by the licensee, and after approval by the State Board, of an annual report upon such uniform dates and containing such information as the State Board may reasonably require. Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable.

§ 1006. Denial or revocation of license; hearings and review

The State Board shall have the authority to deny, suspend, or revoke a license in any case where it finds that there has been a failure to comply with the provisions of this chapter or the rules and regulations issued under this chapter.

Before any license issued under this chapter is denied, suspended or revoked, notice shall be given in writing to the holder of the license setting forth the particular reasons for such action.

Such denial, suspension, or revocation shall become effective thirty days after the mailing by registered mail or service of the notice, unless the applicant or licensee, within such thirty-day period shall give written notice to the State Board requesting a hearing, in which case the notice shall be deemed to be suspended. If a hearing has been requested, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before the State Board. At any time at or prior to the hearing, the State Board may rescind the notice of denial, suspension, or revocation upon being satisfied that the reasons for the denial, suspension, or revocation have been or will be removed. A copy of the decision of the State Board setting forth the finding of facts and the particular reasons for the decision shall be sent by registered mail, or served personally upon the applicant or licensee. The decision shall become final thirty days after it is so mailed or served, unless the applicant or licensee, within such thirty day period, appeals the decision to the Superior Court in accordance with Section 1014 hereof.

The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by said State Board with the advice of the Hospital Advisory Council.

A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the decision is appealed pursuant to Section 1014 hereof. A copy or copies of the transcript may be obtained by an interested party on payment of the cost of preparing such copy or copies. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the aforesaid rules.

§ 1007. Rules; regulations and enforcement

The State Board shall adopt, amend, or repeal regulations governing the establishment and operation of hospitals. These regulations shall establish reasonable standards of equipment, capacity, sanitation and any conditions which might influence the health care received by patients or promote the purposes of this chapter.

§ 1008. Effective date of regulations

Any hospital which is in operation at the time of adoption of any applicable regulation or standard under this act shall be

given a reasonable time, not exceeding five years, by the State Board, within which to comply with such regulations and standards.

§ 1009. Inspections and consultations

The State Board shall make or cause to be made such inspections and investigations as it may deem necessary.

§ 1010. Hospital advisory council

The Governor shall invite the Department of Mental Health, Delaware Academy of Medicine, Medical Society of Delaware, Health Facilities Planning Council, Delaware Osteopathic Medical Society, Association of Delaware Hospitals, and the Delaware Nurses Association each to submit names of no less than three nominees for membership on the Advisory Council. From each list, the Governor shall select one individual who shall serve initially for one, two or three years as the Governor may decide. The Executive Secretary of the State Board shall be an ex-officio member without vote.

The Council may appoint not more than six other individuals who shall serve for terms of three years except when appointed to complete an unexpired term. Members whose terms expire shall hold office until appointment of their successors. Members shall serve without compensation, but may be reimbursed by the State Board for actual traveling and incidental expenses incurred in the performance of their official duties. No voting member of the Council shall succeed himself as a member of the Council.

§ 1011. Functions of hospital advisory council

The Hospital Advisory Council shall have the following responsibilities and duties:

(a) To consult and advise with the State Board in matters of policy affecting administration of this chapter and in the development of regulations, and standards provided for hereunder.

(b) To review and make recommendations to the State Board with respect to regulations and standards authorized hereunder.

(c) To meet on no less than two separate days per year.

§ 1012. Information confidential

Information received by the State Board through filed reports, inspections, or as otherwise authorized under this chapter, shall not be made public in such manner as to identify individuals or hospitals, except in a hearing pursuant to Section 1006 or when otherwise required by law or federal regulation.

§ 1013. Annual report of State Board

The State Board shall prepare and publish an annual report of its activities and operations under this chapter.

§ 1014. Judicial review

Any applicant or licensee who is dissatisfied with the decision of the State Board as a result of the hearing provided in section 1006 may, within thirty (30) days after the mailing or service of the notice of decision as provided in said section, file a Notice of Appeal to the Superior Court in the office of the Prothonotary of the Superior Court of the County in which the hospital is located or to be located, and serve a copy of said Notice of Appeal upon the State Board. The State Board shall promptly certify and file with the Court a copy of the Record and decision, including the transcript of the hearings on which the decision is based. Proceedings thereafter shall be governed by the rules of the Superior Court of the State of Delaware.

§ 1015. Penalties

Any person constructing, establishing, conducting, managing, or operating any hospital without a license shall be guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars (\$50.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense, and each day of a continuing violation after conviction shall be considered a separate offense.

§ 1016. Injunction

Notwithstanding the existence or pursuit of any other remedy, the State Board may, in the manner provided by law, maintain an action in the name of the State for injunction or other

process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a hospital without a license.

§ 1017. Waiver

Any person which has presented plans for a hospital and received approval of them by the State Board prior to the enactment of this chapter shall be eligible for licensing until the fifth anniversary of the effective date of this law.

Approved June 28, 1968.

NOTE: This Act has been codified as Chapter 10A, Sections 1021 through 1037, Title 16, Delaware Code.

CHAPTER 361

AN ACT TO AMEND TITLE 11, DELAWARE CODE, RELATING TO A NEW CRIMINAL OFFENSE FOR THE INTENTIONAL OR FRAUDULENT TAKING AND CARRYING AWAY, SECRETION OR CONVERSION BY A PERSON OF THE LEASED OR RENTED PERSONAL PROPERTY OF ANOTHER, PROVIDING FOR EVIDENCE OF INTENTION TO COMMIT SUCH AN OFFENSE AND PROVIDING PENALTIES FOR VIOLATIONS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 11, Delaware Code, is amended by adding thereto a new section to read:

§ 648. Unlawful conversion of rented property; presumption; penalties

(a) Any person who shall intentionally or fraudulently, or by any false pretense, take, carry, lead, drive away, destroy, sell, secrete, convert, or appropriate in any wrongful manner, personal property which was leased, rented or entrusted to him by another person or who causes or procures others to report falsely of his wealth or mercantile credit and thereby fraudulently obtains possession of personal property or the labor or service of another, is guilty of unlawful conversion.

(b) It shall be prima facie evidence of intent to commit an unlawful conversion when one who has leased or rented the personal property of another fails to return or make arrangements acceptable with the lessor to return the personal property to its owner within ten (10) days after proper notice following the expiration of the lease or rental agreement, or presents identification to the lessor or rentor thereof which is false, fictitious or not current with respect to name, address, place of employment or other appropriate items.

(c) Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to

the lessee at the address given at the time of making the lease or rental agreement.

(d) Whoever violates the provisions of this section shall be guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned not more than six months, or both.

Approved June 28, 1968.

CHAPTER 362

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, SO AS TO ALLOW A DEDUCTION OF EXPENSES FOR THE CARE OF CERTAIN DEPENDENTS FOR THE PURPOSE OF ENABLING THE TAXABLE TO BE GAINFULLY EMPLOYED.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 1118 of Chapter 11, Title 30, Delaware Code, is amended by adding after subsection (18) the following new subsection:

(20) (a) Expenses paid during the income year by a taxable who is a woman or widower, or is a husband whose wife is incapacitated or is institutionalized, for the care of one or more dependents, but only if such care is for the purpose of enabling the taxable to be gainfully employed;

(b) (1) The deduction under paragraph (a) shall be limited to \$600 for any income year, except that the deduction shall be increased (to an amount not above \$900) by the expenses incurred by the taxable during any income year during which the taxable had 2 or more dependents.

(2) In the case of a woman who is married and in the case of a husband whose wife is incapacitated, the deduction under paragraph (a) shall be reduced by the amount (if any) by which the combined adjusted gross income (as defined in section 1101) of the taxable and spouse, whether or not both are taxable under this Chapter, exceeds \$6,000. This subparagraph shall not apply, in the case of a woman who is married, to expenses incurred while her husband is incapable of self-support because mentally or physically defective, or, in the case of a husband whose wife is incapacitated, to expenses incurred while his wife is institutionalized if such institutionalization is for a period of at least 90 consecutive days (whether or not within one income year) or a shorter period if terminated by her death.

(3) Paragraph (a) shall not apply to any amount paid to an individual with respect to whom the taxable or spouse is allowed, or would be allowed if both were taxable under this

Chapter, for the income year a deduction under section 1117 (relating to deductions for personal exemptions).

(4) In the case of a husband whose wife is incapacitated or institutionalized, the deduction under paragraph (a) shall be allowed only for expenses incurred while the wife was incapacitated or institutionalized for a period of at least 90 consecutive days (whether or not within one income year) or a shorter period if terminated by her death;

(c) For purposes of this subsection—

(1) The term “dependent” means a person with respect to whom the taxable is entitled to an exemption under section 1117—

(A) who has not attained the age of 13 years and who is a son, stepson, daughter or stepdaughter of the taxable; or

(B) who is physically or mentally incapable of caring for himself.

(2) The term “widower” includes an unmarried individual who is legally separated from his spouse under a decree of divorce or of separate maintenance;

(3) A wife shall be considered “incapacitated” only while she is incapable of caring for herself because mentally or physically defective, or while she is institutionalized;

(4) A wife shall be considered “institutionalized” only while she is, for the purpose of receiving medical care or treatment, an inpatient, resident or inmate of a public or private hospital, sanitarium or other similar institution;

(5) A woman shall not be considered as married if—

(A) she is legally separated from her spouse under a decree of divorce or of separate maintenance; or

(B) she has been deserted by her spouse, does not know his whereabouts (and has not known his whereabouts at any time during the income year), and has applied to a court of competent jurisdiction for appropriate process to compel him to pay support or otherwise comply with the law or a judicial order.

Section 2. This Act shall take effect on January 1, 1969.

Approved June 28, 1968.

CHAPTER 363

AN ACT TO AUTHORIZE THE STATE OF DELAWARE TO LOAN MONEYS TO HOSPITALS FOR THE IMPROVEMENT OF HOSPITAL FACILITIES AND AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED THEREFOR AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONEY BORROWED TO THE HOSPITAL IMPROVEMENT FUND TO BE ADMINISTERED BY THE STATE BOARD OF HEALTH.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House concurring therein):

Section 1. Title 16, Delaware Code, is amended by adding thereto a new part to read:

PART VIII. HOSPITALS**CHAPTER 90. HOSPITAL CAPITAL IMPROVEMENTS
SUBCHAPTER I. LOANS****§ 9001. Definitions**

As used in this Chapter—"hospital" means a non-profit hospital located or to be located in this State, operated for general medical and surgical treatment and operated or to be operated by a nonprofit corporation incorporated under the laws of this State.

§ 9002. Loans for hospital construction

(a) The State Board of Health shall receive and approve or disapprove applications from hospitals for loans to be made from funds provided for by this Chapter for the construction, expansion, relocation or modernization of hospital buildings, facilities and equipment. The Board may in its discretion designate the Health Facilities Planning Council Inc., a Delaware corporation, to make the examinations required by this Chapter and may consider its advice and recommendation.

(b) In the performance of its duties and responsibilities in relations to such loans, the Board may consider the current status and operations of hospitals throughout this State. In performing this function, the Board may call upon any State official or agency for information that may be helpful, and it may utilize the service of private agencies for additional research analysis or information.

§ 9003. Eligibility

In considering applications for loan funds and prior to making recommendations upon any application for funds under this Chapter, the Board shall determine that:

(1) the applicant is, in fact, a hospital as defined in section 9001 of this title;

(2) the applicant has sufficient financial integrity and is in such financial condition that it can reasonably be expected to meet its obligations to this State in the repayment of the principal and interest on the loan;

(3) there exists a need for the hospital facilities applied for in relation to the existing and planned hospitals in this State;

(4) the hospital's managerial, administrative and medical staffs conform or will conform to acceptable standards of professional integrity and ability.

§ 9004. Staff assistance

The Board may seek staff assistance from other State agencies, from other governmental agencies and from private and voluntary agencies. The State Board of Health may from time to time, employ such expert consultants as it deems necessary to expedite and advance its work.

§ 9005. Repayment of loans; written agreement; acceleration

(a) Loans made to any hospitals under the provisions of this Chapter shall be made on the express condition that they shall be repaid in full to this State over a period not in excess of 20 years from the time the loan funds are paid out to the hospital or for such lesser time as the Board may determine at the time of granting the loan.

(b) At such time as a loan is made pursuant to this Chapter, the applicant and the State shall enter into a written agreement, wherein the terms and conditions of the loan shall be set forth in full. Should the applicant or the hospital thereafter cease to be a hospital as defined in section 9001 of this title, then the full amount of the unpaid loan shall immediately become due and payable.

(c) The repayment schedule shall provide that the principal of the loan shall be amortized in equal annual installments over the life of the loan, and that the interest as established in sub-section (d) of this section shall be paid annually on the same date as the principal payment.

(d) A hospital which is granted a loan under the provisions of this Chapter shall repay the loan with interest on the unpaid principal balance. The rate of interest applicable to any loan shall be established by the State Treasurer at the time the loan funds are granted or within 6 months thereafter. This rate of interest shall be the rate declared by the State Treasurer at that time as applicable to the last issue of general obligation bonds sold by the State.

§ 9006. Security; releases

(a) A hospital receiving a loan under this Chapter shall execute and deliver to this State a good and sufficient mortgage on property of the hospital sufficient to guarantee repayment of the loan.

(b) Releases or satisfactions of mortgages under this section may be executed on behalf of the State by the Governor and attested by the Secretary of State.

§ 9007. Records and payments

(a) The State Board of Health shall be responsible for maintaining all the records concerning the loans and repayments authorized under this chapter necessary to safeguard the interest of the State. The Board shall initiate all invoices and other documents related to the Hospital Construction Fund except as otherwise provided by § 9010 (c) of this chapter. The Board shall provide at least 30 days notice in writing to the Budget Director of any monies to be withdrawn from the Fund.

(b) All payments of interest and repayments of principal

shall be made to the Board of Health which shall immediately forward the same to the State Treasurer for deposit.

SUBCHAPTER 11. HOSPITAL CONSTRUCTION FUND

§ 9010. Hospital construction

(a) A special fund is created in the State Treasury to be known as the "Hospital Construction Fund," hereafter referred to in this subchapter as "Fund."

(b) The Fund shall be expended for the hospital loans authorized by this Chapter.

(c) There is appropriated to the Fund \$10,000,000 or so much thereof as may be needed, for the purpose of making the loans authorized by this Chapter.

§ 9011. Reimbursement of the fund; investment of idle funds

(a) All repayments of principal and payments of interest to the State pursuant to section 9005 of this chapter shall be deposited in the Fund. The State Board of Health shall from time to time and at least annually pay sums from the Fund to the General Fund of the State equal to the claims against the General Fund that become payable for principal and interest pursuant to § 9018 of this Chapter.

(b) The total appropriation of State money to the Fund shall not exceed \$10,000,000 but the Fund may exceed \$10,000,000 if such excess arises from repayments.

(c) The Budget Director may invest and reinvest any sums in the Fund, the proceeds thereof to be deposited in the Hospital Construction Fund.

SUBCHAPTER III. BORROWING OF MONEY FOR THE FUND

§ 9015. Appropriation

There is appropriated to the Hospital Construction Fund \$10,000,000 or so much thereof as shall be received from the sale of the bonds and notes hereinafter authorized, or so much as may from time to time be needed in the Fund.

§ 9016. Reversion

Any of the appropriated funds remaining unexpended at the end of any fiscal year shall not revert to the General Fund,

but shall remain to be used for the purposes set forth in this Chapter.

§ 9017. Issuance of bonds and notes

The sum of \$10,000,000 shall be borrowed by the issuance of bonds and bond anticipation notes upon the full faith and credit of the State of Delaware. Such bonds and notes shall be issued in accordance with the provisions of Chapter 74, Title 29. For purpose of identification, the bonds issued pursuant to this authorization Act may be known, styled or referred to as "Hospital Construction Bonds of 19 (insert year)."

§ 9018. Additional appropriation

There is appropriated from the General Fund such sums as may be necessary for the expenses incident to the issuance of the bonds and notes authorized by this Chapter and such further sums as may be necessary to pay any interest which becomes due on such bonds and notes during any fiscal year and such further sums as may be necessary for the repayment of the principal of any of the said bonds which become due during any fiscal year. Vouchers for the payment of the expenses incident to the issuance of bonds and notes and for the interest and repayment of said notes shall be signed by the Secretary of State by and with the approval of the Issuing Officers. Any moneys received from the premium and accrued interest on the sale of bonds shall be deposited by the credit of the General Fund.

§ 9019. Budget Appropriation Bill

The Budget Appropriation Bill which shall be enacted and approved by the General Assembly for any fiscal year or bien-nium, shall contain under the Debt Service Item provisions for the payment of interest and principal maturities of the bonds (or notes which are not to be funded by the issuance of bonds) issued under the authority of this Chapter, and such of the revenues of the State of Delaware as are not prohibited by constitutional provisions or committed by preceding statutes for other purposes are hereby pledged for the redemption and cancellation of said bonds and payment of interest thereon.

Approved June 28, 1968.

CHAPTER 364

AN ACT RELATING TO THE COMPENSATION OF CERTAIN KEY EXECUTIVES OF THE STATE GOVERNMENT.

Be it enacted by the General Assembly of the State of Delaware):

Section 1. Title 29, Delaware Code, is amended by adding thereto a new chapter to read:

CHAPTER 60. CLASSIFICATION AND COMPENSATION OF KEY EXECUTIVES

§ 6001. Compensation of key executives

The Salary of key public officials shall be classified as provided in this chapter.

§ 6002. Classification of salaries of key executives

(a) The following salaries shall be the minimum and maximum to be paid to the key executives as listed in their respective classes in subsection (b) of this section:

- (i) Class A: \$22,000 to \$30,000 annually.
- (ii) Class B: \$16,000 to \$23,000 annually.
- (iii) Class C: \$12,000 to \$17,000 annually.
- (iv) Class D: \$ 9,000 to \$13,000 annually.

(b) The following key executives shall be compensated within the salary range provided in subsection (a) of this section in accordance with their respective classification:

- (i) Class A:
Director of Operations—Engineering Division—State Highway Department
Executive Secretary of the Board of Health
State Superintendent of Public Instruction
- (ii) Class B:
Budget Director
Director—Department of Corrections

Medical Examiner—Board of Post-Mortem Examiners
Director—State Personnel Commission
Director—State Planning
Director—Department of Public Welfare
Secretary of State
Executive Director—Water and Air Resources Commission
Executive Director—Youth Services Commission
Chairman-Executive Director—Employment Security Commission

(iii) Class C:

Adjutant General
State Archivist
Administrative Assistant to the Attorney General
Director—Delaware Fish and Game Commission
Deputy Administrator of Justices of the Peace
State Librarian
Director—State Park Commission
Superintendent—State Police
Director of Operations—State Police
Commissioner—State Tax Department

(iv) Class D:

Deputy Auditor
Director—Civil Defense
State Custodian
Director—State Development Department
State Fire Marshal
Director—Fire School
State Forester
Deputy Insurance Commissioner
Assistant Deputy Administrator of Justices of Peace
Assistant Director—State Park Commission
Public Defender
Assistant Public Defender
Assistant Secretary of State
Director—Soil and Water Conservation Commission
Deputy Commissioner—State Tax Department
Deputy Treasurer
Director—Executive Secretary—Department of Labor
Secretary of State Board of Agriculture

§ 6003. Setting of compensation within the limits of this chapter

With due recognition to qualifications, experience and length of service, the salary of the public officials classified by this chapter shall be set within the ranges set in this chapter by:

(1) The Governor in the case of public officials appointed directly by him.

(2) The commission or board employing the public official in the case of public officials not appointed directly by the Governor.

(3) Such other elected State officeholder, when such public official is employed directly by such other elected State officeholder, and is not appointed or employed by the Governor or a commission or board.

§ 6004. Payment of compensation

(a) The State Treasurer shall pay from the General Fund the compensation provided for by this chapter upon vouchers presented by the agency involved notwithstanding any other law of this state.

Section 2. The provisions of any act or parts of acts or laws of this state which are inconsistent with this Act are repealed as to such inconsistency.

Section 3. This Act shall be effective July 1, 1968.

Approved June 28, 1968.

CHAPTER 365

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE GOVERNOR FOR USE IN A SAFETY CAM-
PAIGN.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$4,000 is appropriated to the Governor for the fiscal year ending June 30, 1968 to be expended for a safe driving campaign.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware, not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall not revert to the General Fund of the State of Delaware until June 30, 1969.

Approved June 28, 1968.

CHAPTER 366

**AN ACT TO AMEND CHAPTER 13, SECTION 1303, TITLE 15,
DELAWARE CODE, RELATING TO TRANSFER OF
NAMES WHEN ELECTION DISTRICT IS DIVIDED.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 13, Section 1303, Title 15, Delaware Code is amended by adding a new sentence thereto to read as follows:

For the year 1968 only, the "first day of March" shall be changed to the "first day of July."

Approved June 28, 1968.

CHAPTER 367

AN ACT TO AMEND TITLE 21, DELAWARE CODE, CLARIFYING AND IMPROVING THE LAW REGARDING DRIVERS OF MOTOR VEHICLES MEETING, OVERTAKING OR PASSING SCHOOL BUSES TO FURTHER INSURE THE SAFETY OF CHILDREN.

Be it enacted by the General Assembly of the State of Delaware:

Title 21, § 4166 (d) is amended to insert the word "divided" between the words "a" and "highway" in the second line thereof.

Approved June 28, 1968.

CHAPTER 368

AN ACT TO AMEND CHAPTER 27, TITLE 24 OF THE DELAWARE CODE BY CHANGING THE DEFINITION OF LAND SURVEYOR TO MEAN PROFESSIONAL LAND SURVEYOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2701, Chapter 27, Title 24 of the Delaware Code is hereby amended by striking therefrom the sixth paragraph defining the term "Land Surveyor" and adding in place thereof a new sixth paragraph defining the term "Land Surveyor" to read as follows:

"Land Surveyor" means a person who engages in the practice of land surveying. As used in this chapter the term "Land Surveyor" shall mean and be synonymous with the term "Professional Land Surveyor;"

Approved June 28, 1968.

CHAPTER 369

AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED FOR THE MILL CREEK FLOOD CONTROL PROJECT AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONEY BORROWED TO THE GOVERNOR.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each House thereof concurring therein):

Section 1. There is appropriated to the Governor the sum of Five Hundred Thousand Dollars (\$500,000), or so much thereof as shall be received from the sale of the bonds and notes hereinafter authorized, which shall be used for the Mill Creek Flood Control Project to be undertaken by the United States Army Corps of Engineers.

Section 2. Any of said appropriated funds remaining unexpended at the end of any fiscal year shall not revert to the General Fund, but shall remain to be used for the purposes set forth in this Act.

Section 3. The said sum of Five Hundred Thousand Dollars (\$500,000) shall be borrowed by the issuance of bonds and bond anticipation notes upon the full faith and credit of the State of Delaware. Such bonds and notes shall be issued in accordance with the provisions of Chapter 74, Title 29, Delaware Code. For purpose of identification, the bonds issued pursuant to this authorization Act may be known, styled or referred to as "Capital Improvement Bonds of 1969."

Section 4. There is hereby appropriated from the General Fund such sums as may be necessary for the expenses incident to the issuance of the bonds and notes herein authorized, and such further sums as may be necessary to pay any interest which becomes due on such bonds and notes during the current fiscal year and such further sums as may be necessary for the repayment of the principal of any of the said bonds which become due during the current fiscal year. Vouchers for the payment of the

expenses incident to the issuance of bonds and notes and for the interest and repayment of said notes shall be signed by the Secretary of State by and with the approval of the Issuing Officers. Any moneys received from the premium and accrued interest on the sale of said bonds shall be deposited to the credit of the General Fund.

Section 5. The Budget Appropriation Bill which shall be enacted and approved by the General Assembly for the fiscal year next following the effective date of this Act and for each subsequent fiscal year or biennium, shall contain under the Debt Service Item provisions for the payment of interest and principal maturities of the bonds (or notes which are not to be funded by the issuance of bonds) issued under the authority of this Act, and such of the revenues of the State of Delaware as are not prohibited by constitutional provisions or committed by preceding statutes for other purposes are hereby pledged for the redemption and cancellation of said bonds and payment of interest thereon.

Approved June 28, 1968.

CHAPTER 370

AN ACT TO AMEND TITLE 29, CHAPTER 7, DELAWARE CODE, RELATING TO THE WITHHOLDING OF FEDERAL INCOME TAX, STATE INCOME TAX, SOCIAL SECURITY, AND STATE EMPLOYEE'S PENSION FROM THE COMPENSATION OF THE MEMBERS AND OFFICERS OF THE GENERAL ASSEMBLY AND TO MAKE PAYMENT THEREOF IN ACCORDANCE WITH FEDERAL AND STATE LAW.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 29, Chapter 7, Delaware Code, is hereby amended by adding thereto a new section to read as follows:

§ 710. Withholding of compensation

The members and officers of the General Assembly may elect to withhold from the compensation paid to such member or officer of the General Assembly those sums of monies required during each pay period for Federal Income Tax, State Income Tax and Social Security. The member or officer of the General Assembly making such election shall notify the State Treasurer in writing of such election, and the State Treasurer upon receiving such election shall withhold from the compensation paid to the member or officer of the General Assembly those sums of monies required during each pay period for Federal Income Tax, State Income Tax and Social Security and make payment thereof in accordance with Federal and State laws.

Approved June 28, 1968.

CHAPTER 371

AN ACT MAKING AN APPROPRIATION TO ALFRED I. DU PONT SCHOOL DISTRICT #7, FOR THE PURPOSE OF CONSTRUCTING SIDEWALKS AND ACQUIRING THE NECESSARY RIGHTS-OF-WAY THEREFOR WITHIN THE SCHOOL DISTRICT AT SPECIFIED LOCATIONS.

WHEREAS, on July 1, 1966, Governor Charles L. Terry, Jr. with great reluctance vetoed House Bill No. 610 enacted by the 123rd General Assembly, due to its failure to meet statutory requirements; and

WHEREAS, the Governor in his veto message stated, "Let no one assume from this veto that I am opposed to the announced purposes of this legislation. Certainly the sidewalks must be built and I will not in the future hesitate to sign a properly drawn bill where the proper procedures have been followed. The safety of school children, and indeed all Delawareans, is one of the responsibilities that weighs upon me heavily. I certainly hope the citizens of the Alfred I. duPont District will proceed with a referendum approving funds for their share of the sidewalk construction so that the 124th General Assembly will not delay authorizing the State of Delaware share"; and

WHEREAS, the policy of the State Board of Education established on February 27, 1967, precludes approval of off-school site sidewalks for inclusion in School Construction Bond Authorization Acts; and

WHEREAS, pursuant to the provisions of Section 2305 of Title 14, Delaware Code, the Board of School Trustees of the Alfred I. duPont School District #7 has made a careful examination of the transportation facilities, the frequency of exposure to traffic hazards and the possible existence of mechanical hazards which might affect the safety of pupils in the district and has determined the need for sidewalks leading to certain school sites as hereinafter set out; and

WHEREAS, the State Highway Department and the State Board of Education after reviewing and considering the factors

required by the provisions of Section 2305 of Title 14, Delaware Code, have indicated their approval in writing of this program for the construction of sidewalks leading to these school sites; and

WHEREAS, an increase in recent vehicular accidents causing extremely serious injuries to children of this area creates an acute emergency;

Now, therefore,

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$177,426 is hereby appropriated to the Alfred I. duPont School District #7 for the purpose of constructing sidewalks within the Alfred I. duPont School District #7 and acquiring the necessary rights-of-way therefor.

Section 2. The Alfred I. duPont School District #7 prior to the expenditure of any moneys appropriated herein shall supplement the sum appropriated herein in the amount of \$118,284 no later than July 1, 1969, by means of a bond issue properly authorized and sold under the provisions of Chapter 21, Title 14, Delaware Code; otherwise the sum appropriated herein shall revert to the General Fund. No other funds appropriated by the State of Delaware to the Alfred I. duPont School District #7 shall be used for the purposes set forth in this Act.

Section 3. The funds appropriated herein shall be used to construct the approximate linear footage of sidewalk at each location as shown below and for acquiring the necessary rights-of-way therefor at the following locations:

I. Silverside Road

- (a) Northerly side, from Shipley Road to
Faulk Road 6,400 feet
- (b) Southerly side, from Shipley Road to ex-
isting sidewalk toward Concord Pike .. 1,300 feet

II. Shipley Road

- (a) Westerly side, Naaman's Road to existing
sidewalks at Longwood 7,380 feet

- (b) Westerly side, Silverside Road to existing sidewalk below Springer Junior High 2,450 feet
- (c) Westerly side, from existing sidewalk, north of Parkside Drive, to existing sidewalk north of Shellpot Creek 775 feet
- (d) Westerly side, from Foulk to Wilson Roads 1,600 feet
- (e) Easterly side, from Naaman's to Wilson Roads 15,400 feet

III. Foulk Road

- (a) Easterly side from opposite Bedford Road, Deerhurst to Marleton Drive, Graylyn Crest 12,370 feet
- (b) Westerly side
 - (1) from Bedford Road to Lone Acre Road, Deerhurst 750 feet
 - (2) from existing sidewalk north of Fairfax Boulevard, Fairfax to Oak Lane Road 500 feet
 - (3) from existing sidewalk north of Penarth Drive to existing sidewalk south of Foulk Woods Road, Foulk Woods 1,480 feet

IV. Connecting Sidewalks

- (a) Wynnwood to Lancashire at Decatur Road 300 feet
- (b) Holiday Hills to Lancashire, Jamaica Dr. to Innwood Road 400 feet
- (c) Bodine Drive, Chalfonte to Hanby School 500 feet
- (d) Sadler Lane to Faulk School 600 feet

V. Murphy Road

- (a) North side from Inglewood Road to Bybrook Road, Fairfax 2,500 feet
- (b) Southerly side from Bedford Road to Jackson Boulevard, Deerhurst 900 feet

 55,605 feet

(or 10.531 miles)

Section 4. Any funds hereby appropriated that remain uncommitted on July 1, 1970, shall revert to the State.

Section 5. This Act shall be known as a Supplementary Appropriation Act and the Funds hereby appropriated shall be out of the General Fund of the State Treasury from other funds not otherwise appropriated.

Approved June 28, 1968.

CHAPTER 372

AN ACT TO WITHDRAW FROM THE STATE BOARD OF HEALTH JURISDICTION OVER THE APPROVAL OF PLANS FOR THE CONSTRUCTION OF NEW SEWAGE SYSTEMS OR ALTERATIONS THERETO AND TO VEST SUCH AUHORITY SOLELY IN THE WATER AND AIR RESOURCES COMMISSION BY ADDING A NEW SECTION KNOWN AS SECTION 6307 TO TITLE 7, CHAPTER 63, DELAWARE CODE, AND BY AMENDING TITLE 16, SECTION 1506, DELAWARE CODE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 7, Chapter 63, Delaware Code is amended by adding thereto a new section to read as follows:

§ 6307. Submission of construction plans

All plans for the construction or alteration of sewage systems shall be submitted to the Water and Air Resources Commission for its approval before construction shall be started upon same. The Water and Air Resources Commission is the only agency of the State of Delaware vested with the authority to require such approval prior to construction notwithstanding any other statute or rule or regulation to the contrary.

Section 2. Title 16, Chapter 15, Section 1506, Delaware Code, is amended by deleting the words "sewerage or" from line one thereof.

Approved June 28, 1968.

CHAPTER 373

AN ACT TO AMEND CHAPTER 83, TITLE 9, DELAWARE CODE, RELATING TO THE ASSESSMENT AND TAXATION OF LAND ACTIVELY DEVOTED TO AGRICULTURAL, HORTICULTURAL AND FOREST USES AND THE CREATION OF A STATE FARMLAND EVALUATION ADVISORY COMMITTEE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 9, Chapter 83, is amended by adding thereto a new Section to read:

§ 8330. Assessment and taxation of land actively devoted to agricultural, horticultural and forest uses and the creation of a State Farmland Evaluation Advisory Committee

(a) It is hereby declared (1) that it is in the public interest to encourage the preservation of farm land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state; (2) that it is in the public interest to prevent the forced conversion of farm land and forest land to more intensive uses as a result of economic pressures caused by the assessment thereof for purposes of property taxation at value incompatible with their preservation as such farm land and forest land; and (3) that the necessity in the public interest of the enactment of the provisions of this act is a matter of legislative determination.

(b) For general property tax purposes, the value of land, not less than five (5) acres in area, which is actively devoted to agricultural, horticultural or forest use and which has been so devoted for at least the two (2) successive years immediately preceding the tax year in issue, shall, on application of the owner, and approval thereof as hereinafter provided, be that value which such lands have for agricultural, horticultural or forest use.

(c) Land shall be deemed to be in agricultural use when devoted to the production for sale of plants and animals useful to man, including but not limited to: forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all of such animals; bees and apiary products, fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

(d) Land shall be deemed to be in horticultural use when devoted to the production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

(e) Land shall be deemed to be in forest use when devoted to tree growth in such quantity and so spaced and maintained as to constitute in the opinion of the state forester a forest area.

(f) Land shall be deemed to be actively devoted to agricultural or horticultural use when the gross sales of agricultural or horticultural products produced thereon together with any payments received under a soil conservation program have averaged at least \$500 per year during the two (2) year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$500 within a reasonable period of time.

(g) Land which is actively devoted to agricultural, horticultural or forest use shall be eligible for valuation, assessment and taxation as herein provided when it meets the following qualifications:

(1) It has been so devoted for at least two (2) successive years immediately preceding the tax year for which valuation under this act is requested;

(2) The area of such land is not less than five (5) acres; and

(3) Application by the owner of such land for valuation hereunder is submitted on or before February 1 of the year immediately preceding the tax year to the assessor of the taxing

district in which such land is situated on the form prescribed by the State Farm Land Evaluation Advisory Committee.

(h) The assessor in valuing land which qualifies as land actively devoted to agricultural, horticultural or forest use under the tests prescribed by this act, and as to which the owner thereof has made timely application for valuation, assessment and taxation hereunder for the tax year in issue, shall consider only those indicia of value which such land has for agricultural, horticultural or forest use. In addition to use of his personal knowledge, judgment and experience as to the value of land in agricultural, horticultural or forest use, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural or forest capability, and the recommendations of value of such land as made by the State Farm Land Evaluation Advisory Committee.

(i) In determining the total area of land actively devoted to agricultural, horticultural or forest use there shall be included the area of all land under barns, sheds, silos, cribs, green houses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities, but land under and such additional land as may be actually used in connection with the farmhouse shall be excluded in determining such total area.

(j) All structures, which are located on land in agricultural, horticultural or forest use and the farmhouse and the land on which the farmhouse is located, together with the additional land used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other land in the taxing district.

(k) Eligibility of land for valuation, assessment and taxation under this act shall be determined for each tax year separately. Application shall be submitted by the owner to the assessor of the taxing district in which such land is situated on or before February 1 of the year immediately preceding the tax year for which such valuation, assessment and taxation are sought.

(l) There is hereby created a State Farmland Evaluation Advisory Committee, the members of which shall be the Dean of the College of Agricultural Sciences, University of Delaware; one member shall be appointed by the Governor from a list of three eligible citizens, which list shall be supplied the Governor

by the Executive Committee of the Delaware State Grange; and one member shall be appointed by the Governor from a list of three eligible citizens, which list shall be supplied the Governor by the Executive Committee of the Delaware Farm Bureau. No more than two members of the Committee shall be of the same political party. Each member shall be a citizen of Delaware and shall be appointed for a term of three years beginning on the first day of July in the year of appointment. Vacancies for any cause other than the expiration of term shall be filled by the Governor for the unexpired term.

(m) The Committee shall meet from time to time on the call of the Dean of the College of Agricultural Sciences and annually determine and publish a range of values for each of the several classifications of land in agricultural, horticultural or forest use in the various areas of the State. The primary objective of the Committee shall be the determination of the ranges in fair value of such land based upon its productive capabilities when devoted to agricultural, horticultural or forest uses. In making these annual determinations of value, the Committee shall consider available evidence of agricultural, horticultural or forest capability derived from the soil survey and such other evidence of value of land devoted exclusively to agricultural, horticultural or forest uses as it may in its judgment deem pertinent. On or before February 1 of each year, the Committee authority in each of the taxing districts in which land in agricultural, horticultural and forest use is located.

(n) If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

(o) The tax year 1969 shall be deemed to be the first tax year to which the provisions of this act shall apply, and this act shall apply to the tax year 1969 and subsequent tax years.

Section 2. This act shall take effect immediately.

Approved June 28, 1968.

NOTE: This Act has been codified as Sections 8330 through 8338, Title 9, Delaware Code.

CHAPTER 374

AN ACT TO ASSIGN TO THE DELAWARE STATE DEVELOPMENT DEPARTMENT THE RESPONSIBILITY FOR ARRANGING FOR THE INAUGURATION OF GOVERNORS AND TO MAKE A SUPPLEMENTARY APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 41, title 29, Delaware Code, is amended by adding thereto a new section to read:

§ 4107. Supervision of Inaugurations; advisory board

(a) The Delaware State Development Department shall arrange suitable and appropriate ceremonies for the inauguration of the Governor.

(b) In performing its duties under this section the Development Department shall be assisted by an advisory board to be composed of 4 persons, 2 who shall be suggested by the State Chairman of one of the 2 major political parties and the other 2 who shall be suggested by the State Chairman of the other major political party.

Section 2. The sum of \$10,000 is appropriated to the Delaware State Development Department for the fiscal year ending June 30, 1968 for the purpose of arranging for the inauguration of the Governor in January of 1969.

Section 3. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 4. Any money appropriated herein and unexpended shall not revert to the General Fund of the State of Delaware until June 30, 1969.

Approved June 28, 1968.

CHAPTER 375

AN ACT TO AMEND CHAPTER 19, TITLE 10, DELAWARE CODE, BY PROVIDING FOR THE APPOINTMENT OF COURT COMMISSIONERS, FOR COURTS CREATED BY THE LEGISLATURE, AND CONFERRING UPON THEM CERTAIN POWERS AND DUTIES RELATING TO THE ISSUANCE OF WARRANTS AND THE FIXING OF BAIL AND PROVIDING FOR THE PAYMENT OF SALARIES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1, Chapter 19, Title 10, Delaware Code, is amended by adding a new Subchapter V entitled, "Court Commissioners."

SUBCHAPTER V. COURT COMMISSIONERS

§ 1973. Definitions

As used in this subchapter, unless a different meaning is clearly indicated by the context—

(a) Commissioner means a judicial officer of a particular court authorized to perform the judicial powers and duties of the court in issuing warrants in criminal cases and the fixing and approving of bail.

(b) Court or courts means such court or courts as established by the General Assembly in accordance with Article IV—Section 1 (Judiciary) of the Constitution of the State of Delaware.

(c) Governing Body means the town council, city council, commissioners or other legislative body charged with governing the municipality or levy court commissioners or other legislative body charged with governing the county.

§ 1974. Appointment of Commissioner or Commissioners; term, vacancies and qualifications

(a) The Governor shall appoint a commissioner or commissioners only when so requested by the Governing Body for a

term of four years with the consent of a majority of all of the members elected to the Senate.

(b) Vacancies in said office shall be filled by the Governor with the consent of a majority of all of the members elected to the Senate for the unexpired term.

(c) A commissioner to serve in any court must be a resident of the municipality or the county over which the court has jurisdiction.

§ 1975. Courts for which Commissioners shall be appointed

Provisions of this subchapter shall apply to all courts as established by the General Assembly in accordance with Article IV—Section 1 (Judiciary) of the Constitution of the State of Delaware.

§ 1976. Powers of court commissioners

The commissioner or commissioners of the courts covered by the provisions of this subchapter shall have the power to issue warrants or, upon the request of the prosecuting officer of a particular court or upon the request of the police, issue a summons for the arrest of persons for offenses alleged to have been committed against the State of Delaware or for any violation of an ordinance or legislative act of a municipality or county. In connection with the complaint made as to the commission of a criminal offense, the commissioner or commissioners are authorized to administer the oath of the person making the criminal complaint. All warrants as issued shall bear the teste date of the Chief Judge or Senior Judge of the particular court involved in the issuance of the warrant.

A commissioner is further authorized to fix and approve bail, except for offenses in which the penalty may be death, in accordance with the laws of this state granting, fixing and approving bail bonds and recognizances.

§ 1977. Court rules governing Commissioners

The Chief Justice of the State of Delaware shall approve and promulgate rules governing the activities of the court commissioners which shall be prepared and submitted to him by

the Chief Judge or Senior Judge of the court to be affected by said rules.

§ 1978. Salaries

The governing body of the municipality or county in which the court has jurisdiction within the provisions of this act shall determine the amount of and authorize the payment of the annual salaries of the court commissioner or commissioners as other salaries are paid by the governing body of a particular municipality or county.

Approved June 28, 1968.

CHAPTER 376

AN ACT DEFINING THE RELATIONSHIP BETWEEN CHAPTER 59, TITLE 29, DELAWARE CODE, ESTABLISHING THE MERIT SYSTEM OF PERSONNEL ADMINISTRATION FOR THE EMPLOYEES OF THE STATE, AND CHAPTER 13, TITLE 19, DELAWARE CODE, RECOGNIZING THE RIGHT OF PUBLIC EMPLOYEES TO ORGANIZE, BY AMENDING CHAPTER 59, TITLE 29, DELAWARE CODE, AND REPEALING SECTION 1312, CHAPTER 13, TITLE 19, DELAWARE CODE.

Whereas, the statute establishing the merit system of personnel administration for the employees of the state (Chapter 59, Title 29, Delaware Code) did not expressly define its relationship to the statute recognizing the right of public employees to organize (Chapter 13, Title 19, Delaware Code) ; and

Whereas, it is in the public interest to resolve any potentially inharmonious or inconsistent areas in order to insure the appropriate functioning of each statute with due regard to the other ;

Now, therefore,

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 59, Title 29, Delaware Code, is amended by designating the first paragraph of § 5901 as (1) and adding a new paragraph (2) to read as follows:

(2) The meaning given to a term used in Chapter 13, Title 19, Delaware Code, shall be given to the same term used in this chapter.

Section 2. Chapter 59, Title 29, Delaware Code, is amended by striking § 5902 and inserting in lieu thereof a new § 5902 to read as follows:

§ 5902. General purpose

The general purpose of this chapter is to establish for the state a system of personnel administration based on merit prin-

ciples and scientific methods governing the employees of the state in the classified service, consistent with the right of public employees to organize under Chapter 13, Title 19, Delaware Code.

Section 3. Chapter 59, Title 29, Delaware Code, is amended by adding the following after the word "chapter" in § 5907: "and consistent with the right of public employees to organize under Chapter 13, Title 19, Delaware Code."

Section 4. Chapter 59, Title 29, Delaware Code, is amended by adding the following after the word "chapter" in § 5911: "and consistent with the right of public employees to organize under Chapter 13, Title 19, Delaware Code."

Section 5. Chapter 59, Title 29, Delaware Code, is amended by striking the last sentence of § 5916 and inserting in lieu thereof the following sentence: "Nothing shall be contained in the pay plan except the salary and wage schedule, and each employee in the classified service shall be paid at the rate set forth in the pay plan for his position classification."

Section 6. Chapter 59, Title 29, Delaware Code, is amended by striking Section 5931 and by designating Section 5932 as Section 5934, Section 5933 as Section 5935, Section 5934 as Section 5936 and Section 5935 as Section 5937, and by inserting a new Section 5931, Section 5932, and Section 5933 to read as follows:

§ 5931. Grievances

The rules shall provide for the establishment of a plan for resolving employee grievances and complaints.

§ 5932. Work schedules

The rules shall provide for work schedules, call-in, and attendance regulations, rest periods, and leaves of absence without pay.

§ 5933. Leaves

The rules shall provide for annual, sick and special leaves of absence, with pay or at reduced pay.

Section 7. Chapter 59, Title 29, Delaware Code, is amended by adding a new § 5938 to read as follows:

§ 5938. Collective bargaining

(a) Except as expressly provided in subsection (c), nothing contained in this chapter or in the rules shall deny, limit or infringe upon the right of any employee in the classified service or any exclusive bargaining representative under Chapter 13, Title 19, Delaware Code.

(b) Except as expressly provided in subsection (c), nothing contained in this chapter or in the rules shall deny, limit or infringe upon any collective bargaining agreement or the authority and duty of the state or any agency thereof to engage in collective bargaining with the exclusive bargaining representative under Chapter 13, Title 19, Delaware Code.

(c) The rules adopted or amended by the Commission under the following sections shall apply to any employee in the classified service represented by an exclusive bargaining representative or covered by a collective bargaining agreement under Chapter 13, Title 19, Delaware Code: Sections 5915, 5916, 5917, 5918, 5919, 5920, 5921, 5933, 5935 and 5937.

(d) The rules adopted or amended by the Commission under the following sections shall not apply to any employee in the classified service represented by an exclusive bargaining representative to the extent the subject thereof is covered in whole or in part by a collective bargaining agreement under Chapter 13, Title 19, Delaware Code: Sections 5922, 5923, 5924, 5925, except where transfer is between agencies or where change is made in classification or pay grade, 5926, 5927, 5928 except where an employee laid off by one agency is re-employed by another, 5929, 5930, 5931, 5932, 5934 and 5936.

(e) The Director and the Commission shall meet with the exclusive bargaining representative at reasonable times to negotiate in good faith with respect to any rule to be adopted or amended under Sections 5915, 5916, 5917, 5918, 5919, 5920, 5921, 5933, 5935, 5937 and, to the extent the subject thereof is not covered in whole or in part by a collective bargaining agreement under Chapter 13, Title 19, Delaware Code, Sections 5922, 5923,

5924, 5925, 5926, 5927, 5928, 5929, 5930, 5931 5932, 5934 and 5936.

Section 8. Chapter 59, Title 29, Delaware Code, is amended by adding after the word "suit" in the first sentence of § 5934 (a) the words "to enforce any provision of this chapter or"

Section 9. Chapter 59, Title 29, Delaware Code, is amended in § 5949 by designating subsection (b) as subsection (d), by designating subsection (c) as subsection (b), and by adding a new subsection (c) to read as follows: .

(c) Whenever the provisions of subsection (a) or (b) conflict with any collective bargaining agreement, or whenever any collective bargaining agreement is exclusive with respect to matters the subject thereof, the collective bargaining agreement shall apply and shall be followed.

Section 10. Chapter 13, Title 19, Delaware Code, is amended by striking Section 1312 and designating Section 1313 as Section 1312.

Approved July 1, 1968.

CHAPTER 377

**AN ACT TO AMEND TITLE 29, CHAPTER 51, SECTION 5110,
RELATING TO COMPENSATION OF MEMBERS OF
THE GENERAL ASSEMBLY.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 5110, Title 29, Delaware Code, is hereby amended by striking said section in its entirety and inserting in lieu thereof the following:

§5110. General Assembly conflict of interest prohibited

No Senator or Representative of the General Assembly shall be entitled to receive any wages or salary from the State Treasury of the State of Delaware other than in his capacity as a member of the General Assembly.

Section 2. This Act shall become effective November 6, 1968.

Became law on June 20, 1968, when the over-ride of the Governor's veto in the General Assembly became complete.

NOTE: This Act was declared unconstitutional by the Delaware Supreme Court. See *Opinion of the Justices*, 245 A. 2d 172.

CHAPTER 378

**AN ACT MAKING AN APPROPRIATION TO THE STATE
BOARD OF AGRICULTURE FOR THE ALTERATION
AND INSTALLATION OF LABORATORY EQUIP-
MENT.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$7,000 is hereby appropriated to the State Board of Agriculture to be used for the alteration and installation of laboratory equipment needed to implement the Meat and Poultry Products Inspection Act (56 Delaware Laws, Ch. 191).

Section 2. This appropriation is a Supplementary Appropriation and the money appropriated shall be paid by the State Treasurer out of the General Fund of the State of Delaware.

Approved July 1, 1968.

CHAPTER 379

AN ACT TO AMEND CHAPTER 11, TITLE 14, DELAWARE CODE, RELATING TO CHANGE IN BOUNDARIES OF SPECIAL SCHOOL DISTRICTS AND SCHOOL DISTRICTS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 1106, Chapter 11, Title 14, Delaware Code, is hereby amended by striking the second paragraph in its entirety.

Section 2. Section 1107 (b), Chapter 11, Title 14, Delaware Code, is hereby repealed and the following new section 1107 (b) is enacted in lieu thereof:

1107 (b) The State Board may change or alter the boundaries of any school district without a referendum of the voters if the written consent of three-fourths (3/4ths) of the owners of the real property to be transferred has been obtained.

Approved July 1, 1968.

CHAPTER 380

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE, ENTITLED "INSURANCE," BY A COMPREHENSIVE REVISION AND SUPPLEMENTATION OF THAT TITLE TO BE EFFECTED BY REPEALING THE PRESENT CHAPTERS 1 THROUGH 31, INCLUSIVE, IN THEIR ENTIRETY, AND SUBSTITUTING THEREFOR NEW CHAPTERS 1 THROUGH 65, INCLUSIVE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 18, Delaware Code, is amended by repealing chapters 1 through 31, inclusive, in their entirety, and substituting therefor new chapters 1 through 65, inclusive to read, from beginning to end, as follows:

PART I. INSURANCE**CHAPTER 1. GENERAL DEFINITIONS AND PROVISIONS****§ 101. Short title**

This Part constitutes the Delaware Insurance Code.

§ 102. Definitions

As used in this Part—

(a) "Person" means corporations, companies, associations, firms, partnerships, societies and joint stock companies, and individuals as is provided in Section 3029, Title 1. In addition, "person" also includes syndicates, organizations, business trusts, attorneys-in-fact and every natural or artificial legal entity.

(b) "Insurance" means a contract whereby one undertakes to pay or indemnify another as to loss from certain specified contingencies or perils, called "risks," or to pay or grant a specified amount or determinable benefit in connection with ascertainable risk contingencies, or to act as surety.

(c) "Insurer" includes every person engaged as principal

and as indemnitor, surety, or contractor in the business of entering into contracts of insurance.

(d) "Commissioner" means the Insurance Commissioner of this State.

(e) "Department" means the Insurance Department of this State.

(f) A "domestic" insurer is one formed under the laws of this State.

(g) A "foreign" insurer is one formed under the laws of any jurisdiction other than this State.

(h) An "alien" insurer is a foreign insurer formed under the laws of any country other than the United States of America, its states, districts, commonwealths and possessions.

(i) The "domicile" of an insurer means:

(1) As to Canadian insurers, the province in which the insurer's head office is located.

(2) As to other alien insurers authorized to transact insurance in one or more states, as provided in Section 531 (retaliatory provision) of this Title.

(3) As to alien insurers other than those referred to in (1) or (2) above, the country under the laws of which the insurer was formed.

(4) As to all other insurers, the state under the laws of which the insurer was formed.

(j) An "authorized" insurer is one duly authorized to transact insurance in this State by a subsisting certificate of authority issued by the Commissioner.

§ 103. "Transacting insurance" defined

In addition to other aspects of insurance operations to which provisions of this title by their terms apply, "transact" with respect to a business of insurance includes any of the following:

(1) Solicitation or inducement.

(2) Negotiations.

(3) Effectuation of a contract of insurance.

(4) Transaction of matters subsequent to effectuation and arising out of such a contract.

§ 111. Application of code as to particular types of insurers

No provision of this title shall apply with respect to:

(1) Domestic mutual assessment property insurers except as stated in chapter 53 (mutual assessment property insurers) of this title.

(2) Domestic mutual benefit associations, except as stated in chapter 55 (mutual benefit associations) of this title.

(3) Fraternal benefit societies, except as stated in chapter 61 (fraternal benefit societies) of this title.

§ 112. Particular provisions prevail

Provisions of this title as to a particular kind of insurance, type of insurer, or matter shall prevail over provisions relating to insurance, insurers, or matters in general.

§ 113. General penalty

(a) Each violation of this title for which a greater penalty is not provided by a provision of this title or other applicable laws of this State, in addition to any applicable prescribed denial, suspension, or revocation of certificate of authority or license, shall upon conviction thereof subject the violator to a fine of not more than \$1,000 or imprisonment of not more than one year, or both; except, that if the violator is a corporation the fine shall be not more than \$3,000 as to each violation. Any director, officer, manager, employee or representative of a corporation shall be subject to fine and imprisonment as above provided.

(b) Prosecutions for any such violation shall be brought in the Superior Court of the county in which the offense occurred.

(c) At the discretion of the Commissioner and the Attorney General, any fine provided for above may be recovered on behalf of the State by a civil action brought against the violator.

CHAPTER 3. THE INSURANCE COMMISSIONER

§ 301. Department continued

There is continued a department of state government known as the Insurance Department.

§ 302. Commissioner; election, term

(a) The Insurance Commissioner shall be the chief officer of the Insurance Department.

(b) The Commissioner shall be elected by the qualified electors of the State at a general election for a term of 4 years, and shall be commissioned by the Governor.

(c) Subject to prior qualification by the oath required by section 303 of this chapter and the bond required by section 304 of this chapter, the Commissioner shall assume his office on the first Tuesday of January after his election. He shall hold office for the term for which elected; and thereafter as provided by Article XV, section 5, of the Constitution.

§ 303. Oath

Before entering upon the duties of his office the Commissioner shall take and subscribe the oath or affirmation prescribed by Article XIV of the Constitution.

§ 304. Bond

Before entering upon the duties of his office the Commissioner shall give and file with the Secretary of State a bond in the penal sum of \$50,000 with corporate surety or sureties approved by the Governor. The bond shall be conditioned as follows: "that if the above named who has been duly elected (or appointed) to be Insurance Commissioner shall well and diligently execute his office of Insurance Commissioner and duly and faithfully fulfill and perform all the trusts and duties to the office appertaining, and truly and without delay deliver to his successor in office, the seal and all the books, records and paper belonging to said office, safe and undefaced, and if the said shall truly and without delay pay over to the State Treasurer all

the fees, taxes and money which it shall be his duty to collect, and which are to be paid to the State Treasurer, then this obligation shall be void and of no effect, or else shall remain in full force and virtue.

§ 305. Removal; vacancy

(a) The Commissioner may be removed from office for reasonable cause, as provided by Article III, section 13, of the Constitution.

(b) A vacancy in the office of Commissioner shall be filled by appointment by the Governor, as provided in Article III, section 9, of the Constitution.

§ 306. Seal

The Commissioner shall have a seal of office of a suitable design and bearing the words "Insurance Commissioner of the State of Delaware."

§ 307. Compensation

The State shall pay the Commissioner salary at the rate provided by law as full compensation for all duties required of him.

§ 308. Principal office

The principal office of the Commissioner shall be in Dover.

§ 309. Deputy Commissioner

(a) The Commissioner may appoint and may remove, a Deputy. Before entering upon his duties the Deputy shall take and file the Constitutional oath of office, and give and file his bond in the penal sum of \$50,000 conditioned and with sureties approved as that of the Commissioner.

(b) The Deputy may exercise such powers and discharge such duties as the Commissioner may authorize.

(c) The Deputy shall devote his full time to the department, shall not engage in any other insurance-related activity for fee or compensation, and the State shall pay him salary at the rate provided by law in full compensation for all his services.

§ 310. Staff

(a) The Commissioner may appoint and fix the compensation of such examiners, clerks, technical and professional personnel, and other necessary assistants as conduct of his office may require, and may revoke such appointments.

(b) The Commissioner may from time to time contract for and procure such additional and independent actuarial, rating, lawyer, and other technical and professional services as he may require for discharge of his duties.

§ 311. Prohibited interest; rewards

(a) The Commissioner or his deputy, or any examiner, assistant or employee of the department, shall not be connected with the management of, or have a material financial interest, directly or indirectly, in any insurer, insurance agency or broker, or insurance transaction except as policyholder or claimant under a policy; except, that as to matters wherein a conflict of interests does not exist on the part of any such individual, the Commissioner may employ or retain from time to time insurance actuaries, examiners, accountants, attorneys, or other technicians who are independently practicing their profession even though from time to time similarly employed or retained by insurers or others.

(b) The Commissioner, his deputy, or any examiner, assistant, employee, or technician retained by the department, shall not be given or receive, directly or indirectly, any fee, compensation, loan, gift or other thing of value in addition to the compensation and expense allowance provided by or pursuant to the law of this State, or by contract with the Commissioner, for any service rendered or to be rendered as such Commissioner, deputy, examiner, assistant, employee, or technician, or in connection therewith.

(c) Subsection (a) above shall not be deemed to prohibit receipt by any such person of fully vested commissions or fully vested retirement benefits to which entitled by reason of services performed prior to becoming Commissioner or prior to employment by the Commissioner.

(d) This section shall not be deemed to prohibit appointment and functioning of the Commissioner as process agent of insurers or of nonresident licensees as provided for in this title.

§ 312. Delegation of powers; duties

(a) The Commissioner may delegate to his deputy, examiner, or an employee of the department the exercise or discharge in the Commissioner's name of any power, duty, or function, whether ministerial, discretionary or of whatever character, vested in or imposed upon the Commissioner under this title.

(b) The official act of any such person acting in the Commissioner's name and by his authority shall be deemed an official act of the Commissioner.

§ 313. General powers; duties

(a) The Commissioner shall enforce the provisions of, and execute the duties imposed upon him by, this title.

(b) The Commissioner shall have the powers and authority expressly vested in him by or reasonably implied from the provisions of this title.

(c) With respect to enforcement of payment of fees, charges and taxes all the provisions of law conferring powers and duties upon the State Treasurer shall also apply to the Commissioner.

(d) The Commissioner shall have such additional rights, powers and duties as may be provided by other laws of this State.

§ 314. Rules and regulations; promulgation; violation

(a) The Commissioner may make reasonable rules and regulations necessary for or as an aid to the administration or effectuation of any provision of this title. No such rule or regulation shall extend, modify, or conflict with any law of this State or the reasonable implications thereof.

(b) The Commissioner shall adopt and promulgate rules and regulations only after a hearing thereon of which notice has been given to all persons subject to the Commissioner's supervision under this title who are to be affected by the proposed rule or regulation.

(c) Wilful violation of any such rule or regulation shall subject the violator to such suspension or revocation of certificate of authority or license, or to such administrative fine in lieu

thereof, as may be applicable under this title for violation of the provision to which such rule or regulation relates; but no penalty shall apply to any act done or omitted in good faith in conformity with any such rule or regulation, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

§ 315. Orders; notices in general

(a) Orders and notices of the Commissioner shall be effective only when in writing signed by him or by his authority.

(b) Except as otherwise expressly provided by law as to particular orders, every order of the Commissioner shall state its effective date, and shall concisely state:

(1) Its intent or purpose.

(2) The grounds on which based.

(3) The provisions of this title pursuant to which action is taken or proposed to be taken; but failure to so designate a particular provision shall not deprive the Commissioner of the right to rely thereon except where expressly provided to the contrary.

(c) Except as may be provided as to particular procedures, an order or notice may be given by delivery to the person to be ordered or notified or by mailing it, postage prepaid, addressed to such person at his principal place of business or residence as last of record in the department. The order or notice shall be deemed to have been given when deposited in a mail depository of the United States post office.

§ 316. Enforcement

(a) The Commissioner may, through the Attorney General of this State, invoke the aid of the Court of Chancery through proceedings instituted in any county of this State to enforce any lawful order made or action taken by him. In such proceedings the Court of Chancery may make such orders, either preliminary or final, as it deems proper under the facts established before it.

(b) If the Commissioner has reason to believe that any person has violated any provision of this title, or of other law as

applicable to insurance operations, for which criminal prosecution is provided and in his opinion would be in order, he shall give the information relative thereto to the Attorney General. The Attorney General shall promptly institute such action or proceedings against such person as in his opinion the information may require or justify.

(c) The Attorney General upon request of the Commissioner is authorized to proceed in the courts of any other State or in any federal court or agency to enforce an order or decision of any court proceeding or in any administrative proceeding before the Commissioner.

§ 317. Records; inspection; destruction

(a) The Commissioner shall carefully preserve in the department and in permanent form, all papers and records relating to the business of the department, and shall hand the same over to his successor in office.

(b) Except where he deems the same to be prejudicial to the public interest, the Commissioner shall permit inspection of the papers, records and filings in the department by persons found by him to have an identified and proper interest therein.

(c) The Commissioner may destroy unneeded or obsolete records and filings in the department in accordance with provisions and procedures applicable to administrative agencies of this State in general.

§ 318. Official documents; certified copies; use as evidence

Any instrument duly executed by the Commissioner and authenticated by his seal of office, shall be received in evidence in the courts of this State; and copies of papers and records in the department, so authenticated, shall be received as evidence with the same effect as the originals.

§ 319. Annual report

(a) The Commissioner shall report to each annual session of the General Assembly, on the first Tuesday of January, as follows:

(1) The receipts and expenses of the department for the previous year;

(2) All of his official acts whenever specially required by the General Assembly, and in the absence of any special requirement, such portion of his official acts as he deems advisable to make public;

(3) The financial condition of each insurer authorized to transact insurance in this State as shown by the most recent annual financial statement of such insurers on file in the department;

(4) Such recommendations as he deems advisable relative to the amendment or supplementation of the insurance laws of this State; and

(5) Such other information as will correctly exhibit the affairs of the department, or as he deems otherwise to be in the public interest relative to the business of insurance in this State.

(b) When the report is printed, the Commissioner shall furnish a copy upon request thereby to the insurance supervisory official of other states and to authorized insurers.

§ 320. Interstate cooperation

(a) The Commissioner shall communicate on request of the insurance supervisory official of any state, province or country, any information which it is his duty by law to ascertain respecting authorized insurers.

(b) The Commissioner may be a member of the National Association of Insurance Commissioners or any successor organization, and may participate in and support other cooperative activities of public officials having supervision of the business of insurance.

§ 321. Investigations authorized

In addition to examinations and investigations expressly authorized, the Commissioner may conduct such investigations of insurance matters as he may deem proper upon reasonable cause to determine whether any person has violated any provision of this title or to secure information useful in the lawful administration of any such provision. The cost of such investigations shall be borne by the State.

§ 322. Examination of insurers

(a) For the purpose of determining its financial condition, ability to fulfill its obligations and compliance with the law, the Commissioner shall examine the affairs, transactions, accounts, records and assets of each authorized insurer as often as he deems advisable, including the attorney-in-fact of a reciprocal insurer insofar as insurer transactions are involved. Except as otherwise expressly provided, he shall so examine each domestic insurer not less frequently than every 5 years. Examination of an alien insurer shall be limited to its insurance transactions, assets, trust deposits and affairs in the United States except as otherwise required by the Commissioner.

(b) The Commissioner shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this State.

(c) In lieu of making his own examination, the Commissioner may, in his discretion, accept a full report of the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory official of another state.

(d) As far as practical the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officials of other states in which the insurer transacts business.

§ 323. Examination of agents, promoters and others

For the purpose of ascertaining compliance with law, or relationships and transactions between any such person and any insurer or proposed insurer, the Commissioner may as often as he deems advisable examine the accounts, records, documents and transactions pertaining to or affecting insurance affairs or proposed insurance affairs, of:

(1) Any insurance agent, solicitor, broker, general agent, adjuster, insurer representative, or person holding himself out as any of the foregoing.

(2) Any person having a contract under which he enjoys in fact the exclusive or dominant right to manage or control an insurer.

(3) Any person holding the shares of voting stock or the policyholder proxies of a domestic insurer, for the purpose of controlling the management thereof, as voting trustee or otherwise.

(4) Any person engaged in this State in, or proposing to be engaged in this State in, or holding himself out in this State as so engaging or proposing, or in this State assisting in, the promotion, formation or financing of an insurer or insurance holding corporation, or corporation or other group to finance an insurer or the production of its business.

§ 324. Conduct of examination; access to records; correction

(a) The Commissioner shall conduct each examination in an expeditious, fair, and impartial manner.

(b) Upon any such examination the Commissioner or examiner may examine under oath any officer, agent, or other individual believed to have material information regarding the affairs under examination.

(c) Every person being examined, its officers, attorneys, employees, agents and representatives shall make freely available to the Commissioner or his examiners the accounts, records, documents, files, information, assets and matters of such person in his possession or control relating to the subject of the examination and shall facilitate the examination.

(d) If the Commissioner or examiner finds any accounts of records to be inadequate, or inadequately kept or posted, he may employ experts to reconstruct, rewrite, post or balance them at the expense of the person being examined if such person has failed to maintain, complete or correct such records or accounting after the Commissioner or examiner has given him written notice and a reasonable opportunity to do so.

(e) Neither the Commissioner nor any examiner shall remove any record, account, document, file or other property of the person being examined from the offices or place of such person except with the written consent of such person in advance of such removal or pursuant to an order of court duly obtained. This provision shall not be deemed to affect the making and removal of copies or abstracts of any such record, account, document, or file.

§ 325. Examination report

(a) The Commissioner or his examiner shall make a full and true written report of every such examination made by him, and shall therein certify under oath the report and his findings.

(b) The report shall contain only information appearing upon the books, records, documents and papers of or relating to the person or affairs being examined, or ascertained from testimony of individuals under oath concerning the affairs of such person, together with such conclusions and recommendations as may reasonably be warranted by such information.

(c) The Commissioner shall furnish a copy of the report to the person examined not less than 20 days prior to filing the same in the department, and may, in his discretion, also furnish a copy of the report to each member of the examinee's board of directors, if the person examined is a corporation. If such person so requests in writing within such 20-day period, the Commissioner shall grant a hearing as to the report and shall not so file the report until after the hearing and after such modifications have been made therein as the Commissioner deems proper.

(d) The report when so filed shall be admissible in evidence in any action or proceeding brought by the Commissioner against the person examined, or against its officers, employees or agents. In any such action or proceeding, the Commissioner or his examiners may, however, at any time testify and offer proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished or filed in the department.

(e) The Commissioner may withhold from public inspection any examination or investigation report for so long as he deems such withholding to be necessary for the protection of the person examined against unwarranted injury or to be in the public interest.

§ 326. Examination expense

(a) The expense of examination of an insurer, or of any person referred to in subdivision (2) (management or control of an insurer under contract) or (4) (promoters, etc.) of section

323 of this chapter, shall be borne by the person examined. Such expense shall include only the reasonable and proper expenses of the Commissioner and his examiners and assistants, including expert assistance, and a reasonable per diem as to such examiners and assistants, as necessarily incurred in the examination.

(b) Such person examined shall promptly pay the examination expense upon presentation by the Commissioner or his examiner of a reasonably detailed written account thereof.

§ 327. Administrative procedures; hearings in general

(a) The Commissioner may hold a hearing without request by others, for any purpose within the scope of this title.

(b) The Commissioner shall hold a hearing:

(1) If required by any other provision of this title, or

(2) Upon written application for a hearing by a person aggrieved by any act, threatened act, or failure of the Commissioner to act, or by any report, rule, regulation or order of the Commissioner (other than an order for the holding of a hearing, or order on a hearing, or pursuant to such order, of which hearing such person had notice). Any such application must be filed in the department within 90 days after such person knew or reasonably should have known, of such act, threatened act, failure, report, rule, regulation, or order, unless a different period is provided for by other laws applicable to the particular matter, and in which case such other law shall govern.

(c) Any such application for a hearing shall briefly state the respects in which the applicant is so aggrieved, together with the grounds to be relied upon as a basis for the relief to be sought at the hearing.

(d) If the Commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established and that such grounds otherwise justify the hearing, he shall hold the hearing within 30 days after filing of the application, unless postponed by mutual consent. Failure to hold the hearing upon application therefor of a person entitled thereto as hereinabove provided shall constitute a denial of the

relief sought, and shall be the equivalent of a final order of the Commissioner on hearing for the purpose of an appeal under section 333 of this chapter.

(e) Pending the hearing and decision thereon, the Commissioner may suspend or postpone the effective date of his previous action.

§ 328. Notice of hearing

(a) Except where a longer period is expressly provided in this title, the Commissioner shall give written notice of the hearing not less than 10 days in advance. The notice shall state the date, time and place of the hearing and specify the matters to be considered thereat. If the persons to be given notice are not specified in the provision pursuant to which the hearing is held, the Commissioner shall give such notice to all persons whose pecuniary interest, to the Commissioner's knowledge or belief, are to be directly and immediately affected by the hearing.

(b) If any person is entitled to a hearing by any provision of this title before any proposed action is taken, the notice of the hearing may be in the form of a notice to show cause, stating that the proposed action may be taken unless such person shows cause at a hearing to be held as specified in the notice why the proposed action should not be taken, and stating the basis of the proposed action.

(c) If any such hearing is to be held for consideration of rules and regulations of the Commissioner, or of other matters which, under subsection (a) above, would otherwise require separate notices to more than 30 persons, in lieu of other notice the Commissioner may give notice of the hearing by publication thereof in a newspaper of general circulation in this State, at least once each week during the 4 weeks immediately preceding the week in which the hearing is to be held; except that the Commissioner shall mail such notice to all persons who have requested the same in writing in advance and have paid to the Commissioner the reasonable amount fixed by him to cover the cost thereof.

(d) All such notices, other than published notices, shall be given as provided in section 315 (c) of this chapter.

§ 329. Conduct of hearing

(a) The Commissioner may hold a hearing in Dover or any other place of convenience to parties and witnesses, as the Commissioner determines. The Commissioner, or his deputy or assistant, shall preside at the hearing, and shall expedite the hearing and all procedures involved therein.

(b) Any party to the hearing shall have the right to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary and other evidence and to examine and cross-examine witnesses, to present evidence in support of his interest and to have subpoenas issued by the Commissioner to compel attendance of witnesses and production of evidence in his behalf. Testimony may be taken orally or by deposition, and any party shall have such right of introducing evidence by interrogatories or deposition as may obtain in a Court of Chancery.

(c) Upon good cause shown the Commissioner shall permit to become a party to the hearing by intervention, if timely, only such persons, not original parties thereto, whose pecuniary interests are to be directly and immediately affected by the Commissioner's order made upon the hearing.

(d) Formal rules of pleading or evidence need not be observed at any hearing.

(e) Upon written request reasonably made by a party to the hearing and at such person's expense, the Commissioner shall cause a full stenographic or electronic record of the proceedings to be made. If transcribed, a copy of such record shall be furnished to the Commissioner without cost to the Commissioner or the State, and shall be part of the Commissioner's record of the hearing; and a copy shall likewise be furnished to any other party to the hearing, at the request and expense of such other party. If no such record is made or transcribed, the Commissioner shall prepare a summary record of the proceedings and evidence.

§ 330. Witnesses and documentary evidence

(a) As to the subject of any examination, investigation or hearing being conducted by him, the Commissioner may subpoena

witnesses and administer oaths or affirmations and examine any individual under oath, or take depositions; and by subpoena *duces tecum* may require the production of documentary and other evidence. Any delegation by the Commissioner of power of subpoena shall be in writing.

(b) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a Court of Chancery. Witness fees, mileage and the actual expense necessarily incurred in securing attendance of witnesses and their testimony, shall be itemized and shall be a part of examination expense to be paid by the person being examined where payment of examination expense by such person is otherwise provided for in this title; or paid by the person as to whom such proceedings, other than as part of an examination, are held if in such proceedings such person is found to have been in violation of the law; or by the person, if other than the Commissioner, at whose request the hearing is held.

(c) Subpoenas of witnesses shall be served in the same manner and at the same cost as if issued by a Court of Chancery. If any individual fails to obey a subpoena issued and served hereunder with respect to any matter or evidence concerning which he may be lawfully interrogated or required to produce for examination, upon application of the Commissioner the Court of Chancery in any county in which is pending the proceeding at which such individual is so required to appear, or the Court of Chancery in the county in which such individual resides, may issue an order requiring the individual to comply with the subpoena and to appear and testify or produce the evidence subpoenaed; and any failure to obey such order of the Court may be punished by the Court as a contempt thereof.

(d) Any person knowingly testifying falsely under oath or making a false affirmation, as to any matter material to any such examination, investigation or hearing, shall upon conviction thereof be guilty of perjury.

§ 331. Testimony compelled; immunity

(a) If any individual asks to be excused from attending or testifying or from producing any books, papers, records, contracts, correspondence or other documents in connection with any examination, hearing or investigation being conducted by

the Commissioner or his examiner, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall, by the Attorney General, be directed to give such testimony or produce such evidence, he must nonetheless comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have so testified or produced evidence, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding; except, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him in such testimony, and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation, or proceeding concerning such perjury; nor shall such individual be exempt from the refusal, suspension or revocation of any license, permission or authority conferred, or to be conferred, pursuant to this title.

(b) Any such individual may execute, acknowledge and file in the office of the Commissioner and of the Attorney General a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement, and thereupon the testimony of such individual or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privileges on account of any testimony he may so give or evidence so produced.

§ 332. Order on hearing

(a) In the conduct of hearings under this title and making his order thereon, the Commissioner shall act in a quasi-judicial capacity.

(b) Within 30 days after termination of a hearing, or of any rehearing thereof or reargument thereon, or within such other period as may be specified in this title as to particular proceedings, the Commissioner shall make his order on hearing covering matters involved in such hearing, and give a copy of the order to each party to the hearing in the same manner as notice of the hearing was given to such party; except, that as to hear-

ings held with respect to merger, consolidation, bulk reinsurance, conversion, affiliation or change of control of a domestic insurer as provided in chapter 49 (organization and corporate procedures of domestic stock and mutual insurers) of this title, where notice of the hearing was given to all stockholders and/or policyholders of an insurer involved, the Commissioner is required to give a copy of the order on hearing to the corporation and insurer parties, to intervening parties, to a reasonable number of such stockholders or policyholders as representative of the class, and to other parties only upon written request of such parties.

(c) The order shall contain:

(1) A concise statement of facts found by the Commissioner upon the evidence adduced at the hearing;

(2) A concise statement of the Commissioner's conclusions from the facts so found;

(3) His order, and the effective date thereof; and

(4) Citation of the provisions of this title upon which the order is based; but failure to so designate a particular provision shall not deprive the Commissioner of the right thereafter to rely thereon.

(d) The order may affirm, modify or rescind action theretofore taken or may constitute taking of new action within the scope of the notice of the hearing.

§ 333. Appeal from the Commissioner

(a) Except as to matters arising under chapter 25 of this title (rates and rating organizations), an appeal from the Commissioner shall be taken only from an order on hearing, or as to a matter on which the Commission has refused or failed to hold a hearing after application therefor under section 327 of this chapter, or as to a matter as to which the Commissioner has refused or failed to make his order on hearing as required by section 332 of this chapter.

(b) Any person who was a party to such hearing or whose pecuniary interests are directly and immediately affected by any such refusal or failure, and who is aggrieved by such order,

refusal or failure, may appeal from such order or as to any such matter within 60 days after:

(1) The order on hearing has been mailed or delivered to the persons entitled to receive the same, or given by last publication thereof where delivery by publication is permitted; or

(2) The Commissioner has refused or failed to make his order on hearing as required under section 332 of this chapter; or

(3) The Commissioner has refused or failed to grant or hold a hearing as required under section 327 of this chapter.

(c) The appeal shall be granted as a matter of right, and shall be taken to the Court of Chancery in any county in this State.

(d) The appeal shall be taken by filing in the Court a verified petition stating the grounds upon which the review is sought, together with a bond with good and sufficient sureties to be approved by the Court conditioned to pay all costs which may be assessed against the appellant or petitioner in such proceedings, and by serving a copy of the petition upon the Commissioner. If the appeal is from the Commissioner's order on hearing, the petitioner shall also deliver to the Commissioner a sufficient number of copies of the petition and the Commissioner shall mail or otherwise furnish a copy thereof to the other parties to the hearing to the same extent as a copy of the Commissioner's order is required to be furnished to the hearing parties under section 332 of this chapter.

(e) Upon receiving the petition for review, the Commissioner shall cause to be prepared an official record certified by him which shall contain a copy of all proceedings and orders of the Commissioner appealed from and the transcript of testimony and evidence or summary record thereof made as provided in section 329 of this chapter. Within 30 days after the petition was served upon him the Commissioner shall file such official record with the Court in which the appeal is pending.

(f) Upon filing of the petition for review the Court shall have full jurisdiction of the proceeding. Such filing shall not stay the enforcement of the Commissioner's order or action appealed from unless so stayed by order of the Court.

(g) If the appeal is from the Commissioner's order on hearing, the review of the Court shall be limited to matters shown by the Commissioner's official record; otherwise, the review shall be *de novo*. The Court shall have the power, by preliminary order, to settle questions concerning the completeness and accuracy of the Commissioner's official record.

(h) In its discretion, the Court may remand the case to the Commissioner for further proceedings in accordance with the Court's directions; or, in advance of judgment and upon a sufficient showing, the Court may remand the case to the Commissioner for the purpose of taking additional testimony or other proceedings.

(i) From the judgment of the Court of Chancery either the Commissioner or other party to the appeal may appeal directly to the Supreme Court of the State of Delaware in the same manner as is provided in civil cases.

CHAPTER 5. AUTHORIZATION OF INSURERS AND GENERAL REQUIREMENTS

§ 501. "Stock" insurer defined

A "stock" insurer is an incorporated insurer with its capital divided into shares and owned by its stockholders.

§ 502. "Mutual" insurer defined

A "mutual" insurer is an incorporated insurer without capital stock and the governing body of which is elected by its policyholders. This definition shall not be deemed to exclude as "mutual" insurers certain foreign insurers found by the Commissioner to be organized on the mutual plan under the laws of their states of domicile, but having temporary share capital or providing for election of the insurer's governing body on a reasonable basis.

§ 503. "Reciprocal" insurer defined

A "reciprocal" insurer is an unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact common to all such persons to provide reciprocal insurance among themselves.

§ 504. "Charter" defined

"Charter" means certificate of incorporation, articles of incorporation, articles of agreement, articles of association, charter granted by legislative act, or other basic constituent document of a corporation, or the power of attorney of the attorney-in-fact of a reciprocal insurer.

§ 505. Certificate of authority required

(a) No person shall act as an insurer and no insurer shall transact insurance in this State by mail or otherwise, except as authorized by a subsisting certificate of authority granted to it by the Commissioner and except as to such transactions as are expressly otherwise provided for in this title.

(b) No insurer formed under the laws of this State and no insurer from offices or by personnel or facilities located in this State, shall solicit insurance applications or otherwise transact insurance in another state or country unless it holds a subsisting certificate of authority granted to it by the Commissioner authorizing it to transact the same kind or kinds of insurance in this State.

(c) Any wilful violation of this section by a domestic corporation shall constitute misuse of its corporate powers, and the Attorney General shall proceed for the forfeiture of its charter under the provisions of section 283 of Title 8.

§ 506. Exceptions to certificate of authority requirement

A certificate of authority shall not be required of an insurer with respect to the following:

(1) Investigation, settlement, or litigation of claims under its policies lawfully written in this State, or liquidation of assets and liabilities of the insurer (other than collection of new premiums), all as resulting from its former authorized operations in this State.

(2) Transactions thereunder subsequent to issuance of a policy covering only subjects of insurance not resident, located or expressly to be performed in this State at time of issuance, and lawfully solicited, written and delivered outside this State.

(3) Prosecution or defense of suits at law.

(4) Transactions pursuant to surplus lines coverages lawfully written under chapter 19 of this title.

(5) Reinsurance, except as to domestic reinsurers.

§ 507. General eligibility for certificate of authority

To qualify for and hold authority to transact insurance in this State, an insurer must be otherwise in compliance with this title and with its charter powers, and must be an incorporated stock or mutual insurer, or a reciprocal insurer, of the same general type as may be formed as a domestic insurer under this title; except that:

(1) No foreign insurer shall be authorized to transact insurance in this State which does not maintain reserves as required by chapter 11 (assets and liabilities) of this title, as applicable to the kind or kinds of insurance transacted by such insurer, wherever transacted in the United States; or which transacts business anywhere in the United States on the assessment plan, or stipulated premium plan, or any similar plan.

(2) No insurer shall be authorized to transact workmen's compensation insurance in this State unless approved by the Industrial Accident Board of this State under the provisions of Part II of Title 19.

(3) No insurer shall be authorized to transact a kind of insurance in this State unless duly authorized or qualified for authorization to transact such insurance in the state or country of its domicile.

§ 508. Same—ownership, management

(a) No foreign insurer which is directly or indirectly owned or controlled in whole or substantial part by any government or governmental agency shall be authorized to transact insurance in Delaware. Membership in a mutual insurer, or subscribership in a reciprocal insurer, or ownership of stock of an insurer by the alien property custodian or similar official of the United States, or ownership of stock or other security which does not have voting rights with respect to the management of the insurer, or supervision of an insurer by public authority, shall not

be deemed to be an ownership or control of the insurer for the purposes of this provision.

(b) The Commissioner shall not grant or continue authority to transact insurance in this State as to any insurer or proposed insurer the management of which is found by him after investigation or upon reliable information to be incompetent, or dishonest, or untrustworthy, or of unfavorable business repute, or so lacking in insurance company managerial experience in operations of the kind proposed in this State as to make such operation, currently or prospectively, hazardous to, or contrary to the best interests of, the insurance-buying or investing public of this State; or which he has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions or other business relations, with any person or persons of unfavorable business repute, or whose business operation are or have been marked, to the injury of insurers, stockholders, policyholders, creditors, or the public, by illegality, or by manipulation of assets, or of accounts, or of reinsurance, or by bad faith.

§ 509. Name of insurer

(a) No insurer shall be formed or authorized to transact insurance in this State which has or uses a name which is the same as or deceptively similar to that of another insurer already so authorized, without the written consent of such other insurer.

(b) No life insurer shall be so authorized which has or uses a name deceptively similar to that of another insurer authorized to transact insurance in this State within the preceding 10 years if life insurance policies originally issued by such other insurer are still outstanding in this State.

(c) No insurer shall be formed or authorized to transact insurance which has or uses a name the same as or deceptively similar to that of any foreign insurer not so authorized if such foreign insurer has within the next preceding 12 months signified its intention to secure an incorporation in this State under such name, or to do business as a foreign insurer in this State under such name, by filing notice of such intention with the Commissioner, unless the written consent to the use of such name or deceptively similar name has been given by such foreign insurer.

(d) No foreign insurer seeking admission to this State shall be authorized to transact insurance which has or uses a name the same as or deceptively similar to that of a domestic corporation which has been incorporated as an insurer but has not yet secured a certificate of authority, until expiration of 3 years from date of incorporation of such domestic corporation and of filing with the Commissioner of written notice of intent to use such name.

(e) No insurer shall be so authorized which has or uses a name which tends to deceive or mislead as to the type of organization of the insurer.

(f) In case of conflict of names between 2 insurers, or a conflict otherwise prohibited under this section, the Commissioner may permit (or shall require as a condition to the issuance of an original certificate of authority to an applicant insurer) the insurer to use in this State such supplementation or modification of its name or such business name as may reasonably be necessary to avoid the conflict.

(g) Except as provided in subsection (f) above, an insurer shall conduct its business in this State in its own corporate (if incorporated) or proper (if reciprocal insurer) name.

§ 510. Combinations of insuring powers

(a) A reciprocal insurer shall not be a life insurer.

(b) A title insurer shall be a stock insurer, and shall not transact any other kind of insurance. This provision shall not prohibit acceptance of reinsurance of title insurance risks by insurers not otherwise authorized to transact title insurance.

§ 511. Capital funds required

(a) To transact any one kind of insurance (as defined in chapter 9 of this title), or combinations of kinds of insurance as shown below, an insurer shall possess and thereafter maintain unimpaired paid-in capital stock (if a stock insurer) or unimpaired basic surplus (if a foreign mutual or a reciprocal insurer), and when first so authorized shall possess free surplus, all in amounts not less than a follows:

Kind or kinds of insurance	Stock insurers		Mutual insurers		Reciprocal insurers	
	Capital stock	Free surplus	Basic surplus	Free surplus	Basic surplus	Free surplus
Life	\$300,000	\$150,000	\$300,000	\$150,000		
Health	300,000	150,000	300,000	150,000	\$300,000	\$150,000
Life and health	350,000	200,000	350,000	200,000		
Property	300,000	150,000	300,000	150,000	300,000	150,000
Casualty	400,000	200,000	400,000	200,000	400,000	200,000
Marine & transportation	350,000	175,000	350,000	175,000	350,000	175,000
Surety	300,000	150,000	300,000	150,000	300,000	150,000
Multiple line	500,000	250,000	500,000	250,000	500,000	250,000
Title	250,000	125,000				

Except: (1) A domestic insurer holding a valid certificate of authority to transact insurance in this State immediately prior to the effective date of this Act may, if otherwise qualified therefor, for a period of 5 years after such effective date continue to be so authorized while possessing paid-in capital stock (if a stock insurer) or surplus (if a mutual insurer) as required for such authority immediately prior to such effective date. The Commissioner shall not authorize such an insurer to transact any other kinds of insurance unless it then complies with the requirement as to capital and surplus, as applied to all kinds of insurance it then proposes to transact, as provided by this title as to foreign insurers applying for original certificates of authority under this title.

(2) An insurer which otherwise possesses funds as required under subsection (a) above, shall at all times maintain policyholders' surplus (combined paid-in capital stock, if any, and surplus) reasonable in amount, as determined by the Commissioner, in relation to the kinds and amount of insurance it has in force, or being written and retained by it, net of applicable reinsurance. In making any such determination the Commissioner shall give due consideration to any applicable standards approved or adopted by the National Association of Insurance Commissioners and to the desirability of substantial uniformity as to such requirements among the respective states.

(b) Capital and surplus requirements are based upon all the kinds of insurance transacted by the insurer in any and all areas in which it operates or proposes to operate, whether or not only a portion of such kinds are to be transacted in this State.

(c) As to surplus required for authority to transact one or more kinds of insurance and thereafter to be maintained, domestic mutual insurers shall be governed by chapter 49 of this title.

§ 512. Insuring combinations without additional capital funds

Without additional capital or additional surplus, an authorized insurer is also authorized:

(1) If a life insurer, to grant annuities.

(2) If a health insurer, to insure against congenital defects, as defined in section 906 (a) (12) of this chapter.

(3) If a casualty insurer, to transact also health insurance. Except, that this provision shall not apply to a domestic insurer authorized to transact casualty insurance pursuant to section 511 (a) (1) of this chapter.

§ 513. Deposit requirements, in general

(a) The Commissioner shall not authorize a foreign insurer (other than an alien insurer) to transact insurance in this State unless it makes and thereafter continuously maintains on deposit in this State through the Commissioner, or in another state, cash or securities eligible for such deposit under the laws of this State or of such other state of a fair market value not less than \$100,000, for the protection of all its policyholders wherever located or all of its policyholders in the United States or of all its policyholders and creditors. The Commissioner shall accept the certificate in proper form of the public official having supervision over insurers in any other state to the effect that such deposit or part thereof by such insurer is being maintained in public custody or control pursuant to law in such state. The insurer shall at the time of filing its annual statement with the Commissioner as provided in section 526 of this chapter also file with the Commissioner a certificate from such public official showing the amount and character of the securities composing its deposit held in such other state.

(b) The Commissioner shall not authorize an insurer to transact surety insurance unless it makes and thereafter continuously maintains in this State through the Commissioner a special and additional deposit of cash or securities eligible therefor under section 1503 of this title, of a fair market value not less than \$10,000, to answer any default of such insurer upon surety contracts issued by it in this State.

(c) No insurer shall transact workmen's compensation insurance in this State unless it makes and thereafter maintains in this State through the Commissioner a special and additional deposit of cash or securities eligible therefor under section 1503 of this title, of a fair market value of not less than \$25,000 for the protection of persons in this State covered under insurance so transacted.

(d) The Commissioner shall not authorize a domestic title insurer to transact insurance unless it makes and thereafter continuously maintains on deposit in this State through the Commissioner cash or securities eligible for such deposit under section 1503 of this title of a fair market value not less than \$25,000 for the protection of its policyholders in this State.

(e) All such deposits in this State are subject to the applicable provisions of chapter 15 (administration of deposits) of this title.

§ 514. Deposit requirement, alien insurers

The Commissioner shall not authorize an alien insurer to transact insurance in this State unless it makes and thereafter continuously maintains on deposit in this State through the Commissioner, or in another state, a surplus of assets in cash or securities eligible for such deposit under the laws of this State or such other state of a value not less than the combined capital and surplus initially required of a like foreign insurer transacting like kinds of insurance in this State. The deposit shall be held in trust for the benefit and security of all the insurer's policyholders and creditors in the United States or of all the insurer's policyholders in the United States.

§ 515. Application for certificate of authority

To apply for an original certificate of authority an insurer shall file with the Commissioner its written application therefor, accompanied by the applicable fees specified in section 701 of this title, stating under the oath of the president or vice-president or other chief officer and the secretary of the insurer, or of the attorney-in-fact if the insurer is a reciprocal insurer, the insurer's name, location of its home office or principal office in the United States (if an alien insurer), the kinds of insurance to be

transacted, date of organization or incorporation, form of organization, state or country of domicile and such additional information as the Commissioner may reasonably require, together with the following documents, as applicable.

(1) If a corporation, a copy of its charter or certificate or articles of incorporation, together with all amendments thereto, or as restated and amended under the laws of its state or country of domicile, currently certified by the public official with whom the originals are on file in such state or country.

(2) If an incorporated insurer, a copy of its bylaws, certified by the insurer's corporate secretary.

(3) If a reciprocal insurer, a copy of the power of attorney of its attorney-in-fact, certified by the attorney-in-fact; and if a domestic reciprocal insurer, the declaration provided for in section 5706 of this title.

(4) A complete copy of its financial statement as of not earlier than the December 31 next preceding in form as customarily used in the United States by like insurers, sworn to by at least two executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state of domicile, or of entry into the United States (if an alien insurer).

(5) A copy of the report of last examination, if any, made of the insurer within not more than the 3 years next preceding, certified by the public insurance supervisory official of the insurer's state of domicile, or of entry into the United States (if an alien insurer.)

(6) Appointment of the Commissioner pursuant to section 524 of this chapter as its attorney to receive service of legal process.

(7) If a foreign or alien insurer, a certificate of the public insurance supervisory official of its state or country of domicile showing that it is authorized to transact in such state or country the kinds of insurance proposed to be transacted in this State.

(8) If a foreign insurer, certificate as to deposit if to be tendered pursuant to section 513 of this chapter.

(9) If an alien insurer, certificate as to deposit in another state if to be tendered pursuant to section 514 of this chapter.

(10) If a life or health insurer, a copy of the insurer's rate book and of each form of policy currently proposed to be issued in this State, and of the form of application therefor.

(11) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

(12) Designation by the insurer of its officer or representative authorized to appoint and remove its agents in this State.

§ 516. Issuance, refusal of authority; ownership of certificate

(a) If upon completion of its application the Commissioner finds that the insurer has met the requirements therefor under this title, he shall issue to the insurer a proper certificate of authority; if he does not so find, the Commissioner shall issue his order refusing such certificate. The Commissioner shall act upon an application for certificate of authority within a reasonable period after its completion.

(b) The Commissioner shall issue certificates of authority under his seal of office, showing the date of actual issuance, the kinds of insurance the insurer is authorized to transact in this State, and such other matters as the Commissioner deems necessary. At the insurer's request, the Commissioner may issue a certificate of authority limited to particular types of insurance or coverages within a kind of insurance as defined in chapter 9 of this title.

(c) Although issued and delivered to the insurer, the certificate of authority at all times shall be the property of the State of Delaware. Upon any expiration, suspension, or termination thereof the insurer shall promptly deliver the certificate to the Commissioner.

§ 517. Authority conferred; surety insurers; certificate as evidence

(a) The certificate of authority confers upon the insurer authority to transact in this State only the kind or kinds of insurance therein specified. No surety insurer shall be deemed thereby to possess power to act in capacity of executor, administrator, guardian, trustee, receiver, assignee, or agent, or in any

other capacity than that of surety, notwithstanding contrary provisions in its charter.

(b) An insurer's valid and subsisting certificate of authority shall be prima facie evidence of its right to transact in this State the kind or kinds of insurance specified therein.

§ 518. Continuance, expiration, reinstatement of certificate of authority

(a) A certificate of authority shall continue in force as long as the insurer is entitled thereto under this title, and until suspended or revoked by the Commissioner or terminated at the insurer's request; subject, however, to continuance of the certificate by the insurer each year by:

(1) Payment on or before March 1 of the continuation fee provided in section 701 (fee schedule) of this title.

(2) Due filing by the insurer of its annual statement for the next preceding calendar year as required by section 526 of this chapter and

(3) Payment by the insurer of premium taxes with respect to the preceding calendar year.

(b) If not so continued by the insurer, its certificate of authority shall expire as at midnight on the May 31 next following such failure of the insurer to continue it in force, unless earlier revoked for failure to pay taxes as provided in section 519 of this chapter. The Commissioner shall promptly notify the insurer of the occurrence of any failure resulting in impending expiration of its certificate of authority.

(c) The Commissioner may, in his discretion, upon the insurer's request made within 3 months after expiration, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in the expiration, and upon payment by the insurer of the fee for reinstatement specified in section 701 (1) (fee schedule) of this title. Otherwise the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this State.

§ 519. Suspension or revocation of certificate of authority; mandatory grounds

(a) The Commissioner shall refuse to continue or shall suspend or revoke an insurer's certificate of authority:

(1) If such action is required by any provision of this title.

(2) If a foreign insurer and it no longer meets the requirements for a certificate of authority, on account of deficiency of assets or otherwise; or

(3) If a domestic insurer and it has failed to cure an impairment of capital or surplus within the time allowed therefor by the Commissioner under this title or is otherwise no longer qualified for the certificate of authority; or

(4) If the insurer's certificate of authority to transact insurance therein is suspended or revoked by its state of domicile, or state of entry into the United States if an alien insurer.

(5) For failure of the insurer to pay taxes on its premiums as required by the laws of this State.

(b) Except in case of insolvency or impairment of required capital or surplus, or suspension or revocation by another state as referred to in subdivision (4) above, the Commissioner shall give the insurer at least 10 days notice in advance of any such refusal, suspension, or revocation under this section, and of the particulars of the reasons therefor. If the insurer requests a hearing thereon within such 10 days, such request shall automatically stay the Commissioner's proposed action until his order is made on such hearing.

§ 520. Suspension or revocation of certificate of authority; discretionary and special grounds

(a) The Commissioner may, in his discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has violated or failed to comply with any lawful order of the Commissioner, or has wilfully violated or wilfully failed to comply with any lawful regulation of the Commissioner, or has violated any provision of this title other than those for violation of which suspension or revocation

is mandatory, or, in lieu of such suspension or revocation, the Commissioner may, in his discretion, levy upon the insurer, and the insurer shall pay forthwith, an administrative fine of not over \$1,000.

(b) The Commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he finds after a hearing thereon that the insurer:

(1) Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this State currently or prospectively hazardous or injurious to policyholders or to the public.

(2) With such frequency as to indicate its general business practice in this State, has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person; or, with like frequency, without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims.

(3) Refuses to be examined, or if its directors, officers, employees, or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the Commissioner when required; or refuse to perform any legal obligation relative to the examination.

(4) Has failed to pay any final judgment rendered against it in this State upon any policy, bond, recognizance, or undertaking as issued or guaranteed by it, within 30 days after the judgment became final, or within 30 days after dismissal of an appeal before final determination, whichever date is the later.

(c) The Commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation, or other delinquency proceedings, have been commenced in any state by the public insurance supervisory official of such state.

§ 521. Order and notice of suspension, revocation; effect upon agent's authority

(a) All suspensions or revocations of, or refusals to continue, an insurer's certificate of authority shall be by the Commissioner's order given to the insurer.

(b) Upon issuance of the order, the Commissioner shall forthwith give notice thereof to the insurer's agents in this State of record in the department, and shall likewise suspend or revoke the authority of such agents to represent the insurer.

§ 522. Duration of suspension; insurer's obligations during suspension period; reinstatement

(a) Suspension of an insurer's certificate of authority shall be for such period as the Commissioner specifies in the order of suspension, but not to exceed one year. During the suspension period the Commissioner may rescind or shorten the suspension by his further order.

(b) During the suspension period the insurer shall not solicit or write any new business in this State, but shall file its annual statement, pay fees, licenses and taxes as required under this title, and may service its business already in force in this State, as if the certificate of authority had continued in full force.

(c) Upon expiration of the suspension period, if within such period the certificate of authority has not terminated, the insurer's certificate of authority shall automatically reinstate unless the Commissioner finds that the causes of the suspension, being other than a past event, are continuing, or that the insurer is otherwise not in compliance with the requirements of this title, and of which the Commissioner shall give the insurer notice not less than 30 days in advance of expiration of the suspension period. If not so automatically reinstated the certificate of authority shall be deemed to have terminated as of the end of the suspension period.

(d) Upon reinstatement of the insurer's certificate of authority, the authority of its agents in this State to represent the insurer shall likewise reinstate. The Commissioner shall promptly notify the insurer and its agents in this State, of record in the department, of such reinstatement.

§ 523. General corporation laws inapplicable to foreign insurers

The general corporation laws of this State as contained in Title 8 of the Delaware Code Annotated shall not apply as to foreign insurers holding certificates of authority to transact insurance in this State.

§ 524. Commissioner process agent for certain insurers

(a) Before the Commissioner shall authorize it to transact insurance in this State, each insurer shall appoint the Commissioner, and his successors in office, as its attorney to receive service of legal process issued against the insurer in this State. The appointment shall be made on a form as designated and furnished by the Commissioner, and shall be accompanied by a copy of a resolution of the board of directors or like governing body of the insurer, if an incorporated insurer, showing that those officers who executed the appointment were duly authorized to do so on behalf of the insurer.

(b) The appointment shall be irrevocable, shall bind the insurer and any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force any contract of the insurer in this State or any obligation of the insurer arising out of its transactions in this State.

(c) Service of such process against a foreign or alien insurer shall be made only by service thereof upon the Commissioner.

(d) Service of such process against a domestic insurer may be made as provided hereunder, or in any other manner provided by law.

(e) At the time of application for a certificate of authority the insurer shall file the appointment with the Commissioner, together with designation of the person to whom process against it served upon the Commissioner is to be forwarded. The insurer may change such designation by a new filing.

§ 525. Serving process

(a) Service of process against an insurer for whom the Commissioner is attorney shall be made by delivering to and leaving with the Commissioner, his deputy, or a person in appar-

ent charge of his office during the Commissioner's absence, two copies of the process, together with fee of \$2.50, taxable as costs in the action.

(b) Upon such service the Commissioner shall forthwith mail by certified mail one of the copies of such process to the person currently designated by the insurer to receive the same as provided in section 524(e) of this chapter. Service of such process shall not be complete until 3 days after the same has been so mailed.

(c) Service of process in the manner provided by this section shall for all purposes constitute valid and binding personal service upon the insurer within this State.

(d) The Commissioner shall keep a record of the day of service upon him of all legal process.

§ 526. Annual statement

(a) Each authorized insurer shall annually on or before March 1, or within any reasonable extension of time therefor which the Commissioner for good cause may have granted, file with the Commissioner a full and true statement of its financial condition, transactions and affairs as of December 31 preceding. The statement shall be in the general form and context of, and require information as called for by, the form of annual statement as currently in general and customary use in the United States for the type of insurer and kinds of insurance to be reported upon, with any useful or necessary modification or adaptation thereof and as supplemented as to additional information required by the Commissioner. The statement shall be verified by the oath of the insurer's president or vice-president, and secretary or actuary as applicable, or in the absence of the foregoing, by two other principal officers; or if a reciprocal insurer, by the oath of the attorney-in-fact or its like officers if a corporation.

(b) The statement of an alien insurer shall be verified by its United States manager or other officer duly authorized, and shall relate only to the insurer's transactions and affairs in the United States unless the Commissioner requires otherwise. If the Commissioner requires a statement as to such an insurer's affairs throughout the world, the insurer shall file such statement with the Commissioner as soon as reasonably possible.

(c) The Commissioner may refuse to continue, or may suspend or revoke the certificate of authority of any insurer failing to file its annual statement when due.

(d) At time of filing, the insurer shall pay the fee for filing its annual statement as prescribed by section 701 of this title.

§ 527. Resident agent; countersignature law

(a) Except as provided in section 528 of this chapter, no foreign or alien insurer shall make, write, place or cause to be made, written or placed, any policy, duplicate policy, or contract of insurance of any kind or character, or any general or floating policy upon property situated or located in this State, except after the risk has been approved in writing by an agent of the insurer who is a resident of this State, regularly commissioned and licensed to transact insurance business herein, who shall countersign all policies or contracts so issued, and who shall receive the full premium paid thereon, to the end that the State shall receive the taxes required by law to be paid on the premiums collected for insurance on all property located in this State.

(b) An agent of another state duly licensed to do business in this State can countersign his own policies covering property in this State if his state has a similar reciprocal provision in favor of Delaware agents and if Delaware agents licensed to do business in that state would be entitled to the same commissions as a resident agent of that state would receive.

(c) Nothing in this section shall be construed to prevent any such insurer from issuing policies at its principal office or department offices covering property in this State, if such policies are issued upon applications procured and submitted to such insurer by licensed agents who are residents of this State, and who shall countersign all policies so issued and receive the commission thereon when paid.

§ 528. Exceptions to resident agent; countersignature law

Section 527 of this chapter shall not apply to any of the following:

- (1) Life insurance or annuities;

(2) Wet marine and transportation insurance;

(3) Policies covering property in transit while in the possession or custody of any common carrier, or the rolling stock or other property of any common carrier employed by it in its business as a common carrier of freight, merchandise, or passengers;

(4) Bid bonds issued by any surety insurer in connection with any public or private contract;

(5) Reinsurance or retrocessions;

(6) Policies or endorsements issued by insurers not using agents in the general solicitation of business and on which no commission, in any form, is payable to any agent.

§ 529. (Reserved for future use)

§ 530. Emergency requirements

Whenever in his opinion a public emergency exists by reason of an abnormal disruption of economic and financial processes which affects the conduct of the business of insurance in a normal and ordinary manner, the Commissioner, with the concurrence of the Governor and the General Assembly, may declare the existence of a public emergency. During such emergency he may make, alter, amend, revise and rescind rules and regulations, imposing any condition upon the conduct of the business of any insurer which may be necessary or desirable to maintain sound methods of insurance and to safeguard the interests of policyholders, beneficiaries and the public generally during the period of such emergency which rules and regulations shall become inoperative when such emergency ceases, and an order to that effect shall be made by the Commissioner.

§ 531. Retaliatory provision

(a) When by or pursuant to the laws of any other state or foreign country or province any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material requirements, obligations, prohibitions or restrictions are or would be imposed upon Delaware insures doing business or that might seek to do business in such state, country

or province, or upon the agents or representatives of such insurers or upon brokers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other requirements, obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, or upon brokers, of such other state, country, or province under the statutes of this State, so long as such laws of such other state, country or province continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material requirements, obligations, prohibitions, or restrictions of whatever kind shall be imposed by the Commissioner upon the insurers, or upon the agents or representatives of such insurers, or upon brokers, of such other state, country or province doing business or seeking to do business in Delaware. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state, country or province on Delaware insurers or their agents or representatives shall be deemed to be imposed by such state, country or province within the meaning of this section.

(b) This section shall not apply as to personal income taxes, or as to ad valorem taxes on real or personal property, or as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the Commissioner in determining the propriety and extent of retaliatory action under this section.

(c) For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada or a province thereof, shall be that state designated by the insurer in writing filed with the Commissioner at time of admission to this State or within 6 months after the effective date of this title, whichever date is the later, and may be any one of the following states:

(1) That in which the insurer was first authorized to transact insurance;

(2) That in which is located the insurer's principal place of business in the United States;

(3) That in which is held the largest deposit of trustee assets of the insurer for the protection of its policyholders in the United States.

If the insurer makes no such designation, its domicile shall be deemed to be that state in which is located its principal place of business in the United States.

(d) The domicile of an insurer formed under the laws of Canada or a province thereof shall be as provided in section 102 of this title.

CHAPTER 7. FEES AND TAXES

§ 701. Fee schedule

The Commissioner shall collect in advance, and persons so served shall pay to the Commissioner, fees, licenses and miscellaneous charges as follows:

- (1) Insurer's certificate of authority.
 - (i) For filing application for initial certificate of authority, including all documents submitted as part of such application \$500.00
 - (ii) Issuance of certificate of authority 25.00
 - (iii) Annual continuation, including filing of annual statement 50.00
 - (iv) Reinstatement (section 518 of this title) .. 25.00
 - (v) Amendment 10.00
- (2) Charter documents (other than those filed with application for certificate of authority). Filing amendments to certificate of incorporation, articles of incorporation, charter, bylaws, power of attorney (as to reciprocal insurers), and to other constituent documents of the insurer 5.00
- (3) Annual statement of insurer. For filing annual statement, other than included with (1) (i) and (iii) above 25.00

(4) Service of process, acceptance. Against unauthorized persons and insurers under chapter 21 of this title	5.00
Others	2.50
(5) Agents licenses and appointments.	
(i) Application for original license and issuance of license, if issued	5.00
(ii) Appointment of agent, each insurer	2.50
(iii) Annual continuation of appointment, each insurer	2.50
(iv) Temporary license, each period of 90 days ..	1.00
(v) Limited license (section 1721 of this title), each insurer, each year	1.00
(6) Brokers.	
(i) Application for original license and issuance of license, if issued	10.00
(ii) Annual continuation of license	10.00
(iii) Temporary license, each period of 90 days ..	1.00
(7) Solicitors.	
(i) Application for original license and issuance of license, if issued	5.00
(ii) Annual continuation of license	2.50
(8) Vending machine, each year	5.00
(9) Surplus line brokers.	
(i) Application for original license and issuance of license, if issued	10.00
(ii) Annual continuation	10.00
(10) Adjusters.	
(i) Application for original license and issuance license, if issued	5.00
(ii) Annual continuation of license	5.00
(11) Examination for license, each examination	10.00
(12) Rating organization license.	
(i) Application for original license and issuance of license, if issued	100.00

(ii) Annual continuation	100.00
(13) Certified copy of insurer certificate of authority or of any license issued under this title	1.00
(14) Examination of insurer, see section 326 of this title.	
(15) Solicitation permit application, filing.	
For initial financing	250.00
For subsequent financing	100.00
(16) Copies of documents on file in the department: 20c per folio of one hundred words; and for certi- fying and affixing official seal	1.00

§ 702. General premium tax; underwriting profits tax

(a) Each authorized insurer and each formerly authorized insurer shall file with the Commissioner on or before March 1, each year, a report in form as prescribed by the Commissioner showing, except with respect to wet marine and transportation insurance, gross direct premium income, including policy, membership and other fees, assessments, and all other considerations for insurance, received by it during the next preceding calendar year on account of insurance contracts, other than as to workmen's compensation and employer's liability, covering property, subjects, or risks located, resident, or to be performed in this State (with proper proportionate allocation of premiums as to such persons, property, subjects or risks in this State insured under policies covering persons, property, subjects, or risks located or resident in more than one state), after deducting from such total direct premium income (1) the amount of returned premiums on cancelled policies (but not including the return of cash surrender values of life insurance policies), and (2) the unabsorbed portion of any deposit premium, and the amount returned to policyholders as dividends and similar returns, whether paid in cash, or credited, or applied in reduction of premiums. The report shall be verified by the oath or affirmation of the president or secretary or other responsible officer of the insurer, duly administered by a person authorized to administer oaths. Considerations received for annuity contracts shall not be included in gross direct premium income or be subject to taxes imposed by this section or by section 708 of this chapter.

(b) For the purpose solely of the tax upon the premiums and at the rate provided under this section, a domestic insurer shall also include in the report provided for in subsection (a) above, except with respect to wet marine and transportation insurance, the gross amount of premiums and other considerations for direct insurance received by it upon insurance business written pursuant to solicitation of business by mail directed to persons located in a state, or province of Canada, in which the insurer is not admitted to transact insurance, with respect to persons, property, and subjects or risks resident, located, or to be performed in such state or province, and on which a premium tax is not paid, or surplus line tax is not payable, to such state or province, and shall deduct therefrom returned premiums, unabsorbed portion of deposit premiums, dividends, and similar returned paid or credited to policyholders as provided in such subsection.

(c) Upon the filing of such report each such insurer shall pay to the Commissioner, for the use of the State, a tax of $1\frac{3}{4}\%$ of such net premiums.

(d) Tax on wet marine and transportation insurance underwriting profits:

(1) Each authorized insurer and formerly authorized insurer shall, with respect to all wet marine and transportation insurance written within this State, pay a tax of 5% upon its taxable underwriting profit, ascertained as hereinafter provided, from such insurance written within this State.

(2) The underwriting profit on such insurance written within this State shall be that proportion of the total underwriting profit of such insurer from such insurance written within the United States which the amount of net premiums of such insurer from such insurance written within this State bears to the amount of net premiums of such insurer from such insurance written within the United States.

(3) The underwriting profit of such insurer on such insurance written within the United States shall be determined by deducting from the net earned premiums on such wet marine and transportation insurance written within the United States during the taxable year, meaning thereby the calendar year next preceding the date on which such tax is due, the following items:

(i) Net losses incurred, meaning gross losses incurred during such calendar year under such wet marine and transportation insurance contracts written within the United States, less reinsurance claims collected or collectible and less net salvages or recoveries collected or collectible from any source applicable to the corresponding losses under such contracts;

(ii) Net expenses incurred in connection with such wet marine and transportation insurance contracts, including all state and federal taxes in connection therewith; but in no event shall the aggregate amount of such net expenses deducted exceed 40% of the net premiums on such wet marine and transportation insurance contracts, ascertained as hereinafter provided; and

(iii) Net dividends paid or credited to policyholders on such wet marine and transportation insurance contracts.

(4) In determining the amount of such tax, net earned premiums on such wet marine and transportation insurance contracts written within the United States during the taxable year shall be arrived at as follows:

From gross premiums written on such contracts during the taxable year deduct any and all return premiums, premiums on policies not taken, premiums paid for reinsurance of such contracts and net unearned premiums on all such outstanding contracts at the end of the taxable year; and add to such amount net unearned premiums on such outstanding wet marine and transportation insurance contracts at the end of the calendar year next preceding the taxable year.

(5) In determining the amount of such tax, net expenses incurred shall be determined as the sum of the following:

(i) Specific expenses incurred on such wet marine and transportation insurance business, consisting of all commissions, agency expenses, taxes, licenses, fees, loss adjustment expenses, and all other expenses incurred directly and specifically in connection with such business, less recoveries or reimbursements on account of or in connection with such commissions or other expenses collected or collectible because of reinsurance or from any other source.

(ii) General expenses incurred on such wet marine and transportation insurance business, consisting of that proportion of general or overhead expenses incurred in connection with such business which the net premiums on such wet marine and transportation insurance written during the taxable year bear to the total net premiums written by such insurer from all classes of insurance written by it during the taxable year. Within the meaning of this paragraph, general or overhead expenses shall include salaries of officers and employees, printing and stationery, all taxes of this State and of the United States, except as included in paragraph (i) above, and all other expenses of such insurer, not included in paragraph (i) above, after deducting expenses specifically chargeable to any or all other classes of insurance business.

(6) In determining the amount of such tax, the taxable underwriting profit of such insurer on such wet marine and transportation insurance business written within this State, shall be ascertained as follows:

(i) In the case of every such insurer which has written any such business within this State during 3 calendar years immediately preceding the year in which such taxes were payable, the taxable underwriting profit shall be determined by adding or subtracting, as the case may be, the underwriting profit or loss on all such insurance written within the United States, ascertained as hereinbefore provided, for each of such 3 years, and dividing by three.

(ii) In the case of every such insurer other than as specified in paragraph (i), such taxable underwriting profit, if any, shall be the underwriting profit, if any, on such wet marine and transportation insurance business written within this State during the taxable year, ascertained as hereinbefore provided; but after such insurer has written such wet marine and transportation insurance business within this State during 3 calendar years, an adjustment shall be made on the 3 year average basis by ascertaining the amount of tax payable in accordance with paragraph (i) above; but no refunds of all or any part of such payments shall be made, except as provided in section 708.

(7) The tax hereinbefore provided shall be paid annually, on or before the first day of June, by every insurer authorized

to do in this State the business of wet marine and transportation insurance during any one or more of the next preceding 3 calendar years, and the calendar year next preceding such June first shall be deemed the taxable year within the meaning of this section.

(8) Every insurer liable to pay the tax hereinbefore provided under this subsection (d) shall, on or before the first day of June of each year, file with the Commissioner a tax return in form prescribed by the Commissioner.

(9) The tax provided for in this subsection (d) shall apply to the business of the year ending December 31, 1968, and to subsequent years; and for such purpose the underwriting profits or losses of prior years shall be taken into account, as hereinbefore provided. Section 2702 of Chapter 27, Title 18, Delaware Code, and in force immediately prior to the effective date of this Act, shall continue to be effective with respect to all taxes due under such section, but this provision shall not be construed as imposing any duplication of taxes for any of such years.

§ 703. Minimum tax of certain domestic insurers

A domestic insurer, other than a mutual insurer doing business on the assessment premium plan, which has been authorized to transact insurance in this State for 3 calendar years or more, shall pay to the Commissioner for the use of the State a privilege tax of \$2,000 per year, due and payable at the same time as the premium tax as provided in section 702 of this chapter. Against the amount of such privilege tax the insurer may credit all licenses, fees, premium taxes, and underwriting profits taxes paid in the same year to this State under the insurance laws of this State. The tax shall accrue commencing with that calendar year in which occurs the fourth anniversary of the date of issuance of the insurer's original certificate of authority as an insurer in this State.

§ 704. Tax on workmen's compensation; employer's liability premiums

Every insurer insuring workmen's compensation or employer's liability risks in this State shall pay annually the tax upon premiums received for such insurance, as such tax, with

permitted deductions therefrom, is provided for in Chapter 23, Title 19.

§ 705. Special tax on gross premiums of fire insurance companies

The Legislative Reference Bureau is authorized to re-number as section 705 of this chapter that provision heretofore codified as section 2705, Title 18.

§ 706. Distribution of proceeds of special tax on premiums of fire insurance companies

The Legislative Reference Bureau is authorized to re-number as section 706 of this chapter that provision heretofore codified as section 2706, Title 18.

§ 707. Related police pension tax provisions

The Legislative Reference Bureau is authorized to re-number as sections 707, 709, and 710 respectively of this chapter those provisions heretofore codified as sections 2710, 2712, and 2713, Title 18, and to make appropriate changes in the numbers of sections referred to in such re-numbered sections.

§ 708. Special tax on gross premiums

(a) Every insurer transacting insurance within this State, other than workmen's compensation insurance and wet marine and transportation insurance, shall, in addition to other taxes, fees and charges required by law, on the 1st day of March of each year pay to the Commissioner, for the use of the State, $\frac{1}{4}\%$ upon the gross premiums received and assessments collected from insurance of every kind upon persons or on the lives of persons resident in, or upon real and personal property located within, this State, or upon any other risks insured within this State, by any such insurer or the authorized agent thereof, for the calendar year immediately preceding the date herein provided for such payments.

(b) "Gross premiums" whenever used in this section in reference to premiums received by insurers on policies covering risks located in this State, shall mean all moneys collected, together with all notes, or credits allowed, as premiums on such

policies including reinsurance premiums received. In computing taxable premiums there may be deducted from gross premiums dividends and similar returns paid or credited to policyholders, return premiums paid by reason of cancellation of policies, and reinsurance premiums received from other insurers.

(c) No insurer affected by provisions of this section shall increase the rate of insurance premiums upon any insurable risk affected by this section because of the tax provided for in this section, unless the Commissioner after a hearing on the matter is satisfied that an increase is necessary; and in event the Commissioner is satisfied after such hearing that an increase in the premium rate is necessary, he shall authorize such reasonable increase as he deems fair and equitable.

§ 709. (Reserved; see section 707)

§ 710. (Reserved; see section 707)

§ 711. Purpose; receipt; deposit of fees, fines and taxes

(a) All fees, charges, administrative fines, and taxes payable under this title shall be paid to and collected by the Commissioner.

(b) The Commissioner shall give the person paying the same an itemized receipt for fees, charges, administrative fines, and taxes paid under this title.

(c) Except as otherwise expressly provided, the Commissioner shall promptly deposit to the credit of the General Fund all fees, charges, administrative fines, taxes and other funds collected by him for the use of this State, and shall promptly report the same to the State Treasurer as provided in Chapter 61, Title 29.

§ 712. Refund of overpayments

(a) Any person from whom fees, charges or taxes imposed by this title have been erroneously collected may apply to the Commissioner for refund at any time within 1 year from the date such fees, charges or taxes were originally required to be paid or within 30 days from the date of payment of any additional tax, charge, or fee.

(b) If the amount of taxes, charges, or fees found due are less than the amount paid, either by examination of the return by the Commissioner or by allowance of a claim for overpayment filed by the payer with the Commissioner, the State Treasurer shall refund the excess out of the General Fund of this State upon certification by the Commissioner and approval by the Budget Director.

(c) No such refund shall be made unless the amount to be so refunded is \$10 or more.

§713. In lieu, pre-emption provision

(a) The fees, charges and premium taxes imposed by the State shall be in lieu of all county and municipal license fees and taxes upon the business of insurance in this State, excepting property taxes.

(b) The State hereby preempts the field of regulating, or of imposing excise, privilege, franchise, income, license, permit, registration and similar taxes, licenses and fees upon, insurers and their general agents, agents and other representatives as such; and on the intangible property of insurers or such representatives; and all political subdivisions or agencies thereof in this State are prohibited from regulating insurers or their general agents, agents and other representatives as such, and from imposing upon them any such tax, license, or fee. Except, that this provision shall not prohibit the imposition by political subdivisions of taxes upon real and tangible personal property.

CHAPTER 9. KINDS OF INSURANCE; LIMITS OF RISK; REINSURANCE

SUBCHAPTER 1. KINDS OF INSURANCE

§ 901. Definitions not mutually exclusive

It is intended that certain insurance coverages may come within the definitions of two or more kinds of insurance as defined in this chapter, and the inclusion of such coverage within one definition shall not exclude it as to any other kind of insurance within the definition of which such coverage is likewise reasonably includable.

§ 902. "Life insurance" defined

Life insurance is insurance on human lives. The transaction of life insurance includes also the granting of endowment benefits, additional benefits in event of death or dismemberment by accident or accidental means, additional benefits in event of the insured's disability, and optional modes of settlement of proceeds of life insurance.

§ 903. "Health insurance" defined

Health insurance is insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto.

§ 904. "Property insurance" defined

Property insurance is insurance on real or personal property of every kind and of every interest therein against loss or damage from any and all hazard or cause, and against loss consequential upon such loss or damage, other than non-contractual legal liability for any such loss or damage. Property insurance does not include title insurance, as defined in section 908 of this chapter.

§ 905. "Surety insurance" defined

(a) Surety insurance includes:

(1) Fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust.

(2) Insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship.

(3) Insurance indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against loss, resulting from any cause, of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, gems, precious and semi-precious stones, including any loss while the same are being transported in armored motor vehicles, or by messenger, but not

including any other risks of transportation or navigation; also insurance against loss or damage to such an insured's premises or to his furnishings, fixtures, equipment, safes and vaults therein, caused by burglary, robbery, theft, vandalism or malicious mischief, or any attempt thereat.

(b) Transaction of surety insurance does not confer power on the insurer to guarantee titles to real estate.

§ 906. "Casualty insurance" defined

(a) Casualty insurance includes:

(1) *Vehicle insurance.* Insurance against loss of or damage to any land vehicle or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incidental to ownership, maintenance or use of any such vehicle, aircraft or animal; together with insurance against accidental injury to individuals, irrespective of legal liability of the insured, including the named insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft or draft or riding animal, if such insurance is issued as an incidental part of insurance on the vehicle, aircraft or draft or riding animal.

(2) *Liability insurance.* Insurance against legal liability for the death, injury, or disability of any human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance.

(3) *Workmen's compensation and employer's liability.* Insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees.

(4) *Burglary and theft.* Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal,

or concealment, or from any attempt at any of the foregoing; including supplemental coverage for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents, resulting from any cause.

(5) *Personal property floater.* Insurance upon personal effects against loss or damage from any cause.

(6) *Glass.* Insurance against loss or damage to glass, including its lettering, ornamentation, and fittings.

(7) *Boiler and machinery.* Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus, and to make inspection of and issue certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured.

(8) *Leakage and fire extinguishing equipment.* Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus.

(9) *Credit.* Insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured.

(10) *Malpractice.* Insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service.

(11) *Elevator.* Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators, except loss or damage by fire, and to

make inspection of and issue certificates of inspection upon elevators.

(12) *Congenital defects.* Insurance against congenital defects in human beings.

(13) *Livestock.* Insurance against loss or damage to livestock, and services of a veterinary for such animals.

(14) *Entertainments.* Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other principals.

(15) *Miscellaneous.* Insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this subchapter, if such insurance is not disapproved by the Commissioner as being contrary to law or public policy.

(b) Provision of medical, hospital, surgical, and funeral benefits, and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under subdivisions (1) (vehicle), (2) (liability), (4) (burglary), (7) (boiler and machinery), (10) (malpractice), and (11) (elevator) of subsection (a) shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and shall not be subject to provisions of this title applicable to life and health insurances.

§ 907. Marine and transportation; "wet marine" insurance defined

(a) "Marine and transportation insurance" includes:

(1) Insurance against any kinds of loss or damage to:

(i) Vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to, or in

connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, trans-shipment, or re-shipment incident thereto, including marine builder's risks and all personal property floater risks, and

(ii) Person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance or use of the subject matter of such insurance (but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance or use of automobiles), and

(iii) Precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise, and

(iv) Bridges, tunnels and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion are the only hazards to be covered; piers, wharves, docks and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion; other aids to navigation and transportation, including dry docks and marine railways, against all risks.

(2) "Marine protection and indemnity insurance," meaning insurance against, or against legal liability of the insured for, loss, damage or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness or death or for loss of or damage to the property of another person.

(b) For the purposes of this title "wet marine and transportation" insurance is that part of "marine and transportation" insurance which includes only:

(1) Insurance upon vessels, crafts, hulls and of interests therein or with relation thereto;

(2) Insurance of marine builders' risks, marine war risks and contracts of marine protection and indemnity insurance;

(3) Insurance of freights and disbursements pertaining to a subject of insurance coming within this definition; and

(4) Insurance of personal property and interests therein, in course of exportation from or importation into any country, or in course of transportation coastwise or on inland waters, including transportation by land, water or air from point of origin to final destination, in respect to, appertaining to or in connection with, any and all risks or perils of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, storage, trans-shipment or re-shipment incident thereto.

§ 908. "Title insurance" defined

Title insurance is insurance of owners of property or others having an interest therein, or liens or encumbrances thereon, against loss by encumbrance, or defective titles, or invalidity, or adverse claim to title.

SUBCHAPTER II. LIMITS OF RISK

§ 909. Limits of risk

(a) No insurer shall retain any risk on any one subject of insurance, whether located or to be performed in this State or elsewhere, in an amount exceeding 10% of its surplus to policyholders.

(b) A "subject of insurance" for the purposes of this section, as to insurance against fire and hazards other than wind-storm, earthquake and other catastrophic hazards, includes all properties insured by the same insurer which are customarily considered by underwriters to be subject to loss or damage from the same fire or the same occurrence of any other hazard insured against.

(c) Reinsurance ceded as authorized by section 910 of this title shall be deducted in determining risk retained. Except, that

as to surety risks reinsurance shall be allowed as a deduction only if such reinsurance is with an insurer authorized to transact such insurance in this State, and is in such form as to enable the obligee or beneficiary to maintain an action thereon against the reinsured jointly with the reinsurer, and upon recovering judgment against the reinsured to have recovery against the reinsurer for payment to the extent in which it may be liable under such reinsurance and in discharge thereof. As to surety risks, deduction shall also be made of the amount assumed by any authorized co-surety and the value of any security deposited, pledged, or held subject to the surety's consent and for the surety's protection.

(d) As to alien insurers, this section shall relate only to risks and surplus to policyholders of the insurer's United States branch.

(e) "Surplus to policyholders" for the purposes of this section, in addition to the insurer's capital and surplus, shall be deemed to include any voluntary reserves which are not required pursuant to law, and shall be determined from the last sworn statement of the insurer on file with the Commissioner, or by the last report of examination of the insurer, whichever is the more recent at time of assumption of risk.

(f) This section shall not apply to life or health insurance, annuities, title insurance, insurance of wet marine and transportation risks, workmen's compensation insurance, employers' liability coverages, nor to any policy or type of coverage as to which the maximum possible loss to the insurer is not readily ascertainable on issuance of the policy.

(g) Limits of risk as to newly formed domestic mutual insurers shall be as provided in section 4905 of this title.

SUBCHAPTER III. REINSURANCE

§ 910. Reinsurance

(a) Any authorized insurer may reinsure all or any part of an individual risk or of a particular class of risks in any other insurer, or accept such reinsurance from any other insurer; and, with the Commissioner's consent, may reinsure all of its risks in any other authorized insurer, or reinsure all of the risks of any other insurer.

(b) No credit shall be taken for the reserve or unearned premium liability on account of any such reinsurance, unless the insurer accepting the reinsurance is authorized to transact insurance in this State or in another state conforming to the same standards of solvency which would be required of such insurer if, at the time such reinsurance is effected, it was authorized in this State; or, in the case of a group of individual, unincorporated alien insurers, has assets held in trust for the benefit of its United States policyholders in a sum not less than \$50,000,000, and is authorized to transact insurance in at least one state.

(c) Credit shall be allowed as an asset or as a deduction from liability, to any ceding insurer for reinsurance ceded to an assuming insurer qualified therefor under subsection (b) above; except that no such credit shall be allowed unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

(d) Except, that a domestic insurer may, with the Commissioner's consent, reinsure or transfer all or any part of its risks in any country other than the United States of America, its states, commonwealths, districts, and jurisdictions, in or to any solvent insurer authorized to transact insurance in any part of the world. The domestic insurer may thereafter take credit in its liabilities to the extent that reserves are maintained by the reinsurer on risk so reinsured or transferred.

(e) Upon request of the Commissioner an insurer shall promptly inform the Commissioner in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

(f) This section shall not apply to wet marine and transportation insurance.

CHAPTER 11. ASSETS AND LIABILITIES

SUBCHAPTER I. ASSETS

§ 1101. "Assets" defined

In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of :

(1) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company.

(2) Investments, securities, properties and loans acquired or held in accordance with this title, and in connection therewith the following items:

(i) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

(ii) Declared and unpaid dividends on stock and shares, unless such amount has otherwise been allowed as an asset.

(iii) Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon.

(iv) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the Commissioner a collectible asset.

(v) Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of 18 months be allowed as an asset.

(vi) Rent due or accrued on real property if such rent is not in arrears for more than 3 months, and rent more than 3 months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral.

(vii) The unaccrued portion of taxes paid prior to the due date on real property.

(3) Premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and accrued interest thereon, in an amount not exceeding the legal reserve and other policy liabilities carried on each individual policy.

(4) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer.

(5) Premiums in the course of collection, other than for life insurance, not more than 3 months past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable directly or indirectly by the United States government or by any of its instrumentalities.

(6) Installment premiums other than life insurance premiums to the extent of the unearned premium reserve carried on the policy to which premiums apply.

(7) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon.

(8) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under section 910 of this title.

(9) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty.

(10) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the Commissioner available for the payment of losses and claims and at values to be determined by him.

(11) All assets, whether or not consistent with the provisions of this section, as may be allowed pursuant to the annual statement form approved by the Commissioner for the kinds of insurance to be reported upon therein.

(12) As to a title insurer, its title plant and equipment reasonably necessary for conduct of its abstract or title insurance business, at not to exceed the cost thereof.

(13) Electronic and mechanical machines and related equipment constituting a data processing, recordkeeping, or accounting system or systems if the cost of each such system is at least \$25,000, which cost shall be amortized in full over a period not to exceed 10 years. The aggregate amount invested in all such systems shall not exceed 5% of the insurer's assets.

(14) Other assets, not inconsistent with the provisions of

this section, deemed by the Commissioner to be available for the payment of losses and claims at values to be determined by him.

§ 1102. Assets not allowed

In addition to assets impliedly excluded by the provisions of section 1101 of this chapter, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

- (1) Goodwill, trade names and other like intangible assets.
- (2) Advances to officers (other than policy loans) whether secured or not, and advances to employees, agents and other persons on personal security only.
- (3) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation or business unit.
- (4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature and supplies (other than data processing, recordkeeping and accounting systems authorized under section 1101 (13) of this chapter) and except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under section 1323 of this title; and except, in the case of any insurer, such personal property as the insurer is permitted to hold pursuant to chapter 13 of this title, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office and similar purposes.
- (5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this title.

SUBCHAPTER II. LIABILITIES AND RESERVES

§ 1103. Liabilities, in general

In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

(1) The amount of its capital stock outstanding, if any.

(2) The amount, estimated consistent with the provisions of this title, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof.

(3) With reference to life insurance policies and annuity contracts, and disability and accidental death benefits in or supplemental thereto:

(i) The amount of reserves on life insurance policies and annuity contracts in force, value according to the tables of mortality, rates of interest, and methods adopted pursuant to this title which are applicable thereto.

(ii) Reserves for disability benefits, for both active and disabled lives.

(iii) Reserves for accidental death benefits.

(iv) Any additional reserves which may be required by the Commissioner consistent with applicable customary and general practice in insurance accounting.

(4) As to health insurance policies, the reserves required under section 1108 of this chapter.

(5) With reference to insurance other than specified in subdivisions (3) and (4) above, and other than title insurance, the amount of the unearned premium reserves computed in accordance with this subchapter.

(6) Taxes, expenses and other obligations due or accrued at the date of the statement.

§ 1104. Reserves of domestic insurers transacting business in foreign countries only

A domestic insurer transacting insurance in foreign countries only, and not transacting insurance in any state as defined in section 107 of this title, may calculate its reserves on insurance written in each foreign jurisdiction in accordance with the reserve standards required by such jurisdiction; and negotiation and issuance of insurance on subjects of insurance resident,

located, or to be performed in such foreign jurisdiction, and changes in, communications concerning, and collection of premiums on, insurance so issued, shall not be deemed to constitute the transaction of insurance in any such state.

§ 1105. Disallowance of "wash" transactions

(a) The Commissioner shall disallow as an asset or as a credit against liabilities any reinsurance found by him after a hearing thereon to have been arranged for the purpose principally of deception as to the ceding insurer's financial condition as at the date of any financial statement of the insurer. Without limiting the general purport of the foregoing provision, reinsurance of any substantial part of the insurer's outstanding risks contracted for in fact within 4 months prior to the date of any such financial statement and cancelled in fact with 4 months after the date of such statement, or reinsurance under which the reinsurer bears no substantial insurance risk or chance of net loss to itself, shall prima facie be deemed to have been arranged principally for the purpose of deception.

(b) The Commissioner shall disallow as an asset any deposit, funds or other assets of the insurer found by him after a hearing thereon:

- (1) Not to be in good faith the property of the insurer; and
- (2) Not freely subject to withdrawal or liquidation by the insurer at any time for the payment or discharge of claims or other obligations arising under its policies; and
- (3) To be resulting from arrangements made principally for the purpose of deception as to the insurer's financial condition as at the date of any financial statement of the insurer.

(c) The Commissioner may suspend or revoke the certificate of authority of any insurer which has knowingly been a party to any such deception or attempt thereat.

§ 1106. Unearned premium reserve

(a) As to property, casualty and surety insurance the insurer shall maintain an unearned premium reserve on all policies in force.

(b) Except as provided in section 1107 of this chapter as to marine and transportation risks, the unearned premium shall be equal to the unearned portion of gross premiums in force (after deduction of applicable reinsurance in solvent insurers) computed on an annual, monthly or more frequently pro rata basis.

§ 1107. Unearned premium reserve for marine and transportation insurance

As to marine and transportation insurance, the entire amount of premiums on trip risks not terminated shall be deemed unearned; and the Commissioner may require the insurer to carry a reserve equal to 100% of premiums on trip risks written during the month ended as of the date of statement.

§ 1108. Health insurance policy reserves

For all health insurance policies the insurer shall maintain an active life reserve which shall place a sound value on its liabilities under such policies and be not less than the reserve according to appropriate standards set forth in regulations issued by the Commissioner and, in no event, less in the aggregate than the pro rata gross unearned premiums for such policies.

§ 1109. Title insurance reserves

In addition to an adequate reserve as to outstanding losses as required under section 1102 of this chapter, a title insurer shall maintain a guaranty fund or unearned premium reserve of not less than an amount computed as follows:

(1) Ten percent of the total amount of the risk portion of premiums written in the calendar year for title insurance contracts shall be assigned originally to the reserve.

(2) During each of the 20 years next following the year in which the title insurance contract was issued, the reserve applicable to the contract may be reduced by 5% of the original amount of such reserve.

§ 1110. Mortgage guaranty contingency reserve

(a) Casualty or surety insurers insuring real property mortgage lenders against loss by reason of nonpayment of the

mortgage indebtedness by the borrower, shall maintain a contingency reserve for the protection of policyholders against the effects of adverse economic cycles.

(b) The insurer shall contribute to such contingency reserve 50% of net premiums (gross premiums less premiums returned to policyholders) written on such insurance remaining after establishment of the unearned premium reserve.

(c) Subject to the Commissioner's approval, the contingency reserve shall be available for payment of losses only when the insurer's incurred losses in any one calendar year exceed the rate formula expected losses by 10% of the related earned premiums.

SUBCHAPTER III. LIFE INSURANCE RESERVES

§ 1111. Valuation for reserves

(a) The Commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this State, except that in the case of an alien insurer such valuation shall be limited to its insurance transactions in the United States, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise.

(b) In lieu of the valuation of the reserves herein required of any foreign or alien insurer, the Commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided in this subchapter and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the Commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if

they had been computed in the manner prescribed by the law of that state or jurisdiction.

(c) The Commissioner may vary the standards of interest and mortality in particular cases of invalid lives and other extra hazards.

(d) Any insurer which at any time has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the Commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(e) This section shall not apply to domestic insurers operating on the assessment plan.

§ 1112. Minimum valuation standards for policies issued prior to operative date of the Standard Nonforfeiture Law

(a) The provisions of this section shall apply to only those policies and contracts issued before the operative date of the Standard Nonforfeiture Law, section 2929 of this title.

(b) The legal minimum standard for the valuation of life insurance contracts issued before January 1, 1932, shall be the method and basis of valuation applied by this State prior to March 30, 1943, in the valuation of such contracts, and for life insurance contracts issued on and after January 1, 1932, shall be the one year preliminary term method of valuation, except as hereinafter modified, on the basis of the American Experience Table of Mortality with interest at $3\frac{1}{2}\%$ per annum.

(c) If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than 20 years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for like insurance under 20 payment life preliminary term policies of the same insurer, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a 20 payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the

end of the premium payment period, equal to the difference between the value at the end of such period of such a 20 payment life preliminary term policy and the full net level premium reserve at such time of such a limited payment life or endowment policy. The premium payment period is the period during which premiums are concurrently payable, under such 20 payment life preliminary term policy and such limited payment life or endowment policy.

(d) Policies issued on the preliminary term method shall contain a clause specifying that the reserve thereon shall be computed in accordance with the modified preliminary term method of valuation provided for herein.

(e) The legal minimum standard for the valuation of annuities issued on and after January 1, 1932, shall be McClintock's Table of Mortality Among Annuitants with interest at 4% per annum, but annuities deferred 10 or more years and written in connection with life insurance shall be valued on the same basis as that used in computing the consideration or premiums therefor, or upon any higher standard at the option of the insurer.

(f) Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this section.

§ 1113. Minimum valuation standards for policies issued after operative date of the Standard Nonforfeiture Law

(a) The provisions of this section shall apply to only those policies and contracts issued on or after the operative date of the Standard Nonforfeiture Law, section 2929 of this title.

(b) The minimum standard for the valuation of all policies and contracts to which this section applies shall be the Commissioners reserve valuation method defined in subsection (c) of this section, 3½% interest, and the following tables:

(1) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the

operative date of section 2929 (d-1) of this title, and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than 3 years younger than the actual age of the insured;

(2) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of section 2929 (d-2) of this title, and the Commissioners 1961 Standard Industrial Mortality Table for such policies issued on or after such operative date;

(3) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the Commissioner;

(4) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the Group Annuity Mortality Table for 1951, any modification of such table approved by the Commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;

(5) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the insurer, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(6) For accidental death benefits in or supplementary to policies—for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the insurer, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(7) For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the Commissioner.

(c) Reserves according to the Commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:

(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue; of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(B) A net one year term premium for such benefits provided for in the first policy year.

Reserves according to the Commissioners reserve valuation method for (i) life insurance policies providing for a varying

amount of insurance or requiring the payment of varying premiums, (ii) annuity and pure endowment contracts, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this subsection, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(d) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in subsection (c) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(e) Reserves for any category of policies, contracts or benefits as established by the Commissioner, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein. Reserves for participating life insurance policies may, with the consent of the Commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than $\frac{1}{2}\%$ the insurer issuing such policies shall file with the Commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the Commissioner shall approve.

(f) If the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency

reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

SUBCHAPTER IV. VALUATION OF ASSETS

§ 1114. Valuation of bonds

(a) All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be value as follows:

(1) If purchased at par, at the par value.

(2) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the Commissioner.

(3) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

(4) Unless otherwise provided by valuation established or approved by the Commissioner, no such security shall be carried at above the call price for the entire issue during any period within which the security may be so called.

(b) The Commissioner shall have full discretion in determining the method of calculating values according to the rules set forth in this section.

§ 1115. Valuation of other securities

(a) Securities, other than those referred to in section 1114 of this chapter, held by an insurer shall be valued, in the discretion of the Commissioner, at their market value, or at their appraised value, or at prices determined by him as representing their fair market value.

(b) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the Commissioner and in accordance with such method of computation as he may approve.

(c) The stock of a subsidiary of an insurer shall be valued on the basis of the value of only such of the assets of such subsidiary as would constitute lawful investments of the insurer if acquired or held directly by the insurer.

§ 1116. Valuation of property

(a) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the Commissioner to be reliable, shall not be value at an amount greater than the unpaid principal of the defaulted loan or contract plus interest due and accrued at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(b) Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal. If valuation is based on an appraisal more than 3 years old, the Commissioner may at his discretion call for and require a new appraisal in order to determine fair value.

§ 1117. Valuation of purchase money mortgages

Purchase money mortgages on real property referred to in section 1116 (a) of this subchapter shall be valued in an amount not exceeding the acquisition cost of the real property covered thereby or 90% of the fair value of such real property, whichever is less.

CHAPTER 13. INVESTMENTS

§ 1301. Scope of chapter

Except as to section 1330 of this chapter, this chapter applies to domestic insurers only.

§ 1302. Eligible investments

(a) Insurers shall invest in or lend their funds on the security of, and shall hold as invested assets, only eligible investments as prescribed in this chapter.

(b) Any particular investment held by an insurer on the effective date of this act, which was a legal investment at the time it was made, and which the insurer was legally entitled to possess immediately prior to such effective date, shall be deemed to be an eligible investment.

(c) Eligibility of an investment shall be determined as of the date of its making or acquisition, except as stated in subsection (b) above.

(d) Any investment limitation based upon the amount of the insurer's assets or particular funds shall relate to such assets or funds as shown by the insurer's annual statement as of the December 31 next preceding date of acquisition of the investment by the insurer, or as shown by a current financial statement resulting from merger of another insurer, bulk reinsurance, or change in capitalization.

§ 1303. General qualifications

(a) No security or investment, (other than real and personal property acquired under section 1325 (real estate) of this chapter), shall be eligible for acquisition unless it is interest bearing or interest accruing or entitled to dividends or is otherwise income-earning, is not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit the interest or income accruing thereon.

(b) No security or investment shall be eligible for purchase at a price above its fair value or market value.

(c) No provision of this chapter shall prohibit the acquisition by an insurer of other or additional securities or property if received as a dividend or as a lawful distribution of assets, or upon a debt or judgment, or under a lawful and bona fide agreement of bulk reinsurance, merger, or consolidation. Any security or property so acquired which is not otherwise an eligible investment under this chapter shall be disposed of pursuant to section 1326 of this chapter if real estate, or pursuant to section 1327 of this chapter if personal property or securities.

§ 1304. Authorization, record of investments

(a) An insurer shall not make any investment or loan (other than policy loans or annuity contract loans of a life insurer) unless the same is authorized or approved by the insurer's board of directors or by a committee thereof charged with supervision of investments and loans.

(b) The insurer shall maintain a full record of each investment, showing, among other pertinent information, the name of any officer, director or principal stockholder of the insurer having any direct, indirect, or contingent interest in the securities, loan, or property constituting the investment, or in the person in whose behalf the investment is made, and the nature of such interest.

§ 1305. Diversification

An insurer shall invest in or hold as admitted assets categories of investments within applicable limits as follows only:

(1) *One person.* An insurer shall not at any one time have any combination of investments in or loans upon the security of obligations, property, or securities of any one person (other than its lawful subsidiary) aggregating over 5% of the insurer's assets. This shall not apply as to general obligations of the United States or of any state, or of Canada or any province thereof, or include policy loans made under section 1317 of this chapter.

(2) *Voting stock.* An insurer shall not invest in or hold at any one time more than 10% of the outstanding voting stock of any corporation, except as to voting rights of preferred stock during default of dividends. This does not apply as to stock of a subsidiary of the insurer acquired under section 1313 of this chapter, or to controlling stock of an insurer acquired under section 1312(b) of this chapter.

(3) *Stocks.* A life insurer shall invest and have invested at any one time in aggregate amount not more than 125% of its policyholders' surplus (as defined in section 511(2) of this title), in all stocks under sections 1310 (preferred and guaranteed stocks), 1311 (common stocks), 1312 (insurance stocks) and 1314 (common trust funds, mutual funds) of this chapter.

This provision shall not apply as to stock of controlled or subsidiary corporation under sections 1312(b) and 1313, or as to investments made pursuant to section 1322 (special investments of pension, profit sharing, or annuity funds) of this chapter.

(4) *Mortgages.* An insurer shall not at any one time have more than 50% of its assets invested in obligations secured by mortgages of real property, exclusive of that portion of such obligations guaranteed or insured by an agency of the United States government.

(5) *Other specific limits.* Limits as to investments in the category of real estate shall be as provided in section 1325 of this chapter; and other specific limits, if any, shall apply as stated in sections dealing with other respective kinds of investments.

§ 1306. Public obligations

An insurer may invest in bonds or other evidences of indebtedness, not in default as to principal or interest, which are valid and legally authorized obligations issued, assumed, or guaranteed by the United States or by any state thereof, or by Canada or any of the provinces 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 (1) taxes levied or required to be levied upon all taxable property or all taxable income within the jurisdiction of such governmental unit, or from (2) 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 is additionally secured by an adequate guaranty fund required by law.

§ 1307. Obligations, stock of certain federal and international agencies

An insurer may invest in the obligations, and/or stock where stated, issued, assumed or guaranteed by the following

agencies of the government of the United States of America, or in which such government is a participant, whether or not such obligations are guaranteed by such government:

- (1) Farm Loan Bank.
- (2) Commodity Credit Corporation.
- (3) Federal Intermediate Credit Banks.
- (4) Federal Land Banks.
- (5) Central Bank for Cooperatives.
- (6) Federal Home Loan Banks, and stocks thereof.
- (7) Federal National Mortgage Association, and stock thereof when acquired in connection with sale of mortgage loans to such Association.
- (8) International Bank for Reconstruction and Development.
- (9) Inter-American Development Bank.
- (10) Any other similar agency of, or participated in by, the government of the United States of America and of similar financial quality.

§ 1308. Corporate obligations

An insurer may invest any of its funds in obligations other than those eligible for investment under section 1324 (real estate mortgages) of this chapter if they are issued, assumed, or guaranteed by any solvent institution created or existing under the laws of the United States or Canada or of any state, district, province or territory thereof, and are qualified under any of the following:

- (1) Obligations which are secured by adequate collateral security and bear fixed interest if during each of any 3, including the last 2, of the 5 fiscal years next preceding the date of acquisition by the insurer, the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges, as defined in section 1309, have been not less than one and one-fourth times the total of its fixed charges for such year. In determining the adequacy of collateral security not more than one-third of the total value of such required collateral shall con-

sist of stock other than stock meeting the requirements of section 1310 herein (preferred or guaranteed stock) of this chapter.

(2) Fixed interest-bearing obligations, other than those described in subdivision (1) of this section, if the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges for a period of 5 fiscal years next preceding the date of acquisition by the insurer have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period and if during the last year of such period such net earnings have been not less than one and one-half times its fixed charges for such year.

(3) Adjustment, income or other contingent interest obligations if the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges for a period of 5 fiscal years next preceding the date of acquisition by the insurer have averaged per year not less than one and one-half times the sum of its average annual fixed charges and its average annual maximum contingent interest applicable to such period and if during each of the last 2 years of such period such net earnings have not been less than one and one-half times the sum of its fixed charges and maximum contingent interest for such year.

§ 1309. Corporate obligations—Terms defined

(a) Certain terms used are defined for the purposes of this chapter as follows:

(1) "Obligation" includes bonds, debentures, notes or other evidences of indebtedness.

(2) "Institution" includes corporations, joint-stock associations, and business trusts.

(3) "Net earnings available for fixed charges" means net income after deducting operating and maintenance expenses, taxes, other than federal and state income taxes, depreciation and depletion, but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of such institutions.

(4) "Fixed charges" includes interest on funded and unfunded debt, amortization of debt discount, and rentals for leased properties.

(b) If net earnings are determined in reliance upon consolidated earnings statements of parent and subsidiary institutions, such net earnings shall be determined after provision for income taxes of subsidiaries and after proper allowance for minority stock interest if any; and the required coverage of fixed charges shall be computed on a basis including fixed charges and preferred dividends of subsidiaries other than those payable by such subsidiaries to the parent corporation or to any other of such subsidiaries, except that if the minority common stock interest in the subsidiary corporation is substantial, the fixed charges and preferred dividends may be apportioned in accordance with regulations prescribed by the Commissioner.

§ 1310. Preferred or guaranteed stock

An insurer may invest in preferred or guaranteed stocks or shares of any solvent institution existing under the laws of the United States or of Canada, or of any state or province thereof, if all of the prior obligations and prior preferred stocks, if any, of such institution at the date of acquisition of the investment by the insurer are eligible as investments under this chapter and if the net earnings of such institution available for its fixed charges during either of the last 2 years have been, and during each of the last 5 years have averaged, not less than one and one-half times the sum of its average annual fixed charges, if any, its average annual maximum contingent interest, if any, and its average annual preferred dividend requirements. For the purposes of this section such computation shall refer to the fiscal years immediately preceding the date of acquisition of the investment by the insurer, and the term "preferred dividend requirement" shall be deemed to mean cumulative or noncumulative dividends, whether paid or not.

§ 1311. Common stocks

An insurer may invest in nonassessable (except as to bank or trust company stocks, and except for taxes) common stocks, other than insurance stocks, of any solvent corporation organized and existing under the laws of the United States or Canada, or of any state or province thereof, if such corporation has had net earnings available for dividends on such stock in each of the 5 fiscal years next preceding acquisition by the insurer. If the

issuing corporation has not been in legal existence for the whole of such 5 fiscal years but was formed as a consolidation or merger of 2 or more businesses of which at least one was in operation on a date 5 years prior to the investment, the test of eligibility of its common stock under this section shall be based upon consolidated pro-forma statements of the predecessor or constituent institutions.

§ 1312. Insurance stocks

(a) An insurer may invest in the stocks of other solvent insurers formed under the laws of this or another state, which stocks meet the applicable requirements of sections 1310 (preferred or guaranteed stock) and 1311 (common stocks) of this chapter.

(b) With the Commissioner's advance written consent an insurer may acquire and hold the controlling interest in the outstanding voting stock of another stock insurer formed under the laws of this or another state. All stocks under this subsection shall be subject to the limitation as to amount as provided in section 1313 of this chapter. The Commissioner shall not give his consent to any such acquisition if he finds that it would not be in the best interests of the insurers involved, or of their respective policyholders or stockholders, or that such acquisition would materially tend to lessen competition or to result in any monopoly in the insurance business.

§ 1313. Stocks of subsidiaries

An insurer may invest in the stock of its subsidiary insurance corporation formed or acquired by it; or in the stock of its wholly-owned subsidiary business corporation formed under the laws of this State and necessary and incidental to the convenient operation of the insurer's insurance business or to the administration of any of its affairs. All of the insurer's investments under this section, together with its investments in insurance stocks under section 1312(b) of this chapter shall not at any time exceed the amount of the investing insurer's surplus, if a life insurer, or its policyholders' surplus (as defined in section 511(2) of this chapter) if other than a life insurer.

§ 1314. Common trust funds; mutual funds

An insurer may invest in:

(1) A bank's common trust fund as defined in section 584 of the United States Internal Revenue Code of 1954; and

(2) The securities of any open-end management type investment company or investment trust registered with the federal Securities and Exchange Commission under the Investment Company Act of 1940 as from time to time amended, if such investment company or trust has assets of not less than \$25,000,000 as at date of investment by the insurer.

§ 1315. Bankers' acceptances; bills of exchange

An insurer may invest in bankers' acceptances and bills of exchange of the kinds and maturities made eligible by law for rediscount with Federal Reserve Banks, and generally accepted by banks or trust companies which are members of the Federal Reserve system.

§ 1316. Equipment trust certificates

An insurer may invest in equipment trust obligations or certificates adequately secured and evidencing an interest in transportation equipment, wholly or in part within the United States of America, which obligations or certificates carry the right to receive determined portions of rental, purchase, or other fixed obligatory payments to be made for the use or purchase of such transportation equipment.

§ 1317. Policy loans

A life insurer may lend to its policyholder upon pledge of the policy as collateral security, any sum not exceeding the cash surrender value of the policy; or may lend against pledge or assignment of any of its supplementary contracts or other contracts or obligations, so long as the loan is adequately secured by such pledge or assignment. Loans so made are eligible investments of the insurer.

§ 1318. Collateral loans

An insurer may lend and thereby invest its funds upon the pledge of securities eligible for investment under this chapter.

As at date made, no such loan shall exceed in amount 90% of the market value of such collateral pledged. The amount so loaned shall be included pro rata in determining the maximum percentage of funds permitted under this chapter to be invested in the respective categories of securities so pledged.

§ 1319. Savings and share accounts

An insurer may invest in share or savings accounts of savings and loan or building and loan associations, or in savings accounts of banks; and in any one such institution only to the extent that the investment is insured by the federal savings and loan insurance corporation or the federal deposit insurance corporation.

§ 1320. Miscellaneous investments

(a) An insurer may make loans or investments not otherwise expressly permitted under this chapter, in aggregate amount not over 5% of the insurer's assets and not over 1% such assets as to any one such loan or investment, if such loan or investment fulfills the requirements of section 1303 of this chapter and otherwise qualifies as a sound investment. No such loan or investment shall be represented by:

(1) Any item described in section 1102 (assets not allowed) of this title, or any loan or investment otherwise expressly prohibited.

(2) Agents' balances, or amounts advanced to or owing by agents; except as to policy loans, mortgage loans, and collateral loans otherwise authorized under this chapter.

(3) Any category of loans or investments expressly eligible under any other provision of this chapter.

(4) Any asset theretofore acquired or held by the insurer under any other category of loans or investments eligible under this chapter.

(b) The insurer shall keep a separate record of all loans and investments made under this section.

§ 1321. Investments in foreign countries

(a) An insurer transacting insurance in a foreign country may invest funds required to meet its obligations in such country

and in conformity with the laws thereof in the same kinds of securities and investments of or in such country as the insurer is authorized to invest in or acquire under other provisions of this chapter; other insurers (except as provided in subsection (b) below) may have not over 5% of assets invested in such securities and investments of foreign countries.

(b) If such an insurer is not doing business in any state of the United States of America, it may invest its funds as permitted by the laws of any jurisdiction where it does business. Negotiation and issuance of insurance on risks situated outside every such state, and changes in, communications concerning, and collection of premiums on, insurance so issued, shall not be deemed hereunder to be doing business in any such state.

§ 1322. Special investments of pension; profit sharing or annuity funds

The amounts allocated to each separate account established by the insurer in connection with a pension, retirement or profit-sharing plan or annuity pursuant to section 2933 (pension, profit-sharing, annuity agreements-separate accounts) of this title, together with 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 requirements or limitations prescribed by this chapter; except, that to the extent that the insurer's reserve liability with regard to (1) benefits guaranteed as to amount and duration, and (2) funds guaranteed as to principal amount or stated rate of interest, is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be invested in accordance with the applicable provisions of this chapter. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to other investments of the insurer.

§ 1323. Special investments of title insurers

(a) A title insurer may also have invested funds in an amount not exceeding 50% of its paid-in capital stock and its surplus, in its abstract plant and equipment and in stocks of abstract companies.

(b) Investments authorized under subsection (a) shall not be credited against required reserves.

§ 1324. Real estate mortgages

(a) An insurer may invest in bonds or notes secured by mortgages or deeds of trust representing first liens upon unencumbered real estate, perpetual leases thereon or leasehold estates when the remaining term of such leasehold and enforceable renewals is not less than 20 years greater than the term of the first lien, in the United States or Canada, subject to the following conditions:

(1) The amount loaned, or the aggregate amount of bonds issued upon the security of a mortgage or deed of trust, shall not at the time of the investment exceed 75% of the fair market value of the real estate, as such value has been determined by a qualified appraiser for the purposes of the investment or at the time of issuance of the bonds.

(2) In applying the limitation under (1) above, there may be excluded from the amount invested that portion of the investment which is guaranteed by the Administrator of Veterans' Affairs pursuant to the Servicemens Readjustment Act of 1944, as amended, or insured by the Federal Housing Administrator or other United States or Canadian government agency.

(3) Insurance not less comprehensive than fire and extended coverage must be carried on the improvements, if any, on the real estate, in an amount not less than 75% of the insurable value of the improvements or the unpaid balance of the investment, whichever is the lesser amount, and the policy or policies evidencing such insurance shall be endorsed to show the interest of the lender.

(b) For the purposes of this section real estate shall not be deemed to be encumbered by reason of the existence of taxes or assessments which are not delinquent, instruments creating or reserving mineral, oil or timber rights, rights-of-way, joint driveways, sewer rights, rights in walls, or by reason of building restrictions or other restrictive covenants, or when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner.

§ 1325. Real estate

(a) A domestic insurer may invest in real estate only if used for the purposes or acquired in the manners, and within the limits, as follows:

(1) The building in which it has its principal office, the land upon which the building stands, and such other real estate as may be requisite for the insurer's convenient accommodation in the transaction of its business. The amount so invested, and apportioned as to space actually so occupied or used, shall not aggregate more than 10% of the insurer's assets.

(2) Real estate acquired in satisfaction of loans, mortgages, liens, judgments, decrees or debts previously owing to the insurer in the due course of its business.

(3) Real estate acquired in part payment of the consideration on the sale of other real estate owned by it, if such transaction shall have effected a net reduction in the insurer's investments in real estate.

(4) Real estate acquired by gift or devise, or through merger, consolidation, or bulk reinsurance of another insurer under this title.

(5) The seller's interest in real estate subject to an agreement of purchase or sale, but the sum invested in any such interest shall not exceed two-thirds of the fair value of such parcel.

(6) Additional real estate and equipment incident thereto, if necessary or convenient for the purpose of enhancing the sale or other value of real estate previously acquired or held under this section. Such real estate and equipment, together with the real estate for the enhancement of which it was acquired, shall be included, for the purpose of applicable investment limits, and shall be subject to disposal under section 1326 at the same time and under the same conditions as apply to such enhanced real estate.

(7) Real estate, or any interest therein, acquired or held by purchase, lease, or otherwise, other than real estate to be used primarily for agricultural ranch, mining, development of oil or mineral resources, recreational, amusement, hotel, motel, or club purposes, acquired as an investment for production of in-

come, or acquired to be improved or developed for such investment purposes pursuant to an existing program therefor. The insurer may hold, mortgage, improve, develop, maintain, manage, lease, sell, convey, and otherwise dispose of real estate acquired by it under this provision. An insurer shall not have at any one time invested in real estate under this subdivision more than 15% of its assets.

(b) All real estate owned by a domestic insurer under this section, other than as to seller's interest specified in subdivision (5), shall not at any one time exceed 25% of the insurer's assets.

§ 1326. Time limit for disposal of real estate

(a) Except as stated in subsection (b) of this section, or unless the insurer elects to hold the real estate as an investment under section 1325(a) (7) of this chapter:

(1) An insurer shall dispose of real estate acquired under section 1325 (a) (1) of this chapter within 5 years after it has ceased to be necessary for the convenient accommodation of the insurer in the transaction of its business.

(2) An insurer shall dispose of real estate acquired under section 1325(a) (2), (3) and (4) of this chapter within 5 years after the date of acquisition, unless used or to be used for the insurer's accommodation under section 1325(a) (1) of this chapter.

(b) Upon proof satisfactory to him that the interests of the insurer will suffer materially by the forced sale thereof, the Commissioner may by order grant a reasonable extension of the period, as specified in such order, within which the insurer shall dispose of any particular parcel of such real estate.

§ 1327. Time limit for disposal of other ineligible property and securities

Any personal property or securities lawfully acquired by an insurer which it could not otherwise have invested in or loaned its funds upon at the time of such acquisition, shall be disposed of within 3 years from date of acquisition unless within such period the security has attained to the standard of eligibility; except, that any security or personal property acquired under

any agreement of bulk reinsurance, merger, or consolidation, may be retained for a longer period is so provided in the plan for such reinsurance, merger, or consolidation as approved by the Commissioner under chapter 49 of this title. Upon application by the insurer and proof that forced sale of any such property or security would materially injure the interests of the insurer, the Commissioner may extend the disposal period for an additional reasonable time.

§ 1328. Failure to dispose of real estate or securities—Effect; penalty

(a) Any real estate, personal property, or securities lawfully acquired, and held by an insurer after expiration of the period for disposal thereof or any extension of such period granted by the Commissioner as provided in sections 1326 and 1327 of this chapter, shall not be allowed as an asset of the insurer.

(b) The insurer shall forthwith dispose of any ineligible investment unlawfully acquired by it, and the Commissioner shall suspend or revoke the insurer's certificate of authority if the insurer fails to dispose of the investment within such reasonable time as the Commissioner may, by his order, specify.

§ 1329. Prohibited investments and investment underwriting

(a) In addition to investments excluded pursuant to other provisions of this title, an insurer shall not invest in or lend its funds upon the security of:

(1) Issued shares of its own capital stock, except (i) for the purpose of mutualization under section 4928 of this title, and (ii) where the insurer has first submitted a plan for such investment or loan to the Commissioner and the Commissioner has not, within 20 days after such submission or within such additional reasonable period as the Commissioner may request, disapproved such plan as unfair or inequitable to the insurer's policyholders or stockholders.

(2) Securities issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by combination of the insurer and the insurer's directors, officers, subsidiaries, or controlling stockholders (other than a parent cor-

poration), and the spouses and children of any of the foregoing individuals. Investments in controlled insurance corporations or subsidiaries under sections 1312(b) and 1313 of this chapter are not subject to this provision.

(3) Any note or other evidence of indebtedness of any director, officer, employee or controlling stock holder of the insurer or of the spouse, or child of any of the foregoing individuals, except as to policy loans authorized under section 1317 of this chapter.

(b) No insurer shall underwrite or participate in the underwriting of an offering of securities or property of any other person.

(c) No insurer shall enter into any agreement to withhold from sale any of its securities or property, and the disposition of its assets shall at all times be within the control of the insurer.

§ 1330. Investments of foreign insurers

The investment portfolio of a foreign or alien insurer shall be as permitted by the laws of its domicile if of a quality substantially equal to that required under this chapter for similar funds of like domestic insurers.

CHAPTER 15. ADMINISTRATION OF DEPOSITS

§ 1501. Authorized deposits of insurers

The following deposits of insurers when made through the Commissioner shall be accepted and held by him in trust, subject to the provisions of this chapter:

(a) Deposits required under this title for authority to transact insurance in this State.

(b) Deposits of domestic insurers when made pursuant to the laws of other states, provinces, and countries as requirement for authority to transact insurance in such state, province, or country.

(c) Deposits in such additional amounts as are permitted to be made under section 1509 of this chapter.

§ 1502. Purpose of deposit

(a) Deposits made in this State under section 513 (deposit requirements, in general) of this title shall be held in trust for the respective purposes stated in that section.

(b) A deposit made in this State by a domestic insurer transacting insurance in another state, province, or country, and as required by the laws of such other state, province, or country, shall be held for the protection of all the insurer's policyholders or all its policyholders and creditors or for such other purpose or purposes as may be specified pursuant to such laws.

(c) Deposits made by domestic life insurers in connection with registered policies and bonds shall be made and held for the special protection of the holders of such policies and bonds.

(d) Deposits required under the retaliatory law, section 531 of this title, shall be held for such purposes as is required by such law, and as specified by the Commissioner's order requiring such deposit to be made.

§ 1503. Securities eligible for deposit

(a) All such deposits required under section 513 of this title for authority to transact insurance in this State shall consist of good interest-bearing or dividend-paying securities of kinds eligible for investment of the funds of domestic insurers under chapter 13 of this title.

(b) All other deposits of a domestic insurer held in this State pursuant to the laws of another state, province, or country shall be comprised of securities of the kinds described in subsection (a), above, and of such additional kind or kinds of securities required or permitted by the laws of such state, province, or country.

(c) Deposits of foreign insurers made in this State under the retaliatory law, section 531 of this title, shall consist of such assets as are required by the Commissioner pursuant to such law.

§ 1504. Depository; access; costs

(a) Deposits made in this State under this title shall be made through the Commissioner and kept in safe deposit with

an established bank or trust company located in this State and selected by the Commissioner.

(b) Wherever reasonably possible all deposited securities shall be registered in the name of the Insurance Commissioner, State of Delaware, in trust for the depositing insurer, or registered in the insurer's name and be accompanied by a duly executed power of attorney in favor of the Commissioner. The State shall be responsible for the safekeeping of all securities deposited under this subsection, and shall bear the costs of the depository.

(c) If securities for deposit are submitted in form other than as provided in subsection (b) above, or in connection with "registered" policies or bonds, the Commissioner of his representative shall forthwith deposit the same in the presence of the president, vice-president or authorized agent of the insurer, in a strong metal box, which shall require two distinct and different keys to unlock the same, one key to be kept by the Commissioner and the other by the insurer. The box shall not be opened except in the presence of the Commissioner or duly authorized representative, and the president, vice-president or authorized agent of the insurer. The insurer shall bear the costs of the depository.

§ 1505. Record of deposits

(a) The Commissioner shall give to the depositing insurer vouchers as to all assets and securities so deposited with him.

(b) The Commissioner shall keep a record of the assets and securities comprising each deposit, showing as far as practical the amount and market value of each item, and all his transactions relative thereto.

§ 1506. (Reserved for future use)

§ 1507. Assignment; transfer of securities

All securities deposited by an insurer and not negotiable by delivery shall be duly registered in the name of the Commissioner and his successors in office, or with power of attorney as provided in section 1504 of this chapter. Upon release of any such security to the insurer, the Commissioner shall reassign or surrender the power of attorney to the insurer.

§ 1508. Appraisal

The Commissioner may, in his discretion, prior to acceptance for deposit of any particular asset or security, or at any time thereafter while so deposited, have the same appraised or valued by competent appraisers. The reasonable costs of any such appraisal or valuation shall be borne by the insurer.

§ 1509. Excess deposits

(a) If assets deposited by an insurer under this chapter are subject to material fluctuations in market value, the Commissioner may, in his discretion, require the insurer to deposit and maintain on deposit additional assets in amount reasonably necessary to assure that the deposit at all times has a market value of not less than the amount specified under the law by which the deposit is required.

(b) An insurer may otherwise at its option deposit assets in amount exceeding its deposit required or otherwise permitted under this title by not more than 20% of such required or permitted deposit, or \$20,000, whichever is the larger amount, for the purpose of absorbing fluctuations in the value of assets deposited and to facilitate exchange and substitution of such assets. During the solvency of the insurer any such excess shall be released to the insurer upon its request. During the insolvency of the insurer, such excess deposit shall be released only as provided in section 1513(e) of this chapter.

§ 1510. Rights of insurer during solvency

So long as the insurer remains solvent and is in compliance with this title it may:

- (1) Demand, receive, sue for and recover the income from the assets deposited;
- (2) Exchange and substitute for the deposited assets, assets of equivalent or greater fair market value; and
- (3) At any reasonable time inspect any such deposit.

§ 1511. Levy upon deposit

(a) Except as provided in subsection (b) below, no judgment creditor or other claimant of an insurer shall have the right

to levy upon any of the assets held in this State as a deposit for the protection of the insurer's policyholders or policyholders and creditors. As to deposits made pursuant to the retaliatory provision, section 531 of this title, levy thereupon shall be permitted if so provided in the Commissioner's order under which the deposit is required.

(b) Securities comprising the special deposit of a surety insurer required under section 513(b) of this title shall not be subject to levy under any writ of attachment, but shall be subject to process against the insurer, by final judgment and execution issued against the insurer on account of its default upon any surety contract issued by it in this State, upon 30 days' written notice to the insurer specifying the time, place, and manner of sale and the process under which and purposes for which the securities are to be sold and accompanied by a copy of such process.

§ 1512. Deficiency of deposit

If for any reason the market value of assets of an insurer held on deposit in this State as required under this title falls below the required amount, the insurer shall promptly deposit other or additional assets eligible for deposit sufficient to cure the deficiency. If the insurer has failed to cure the deficiency within 20 days after receipt of notice thereof by registered mail from the Commissioner, the Commissioner shall forthwith revoke the insurer's certificate of authority.

§ 1513. Duration and release of deposit, in general

(a) Every deposit made in this State by an insurer pursuant to the retaliatory law, section 531 of this title, shall be held for so long as the basis of such retaliation exists.

(b) When an insurer determines to discontinue business in this State, whether through merger, bulk reinsurance, or otherwise, and desires to withdraw its deposit, upon the insurer's application and at its expense the Commissioner shall publish notice of such intention in a newspaper of general circulation in the State once a week for four weeks. After such publication the Commissioner shall deliver the securities remaining on deposit to the insurer or its assigns when he is satisfied, upon examination and the oaths of the president and secretary or other chief

officers of the insurer, that all debts and liabilities of every kind due or to become due which the deposit was made to secure are paid, or extinguished, or otherwise adequately provided for.

(c) If the insurer has reinsured all its outstanding risks in another insurer or insurers, the Commissioner shall deliver such assets and securities to such insurer or insurers so assuming such risks, after publication of the notice required under subsection (b) above, and upon proof to his satisfaction that (1) the assuming insurer has assumed and agreed to discharge all liabilities of every kind due and to become due which the deposit was to secure, (2) the assuming insurer has on deposit in this State or with a State official in the United States, securities of a quality and in an amount and value not less than the deposit required of the reinsured insurer under this title and which will subsist for the security of the obligations of the reinsured insurer so assumed, and (3) such assets and securities have been duly assigned, transferred and set over to such assuming insurer or insurers.

(d) If such a withdrawal of deposit is desired by a foreign insurer, in addition to other requirements therefor the insurer shall notify its domiciliary state or province of the intended withdrawal and furnish to the Commissioner written acknowledgment by such state of such notification, in form satisfactory to him.

(e) If the insurer is subject to delinquency proceedings as defined in section 5901 of this title, upon the order of a court of competent jurisdiction, the Commissioner shall yield the insurer's assets held on deposit to the receiver, conservator, rehabilitator, or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

(f) No release of deposited assets shall be made except upon application to and the written order of the Commissioner. The Commissioner shall have no personal liability for any release of any such deposit or part thereof so made by him in good faith.

§ 1514. Deposit for "registered" life insurance policies and bonds

(a) Deposits made with the Commissioner in connection with "registered" policies and bonds heretofore issued in this

State by a life insurer shall be held as long as the policy or contract with respect to which such deposit was made continues in force.

(b) Deposits held with respect to policies and bonds still in force shall not be released, whether or not such policies and bonds have been reinsured or the entire liability thereunder assumed by another insurer, or the issuing insurer has become insolvent, subject to delinquency proceedings, or dissolved.

(c) Upon proof satisfactory to him that certain of such policies or bonds have lapsed, been surrendered for cash value, matured, or otherwise terminated, and that all liabilities of the insurer to policyholders and beneficiaries or bond holders with respect thereto have been fully paid and discharged, the Commission may release any applicable portion of the deposit if the deposit is then in excess of the amount otherwise required. The Commissioner may accept and rely upon the records of the insurer, as kept, summarized, and reported to him in regular course of its business, as to any such payment and discharge.

§ 1515. Commissioner's liability

If the Commissioner wilfully fails faithfully to require, deposit, keep, account, and receipt for, or surrender in the manner by law authorized or required any assets as provided in this title, he shall be responsible upon his official bond therefor and suit may be brought upon his bond by any person injured by such failure; and the Commissioner so offending shall be guilty of a felony, and fined not more than \$10,000 and imprisoned not less than 2 years or more than 10 years.

CHAPTER 17. AGENTS, BROKERS, SOLICITORS AND ADJUSTERS

§ 1701. Scope of chapter

This chapter applies as to all insurance agents, brokers, solicitors, adjusters and service representatives, and as to surplus line brokers to the extent in this chapter provided.

§ 1702. "Agent" defined

An "agent" is an individual, firm or corporation appointed by an insurer to solicit applications for insurance or annuity

contracts or to negotiate for such contracts on its behalf, and, if authorized to do so by the insurer, to effectuate and countersign insurance contracts.

§ 1703. "General lines" agent, "life" agent, "health" agent defined

(a) A "general lines" agent is an agent who transacts any one or more of the following kinds of insurance:

- (1) Property insurance.
- (2) Casualty insurance.
- (3) Surety insurance.
- (4) Marine and transportation insurance.

(5) Health insurance, when transacted for an insurer also represented by the same agent as to property or casualty insurance.

(b) A "life" agent is an agent who transacts life insurance or annuity business, and includes also the transaction of health insurance on behalf of an insurer for whom the agent is also licensed as to life insurance.

(c) A "health" agent is one appointed by an insurer as to health insurance only.

§ 1704. "Broker" defined

A "broker" is an individual, firm or corporation who, not being an agent of the insurer, as an independent contractor and on behalf of the insured solicits, negotiates or procures insurance or annuity contracts or the renewal or continuance thereof for insureds or prospective insureds, other than himself.

§ 1705. "Solicitor" defined

A "solicitor" is an individual employed by an agent or a broker to solicit applications for insurance, other than life and health insurances, as a representative of such agent or broker.

§ 1706. "Service representative" defined; requirements

(a) A "service representative" is an individual employed on salary by an insurer or managing general agent to work with

agents in soliciting, negotiating and effectuating insurance in such insurer or in insurers represented by the managing general agent.

(b) Officers and salaried nonresident traveling representatives of property and casualty insurers not in general using resident agents for the solicitation of business, who inspect risks or solicit insurance in this State and receive no commissions thereon shall be deemed also to be service representatives.

(c) A service representative is not required to be licensed as such.

§ 1707. "Adjuster" defined

(a) An "adjuster" is an individual, firm or corporation who, for compensation as an independent contractor, or as the employee of such independent contractor or of an insurer or managing general agent, on behalf of the insurer investigates and negotiates settlement of claims arising under insurance contracts.

(b) None of the following shall be deemed to be an adjuster:

(1) An attorney at law licensed to practice law in this State.

(2) Employees who administer claims in the office of the employer.

(3) A licensed agent or broker who adjusts or assists in adjustment of losses arising under policies issued through or serviced by such agent or broker.

§ 1708. License required; forms

(a) No person shall in this State be, act as, or hold himself out to be an agent, broker, solicitor, or adjuster unless then licensed as such agent, broker, solicitor, or adjuster under this chapter.

(b) No agent, broker or solicitor shall solicit or take application for, procure or place for others any kind of insurance as to which he is not then licensed.

(c) Except as provided in section 1736 (excess or rejected risks) of this chapter, no agent shall place any insurance with

any insurer as to which he does not then hold a license and appointment as agent under this chapter.

(d) The Commissioner shall prescribe and furnish all forms required under this chapter as to licenses and appointments.

§ 1709. Exceptions to agent, broker, solicitor license requirement

In addition to persons otherwise excluded therefrom, the definition of agent, broker or solicitor shall not be deemed to include:

(1) Persons performing clerical or administrative services; and including, if a salaried employee of an agent or broker, incidental taking of insurance applications in the office of the employer if the employee does not receive commission on such applications and his compensation is not varied thereby.

(2) Any regular salaried officer or employee of an insurer rendering assistance to or on behalf of a licensed agent, and receiving no commission or other compensation directly dependent upon the amount of business transacted.

§ 1710. Purpose of license; "controlled business"

(a) The purpose of a license issued under this chapter to an agent, broker or solicitor is to authorize and enable the licensee actively and in good faith to engage in the insurance business with respect to the general public, and to facilitate the public supervision of such activities in the public interest; and not for the purpose of enabling the licensee to receive a rebate of premium in the form of "commission" or other compensation upon insurance solicited or procured by or through him upon his own interests or upon those of other persons with whom he is closely associated in capacities other than as an insurance agent, broker or solicitor.

(b) The Commissioner shall not grant, renew, continue, or permit to exist any license as agent, broker, or solicitor as to any applicant therefor or licensee thereunder if he finds that the license has been or is being or will probably be used by the applicant or licensee materially for the purpose of writing "controlled business," that is:

(1) Insurance on his own interests or those of his family or of his employer; or

(2) Insurance or annuity contracts covering himself or members of his family, or the officers, directors, stockholders, partners, or employees of a partnership, association, or corporation of which he or a member of his family is an officer, director, stockholder, partner, associate or employee.

(c) Such a license shall be deemed to have been, or intended to be, used materially for the purpose of writing controlled business if the Commissioner finds that during any 12 months' period the aggregate commissions earned from such controlled business have exceeded or probably will exceed 40% of the aggregate commissions earned or to be earned on all business written or probably to be written by such applicant or licensee during the same period.

(d) Receipt by the licensee of compensation on his controlled business in a calendar year in excess of 40% of all compensation earned by him in the same year on all insurance transacted by him, shall constitute receipt of an unlawful rebate; and any person who knowingly pays such excess compensation shall be deemed to have made such a rebate.

(e) This section shall not apply as to:

(1) Insurance of the interest of a sales or financing agency in a motor vehicle sold or financed by it.

(2) Insurance of the interest of a real property mortgagee in the mortgaged property.

(3) Credit life and credit health insurance.

§ 1711. General qualifications for agent, broker, or solicitor license

(a) For the protection of the people of this State, the Commissioner shall not issue, continue, or permit to exist any agent, broker, or solicitor license except in compliance with this chapter, or as to any individual unless qualified therefor as follows:

(1) Must reside in, or be both principally employed and office in, this State and not hold an insurance license as a resi-

dent of another state, except as provided in section 1739 hereof as to non resident licensees.

(2) Must be of age 21 years or more, except as to solicitors or life agents of age 18, 19, or 20 years under direct supervision of a licensee of age 21 years or more.

(3) If for agent's license, must have been appointed agent by an authorized insurer, subject to issuance of the license.

(4) If for solicitor's license, must be regularly employed by a licensed resident agent or resident broker as a full-time employee, or be so employed subject to issuance of the license.

(5) If for broker's license, must have had experience either as an agent, solicitor, service representative, adjuster, managing general agent, or broker, or other special experience, education or training, all of sufficient content and duration reasonably necessary for competence in fulfilling the responsibilities of a broker.

(6) Subject to subsection (b), below, if for license as general lines agent or broker, must make the transaction of business under his license or licenses his principal business occupation, deriving therefrom on an annual basis not less than 50% of his entire income from his personal services.

(7) Must be competent, trustworthy, financially responsible, and of good reputation.

(8) Must pass any written examination required for the license under this chapter.

(9) Subject to subsection (b), below, must not seek or use the license principally for the purpose of writing controlled business, as referred to in section 1710 of this chapter.

(b) Subdivisions (6) and (9) above shall not apply as to persons resident in this State and holding subsisting license as agent or broker under laws of this State in force immediately prior to the effective date of this Act.

§ 1712. Licensing of firms, corporations

(a) A firm or corporation shall be licensed only as agent, broker or adjuster. Each general partner of a firm, and each other individual to act for the firm or corporation under the

license, shall be named in or registered with the Commissioner as to the license, and shall qualify as though an individual licensee. A full additional licensee fee shall be paid as to each respective individual in excess of one named in or registered as to the license.

(b) One not a Delaware resident or qualified under section 1711(a)(1) hereof shall not be so named in or registered as to such an agent or broker license and shall not exercise the license powers.

(c) The Commissioner shall not license a firm or corporation as agent or broker unless it is organized under the laws of this State, maintains its principal office in this State, and the license is within purposes stated in the partnership agreement or certificate of incorporation.

(d) All such licenses shall be subject to the applicable standards of section 508(b) (management) of this title.

(e) The licensee shall promptly notify the Commissioner of all changes among its members, directors and officers, and of other individuals designated in or registered as to the license.

§ 1713. Application for agent, broker, or solicitor license

(a) Written application for an agent, broker, or solicitor license shall be made to the Commissioner by the applicant, accompanied by the applicable fee shown in section 701 of this title. The application form shall require full answers to questions reasonably necessary to determine the applicant's identity, residence, business record, financial responsibility, insurance experience, purpose for which the license is to be used, and other facts as required by the Commissioner relative to the applicant's qualifications for license. At the Commissioner's discretion the application may also require imprint of the applicant's fingerprints.

(b) If for agent's license the application shall state the kinds of insurance proposed to be transacted, and be accompanied by written appointment by an authorized insurer of the applicant as agent for such kinds of insurance, subject to issuance of the license.

(c) If for solicitor's license, the application shall be accompanied by written appointment of the applicant as solicitor by a

licensed resident agent or broker, subject to issuance of the license.

(d) If the applicant for agent or broker license is a firm or corporation, the application shall show, in addition, the names of all members, officers and directors, and shall designate each individual who is to exercise the license powers; and each such individual shall furnish information with respect to himself as though for an individual license.

(e) The application shall show whether the applicant was ever previously licensed anywhere as to insurance; whether any such license was ever refused, suspended, revoked or renewal or continuance refused; whether any insurer, general agent, agent or broker claims applicant to be indebted to it, and if so, the details thereof; whether applicant has ever had an agency contract cancelled, and the facts thereof; and, if applicant is a married woman, like information with respect to her husband.

(f) No applicant for license under this chapter shall wilfully misrepresent or withhold any fact or information called for in the application form or in connection therewith.

§ 1714. Examination for license; application for examination

(a) After completion and filing of application with the Commissioner as required by section 1713 of this chapter the Commissioner shall subject each applicant for license as agent, broker, or solicitor, unless exempted therefrom under section 1715 of this chapter, to a written examination as to his competence to act as such agent, broker, or solicitor.

(b) If the applicant is a firm or corporation, the examination shall be so taken by each individual who is to be named in or registered as to the license, as provided in section 1712 of this chapter.

(c) Examination of an applicant for an agent's license shall cover any one or more of the following classifications of insurance, to be transacted under the license:

- (1) Vehicle insurance;
- (2) Life insurance and annuity contracts;
- (3) Health insurance;

- (4) Credit life and credit health insurance;
- (5) Title insurance; and
- (6) General lines, including casualty, property, and surety insurances.

(d) In the case of life insurers authorized to issue variable annuities in this State, the Commissioner shall require applicants appointed by such insurers to solicit such contracts in this State, in addition to completing examinations required for a life agent's license, to pass successfully a supplemental examination covering the subject of variable annuities.

(e) Examination of an applicant for a broker's license shall cover all kinds of insurance, except life insurance if such insurance is to be excluded from the license pursuant to section 1727 of this chapter.

(f) A solicitor's license examination shall cover all kinds of insurance, other than life or health insurance, as to which the appointing agent or broker is licensed.

(g) Written application for the examination shall be filed with the Commissioner by or on behalf of the applicant not less than 10 days prior to the date fixed for the examination, as provided in section 1717 of this chapter, and shall be accompanied by the fee for such application as specified in section 701 (fee schedule) of this title.

§ 1715. Exemption from examination

Section 1714 of this chapter shall not apply and no such examination shall be required of:

(1) Any applicant for license covering the same kind or kinds of insurance as to which the applicant was licensed under a similar license in this State, other than a temporary license, within 3 years next preceding date of application, unless such previous license was revoked, suspended, or continuation thereof refused by the Commissioner, and if the Commissioner deems the applicant to be fully qualified for the license.

(2) An applicant for an agent's license who is currently licensed as a broker as to the same kind or kinds of insurance, or has been so licensed within 12 months next preceding date of

application unless such previous license was revoked, suspended, or continuation thereof refused by the Commissioner.

(3) An applicant for a solicitor's license who has been licensed as an agent or broker in this State as to the same kinds of insurance within 12 months next preceding date of application, unless such previous license was revoked, suspended or continuation thereof refused by the Commissioner.

(4) In the Commissioner's discretion, any applicant who has been licensed under a similar license in another state within 12 months next preceding date of application, and upon filing with the Commissioner the certificate of the public official having supervision of insurance in such other state as to applicant's license and good conduct in such state.

(5) Persons representing public carriers who, in the course of such representation, solicit or sell insurance incidental to the transportation of persons or to the storage or transportation of property, and as to insurance so transacted.

(6) Applicants for license as title insurance agent, who are attorneys at law duly licensed to practice law in this State.

(7) An applicant for license as a general lines agent or as a broker, exclusive of life insurance, who has qualified for and received designation as a Chartered Property Casualty Underwriter.

(8) An applicant for license as a life and/or health agent, or as a broker limited to life and health insurances, who has qualified for and received designation as a Chartered Life Underwriter.

§ 1716. Scope of examination; reference material

(a) Each examination for license as agent, broker, solicitor, or adjuster shall reasonably test the applicant's competence and knowledge of the kinds of insurance, policies and transactions to be handled under the license applied for, of the duties and responsibilities of such a licensee, and of the pertinent laws of this State with which the applicant reasonably should be familiar.

(b) The Commissioner shall prepare and make available to applicants printed information as to the general scope of,

and particular subjects to be covered by, the examination for a particular license, together with information as to published books and other reference sources which may be studied by the applicant in preparation for the examination.

§ 1717. Conduct of examinations

(a) All examinations of license applicants shall be conducted by the Commissioner or by an agency designated by him.

(b) The Commissioner shall cause examinations to be held not less frequently than monthly, at a place in this State reasonably accessible to applicants.

(c) All the kinds of insurance the applicant proposes to transact under the license applied for shall be included in the same examination.

(d) The Commissioner shall cause all examinations to be conducted, given, and graded in a fair and impartial manner and without unfair discrimination as between individuals examined.

(e) Applicants must earn a grade of not less than 70, based upon an examination evaluation scale running from zero to 100, in order to pass the examination.

(f) The Commissioner may require a reasonable waiting period not exceeding 6 months before re-examination of an applicant who has previously failed twice to pass an examination covering the same kind or kinds of insurance.

(g) Within 30 days after the examination the Commissioner shall inform the applicant as to whether or not he had passed.

§ 1718. Issuance, refusal of license; refundability of fees

(a) If the Commissioner finds that the application is complete, that the applicant has passed any required examination and is otherwise qualified for the license applied for, he shall promptly issue the license; otherwise, the Commissioner shall refuse to issue the license and promptly notify the applicant and the appointing insurer (if application is for an agent's license) or agent or broker (if application is for a solicitor's license) of such refusal, stating the grounds thereof.

(b) If the license is refused, the Commissioner shall promptly refund to the appointing insurer, in case of applications for agent's license, the appointment fee tendered with the license application. All other fees for application for agent, broker, solicitor, or adjuster license shall be deemed earned when paid and shall not be refundable.

§ 1719. License contents; number of licenses required

(a) The license shall state the name and address of the licensee, date of issue, general conditions relative to expiration or termination, the kind or kinds of insurance covered by the license, if applicable, and such other conditions as the Commissioner deems proper for inclusion in the license certificate. No license shall be issued in a trade name unless the name has been duly registered or filed as required by law.

(b) The license of an agent shall not specify the name of any particular insurer by which the licensee is appointed as agent, except as provided in (d), below, as to limited licenses, and the licensee may, subject to section 1720 of this chapter as to life agents, represent as such agent under the one license as many insurers as may appoint him therefor in accordance with this chapter.

(c) The license of a solicitor shall also show the name and address of the employer agent or broker.

(d) Each limited license issued pursuant to section 1721 of this chapter shall show also the name of the insurer so represented, and a separate license shall be required as to each such insurer.

§ 1720. Multiple licensing, life or health insurance agents

(a) A life or health insurance agent may concurrently be licensed as to as many life insurers as duly file appointments of the licensee with the Commissioner and pay the appointment fee, except as provided hereinbelow.

(b) Upon the filing of each appointment of the licensee or proposed licensee by a life or health insurer the Commissioner shall promptly give written notice of the pending appointment to all other life or health insurers, as the case may be, as to

whom the licensee has been licensed in this State within the 24 months next preceding, and shall allow such other insurers a reasonable period as specified in the notice within which to respond. If the Commissioner finds that the applicant or licensee has a debit balance with any such other insurer which is not adequately secured or otherwise provided for to the obligee insurer's satisfaction, and that such indebtedness is either acknowledged by the applicant or licensee or the insurer has secured a judgment therefor, the Commissioner shall not effectuate the new appointment until after such debit balance has been adequately secured, or otherwise so provided for.

§ 1721. Limited licenses

(a) The Commissioner may issue to an applicant qualified therefor under this chapter a limited agent's license as follows:

- (1) Covering motor vehicle insurance only; or
- (2) To persons representing public carriers, as provided in section 1715(5) of this chapter; or
- (3) Covering only credit life and credit health insurance.

(b) No person so licensed shall concurrently hold license as an agent, broker or solicitor as to any other or additional kind of insurance.

(c) The fee for limited licenses is as specified in section 701 (fee schedule) of this title.

§ 1722. Continuation; expiration of licenses

(a) Each broker, solicitor, adjuster, nonresident broker and surplus line broker license issued under this title shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the Commissioner at his office in Dover annually on or before March 1st of the applicable continuation fee as stated in section 701 (fee schedule) of this title, accompanied by written request for such continuation. Request for continuation shall be made as follows:

(1) As to broker, adjuster, nonresident broker and surplus line broker licenses, request made and signed by the licensee.

(2) As to solicitor licenses, request made and signed by the employer agent or broker.

(3) As to limited licenses issued under section 1721 of this chapter, request made and signed by the insurer so represented.

(b) Any license referred to in subsection (a) above not so continued on or before March 1st shall be deemed to have expired at midnight on such March 1st; except that the Commissioner may effectuate a request for continuation received by him within 30 days after such March 1st if accompanied by an annual continuation fee of 150% of the fee otherwise required.

(c) An agent license shall continue in force while there is in effect as to the licensee, as shown by the Commissioner's records, an appointment or appointments as agent of authorized insurers covering collectively all the kinds of insurance included in the agent's license. Upon termination of all the licensee's agency appointments as to a particular kind of insurance and failure to replace such appointment within 60 days thereafter, the license shall thereupon expire and terminate as to such kind of insurance, and the licensee shall promptly deliver his license to the Commissioner for reissuance, without fee or charge, as to the kinds of insurance, if any, covered by the licensee's remaining agency appointments. Upon termination of all the licensee's agency appointments the license shall forthwith terminate.

(d) As a condition to or in connection with the continuation of any agent, broker, or solicitor license the Commissioner may require the licensee to file with him information as for application for the license, or as to the use made of the license during the next preceding calendar year.

§ 1723. Appointment of agents; continuation

(a) Each insurer appointing an agent in this State shall file with the Commissioner the appointment in writing, specifying the kinds of insurance to be transacted by the agent for the insurer, and pay the appointment fee, or license fee in the case of limited licenses, as specified in section 701 (fee schedule) of this title.

(b) Subject to annual continuation by the insurer as provided in subsection (c) below, each appointment shall remain

in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in section 1724 of this chapter.

(c) Annually on or before March 1st each insurer shall file with the Commissioner an alphabetical list of the names and addresses of all its agents in this State whose appointments, or licenses in the case of limited licenses, are to remain in effect as to the kinds of insurance for which the respective agents are currently so appointed, accompanied by payment of the annual continuation of appointment fee, or license fee in the case of limited licenses, as specified in section 701 (fee schedule) of this chapter. At the same time, the insurer shall also file with the Commissioner an alphabetical list of the names and addresses of all its agents whose appointments in this State are not to remain in effect, or whose appointments as to certain kinds of insurance are not to remain in effect and as designated in such list. Any appointment or license not so continued and not otherwise expressly terminated shall be deemed to have expired at midnight on March 1st.

§ 1724. Termination of appointment—agents, solicitors

(a) Subject to the agent's contract obligations and rights, if any, an insurer or agent may terminate an agency appointment at any time. If termination is by the insurer, the insurer shall promptly give written notice of termination and the effective date thereof to the Commissioner, and to the agent where reasonably possible. The list of appointments not being continued referred to in section 1723(c) of this chapter shall constitute such notice to the Commissioner as to the terminations so listed. The Commissioner may require of the insurer reasonable proof that the insurer has given such notice to the agent where reasonably possible.

(b) Accompanying the notice of termination given the Commissioner the insurer shall file with him a statement of the cause, if any, for termination.

(c) An agent or broker terminating the employment as solicitor of a licensed solicitor shall give like notice of such termination to the Commissioner, and like information as to the reasons for such termination.

§ 1725. Temporary license as agent or broker

(a) The Commissioner, in his discretion, may issue a temporary license as agent or broker, as the case may be, to or with respect to an individual otherwise qualified therefor but without requiring such individual to take an examination, in the following cases:

(1) To the surviving spouse or next of kin, or to the administrator or executor or employee thereof, of a licensed agent or broker becoming deceased, or to the spouse, next of kin, employee or legal guardian or employee thereof, of a licensed agent or broker disabled because of sickness, insanity or injury, if in either case the Commissioner deems that such temporary license is necessary for the winding up or continuation of the agent's or broker's business;

(2) To a member or employee of a firm, or officer or employee or a corporation, licensed as agent or broker, upon the death or disablement of an individual designated in the license to exercise the powers thereof; or

(3) To the designee of a licensed agent or broker entering upon active service in the armed forces of the United States of America; or

(4) To an applicant for license as a life insurance agent, while taking a course of study, instruction and field training under the supervision of the insurer and acceptable to the Commissioner. The applicant shall apply for a like permanent license and take the examination therefor within 90 days after date of issuance of the temporary license.

(5) To an individual appointed by a life insurer as an agent to collect premiums on an established debit of the insurer.

(b) A temporary license issued under subdivisions (1), (2) or (3) above, shall be for a term of not over 90 days; except that upon receipt of the license fee specified in section 701 (fee schedule) of this title, the Commissioner may renew the license for an additional term or terms of 90 days each, not exceeding in the aggregate 15 months for the entire temporary license period. A temporary license issued under subdivision (4) above, shall continue in force until the applicant has been informed of the result of the examination; or, if the examination was not

taken within the 90 days specified, then the license shall expire upon expiration of such 90 day period. A license issued under subdivision (5) above, shall be for 90 days, without right of extension or renewal.

(c) The fee paid for a temporary license may be applied upon the fee required for any permanent similar license issued to the licensee upon or prior to expiration of the temporary license and covering the same kinds of insurance.

§1726. Temporary licenses—Rights, limitations

(a) The temporary license may cover the same kinds of insurance for which the agent or broker thereby being replaced was licensed.

(b) The temporary licensee may represent under the license all insurers last represented by the replaced agent, and without the necessity of new appointments of the licensee; but the licensee shall not be appointed as to any additional insurer or additional kind of insurance under such a temporary license. This provision shall not be deemed to prohibit termination of its appointment by any insurer.

(c) A temporary licensee shall have the same license powers and duties as under a permanent license.

§ 1727. Broker's license—Scope

A license as broker shall cover all kinds of insurance, and the Commissioner shall not issue a broker's license limited to particular kinds of insurance; except, that a broker's license need not include life insurance and a broker may be separately licensed as to life insurance as either a broker or agent.

§ 1728. Broker's bond

(a) Every applicant for a broker's license shall file with the application and shall thereafter maintain in force while so licensed, a bond in favor of the people of the State of Delaware executed by an authorized surety insurer. The bond may be continuous in form and total aggregate liability on the bond shall be limited to payment of not less than \$2,500. The bond shall be conditioned upon full accounting and due payment to the person

entitled thereto, of funds coming into the broker's possession through insurance transactions under the license.

(b) The bond shall remain in force until released by the Commissioner, or until cancelled by the surety. Without prejudice to any liability previously incurred thereunder, the surety may cancel the bond upon 30 days advance written notice to both the broker and the Commissioner.

§ 1729. Broker's authority; commissions

(a) A broker as such is not an agent or other representative of an insurer and does not have power by his own acts to obligate the insurer upon any risk or with reference to any insurance transaction.

(b) An insurer or agent shall have the right to pay to a broker licensed under this chapter the customary commissions upon insurance placed through the broker.

§ 1730. Broker, agent license combinations

A licensed agent may be licensed also as a broker and be a broker as to insurers for which he is not then licensed as agent. The sole relationship between a broker and an insurer as to which he is then licensed as an agent, as to transactions arising during the existence of such agency appointment, shall be that of insurer and agent, and not that of insurer and broker.

§ 1731. Solicitors—Special requirements

(a) A solicitor shall not concurrently be employed or licensed as to more than one agent or one broker.

(b) The solicitor's license shall cover all the kinds of insurance for which the employer agent or broker is licensed.

(c) A solicitor shall not concurrently be licensed as agent or broker.

(d) A solicitor shall not have authority to bind risks or to countersign policies.

(e) The transactions of a solicitor under his license shall be in the name of the employer agent or broker, and the agent or

broker shall be responsible for the acts or omissions of the solicitor within the scope of his employment.

(f) The solicitor shall maintain his office with that of the employer agent or broker, and records of his transactions under the license shall be maintained as a part of the records of the agent or broker.

(g) The solicitor's license shall remain in the custody of the employer agent or broker. Upon termination of such employment as solicitor, the agent or broker shall give written notice thereof to the Commissioner, as provided in section 1724 of this chapter, and deliver the license to the Commissioner for cancellation.

§ 1732. Insurance vending machines

(a) A licensed resident agency may solicit and issue personal travel accident insurance policies by means of mechanical vending machines supervised by the agency and placed at airports and similar places of convenience to the traveling public, if the Commissioner finds:

(1) That the policy to be so sold provides reasonable coverage and benefits, is reasonably suited for sale and issuance through vending machines, and that use of such a machine in a proposed location would be of material convenience to the public;

(2) That the type of vending machine proposed to be used is reasonably suitable and practical for the purpose;

(3) That reasonable means are provided for informing prospective purchasers of policy coverages and restrictions; and

(4) That reasonable means are provided for refund of money inserted in defective machines and for which no insurance, or a less amount than that paid for, is actually received.

(b) As to each such machine to be used, the Commissioner shall issue to the agent a special vending machine license. The license shall specify the name and address of the insurer and agent, the name of the policy to be sold, the serial number of the machine, and the place where the machine is to be in operation. The license shall be subject to annual continuation, to expiration, suspension, or revocation coincidentally with that of the agent.

The Commissioner shall also revoke the license as to any machine as to which he finds that the license qualifications no longer exist. The license fee shall be as stated in section 701 (fee schedule) of this title for each license year or part thereof for each respective vending machine. Proof of the existence of a subsisting license shall be displayed on or about each such machine in use in such manner as the Commissioner reasonably requires.

§ 1733. Place of business; display of licenses; records

(a) Every resident general lines agent and resident broker shall have and maintain in this State a place of business accessible to the public and wherein the licensee principally conducts transactions under his license. The address of such place shall appear upon the license, and the licensee shall promptly notify the Commissioner in writing of any change thereof. Nothing in this section shall prohibit maintenance of such a place in the licensee's residence in this State.

(b) The licenses of the licensee, and those of solicitors employed by him, shall be conspicuously displayed in such place of business in a part thereof customarily open to the public.

(c) The agent or broker shall keep at his place of business complete records of transactions under his license and those of his solicitors. Such record shall show, as to each insurance policy or contract placed or countersigned by or through the licensee, not less than the names of the insurer and insured, the number and expiration date of, and premium payable as to, the policy or contract, and such other information as the Commissioner may reasonably require. The record shall be kept available for inspection by the Commissioner for a period of at least 3 years after completion of the respective such transactions.

(d) This section shall not apply as to life and health insurances.

§ 1734. Reporting and accounting for premiums; fiduciary fund

(a) All premiums and return premiums received by an agent, broker, or solicitor are trust funds so received by the licensee in a fiduciary capacity, and the licensee shall in the applicable regular course of business account for and pay the same to the insured, insurer, or person entitled thereto.

(b) Every general lines agent and every broker shall establish and maintain in a commercial bank in this State one or more trust accounts, separate from accounts holding his personal, firm, or corporate funds, and shall forthwith deposit and shall retain therein pending due transmittal to such insured or insurer, all such premiums and return premiums. The licensee may deposit and commingle in the same such trust account all such funds belonging to others so long as the amount so held for each respective other person is reasonably ascertainable from the records of the licensee.

(c) Any agent, broker, or solicitor who, not being lawfully entitled thereto, diverts or appropriates such funds or any portion thereof to his own use, shall upon conviction be guilty of embezzlement and shall be punished as provided by law.

§ 1735. Life agent deemed agent of insurer

In any controversy between the insured or his beneficiary and the insurer issuing a policy upon such application, whoever solicits an application for insurance upon the life of another shall be deemed the agent of the insurer and not of the insured.

§ 1736. Excess or rejected risks

A life or health agent may place with another insurer as to which he is not licensed as agent, a particular risk or portion thereof which has been rejected by the insurers as to which the agent is licensed or is known to the agent to be unacceptable to such insurers, and without then being licensed as to such other insurer.

§ 1737. Commissions—Payment, acceptance

(a) No insurer shall pay or allow to any person, either directly or indirectly, any commission or compensation for soliciting, negotiating or effecting a contract of insurance or of annuity within this State unless at the time of such solicitation, negotiation or effectuation such person was duly licensed by this State as an agent or broker as to the kind or kinds of insurance involved, and, if an agent, was duly appointed as an agent of the insurer as provided in section 1723 of this chapter. This provision shall not apply as to business placed pursuant to section 1736 of this chapter or pursuant to any assigned risk plan.

(b) No person other than one entitled to the same as provided in subsection (a) above, shall accept any such commission or compensation.

§ 1738. Sharing commissions

No agent, broker or solicitor shall directly or indirectly share his commission or other compensation for a transaction under his license with any person not also licensed as agent, broker or solicitor under this chapter as to the kinds of insurance involved in the transaction; and no such person shall accept any such share. This provision shall not affect personal use of such commissions or compensation, or payment of the regular salaries due employees of an agent or broker, or distribution in regular course of business of compensation and profits among members or stockholders of licensee firms or corporations.

§ 1739. Nonresident agents, brokers

(a) The Commissioner may license as agent or broker a resident of another state or province of Canada otherwise qualified therefor, if a similar privilege is extended by such other state or province to residents of Delaware. This section does not apply to nonresidents qualified under section 1711 (a) (1) hereof.

(b) The Commissioner may waive the taking of a written examination by the nonresident applicant for such a license, if a similar privilege is extended by the other state or province to Delaware residents and if he finds that the applicant has already met qualification requirements and standards in the applicant's state or province substantially as high as those applicable under this chapter to Delaware residents applying for a similar license.

(c) Such a nonresident licensee shall have the same rights, duties and obligations and pay the same fees, as apply under this title to a Delaware resident holding similar license; except that the nonresident licensee may maintain the separate trust account referred to in section 1734 (b) of this chapter in a commercial bank, whether located within or outside this State, and under reasonable terms all as approved by the Commissioner and designed to effectuate the purposes of section 1734 of this chapter.

§ 1740. Nonresident agents, brokers—Service of process

(a) Every nonresident licensed in this State as an agent or broker under section 1739 of this chapter shall appoint the

Commissioner in writing as his attorney upon whom may be served all legal process issued in connection with any action or proceeding brought or pending in this State against or involving the licensee and relating to transactions under his Delaware license. The appointment shall be irrevocable and shall continue in force for so long as any such action or proceeding could arise or exist. The Commissioner shall prescribe and furnish the form for such appointment.

(b) Duplicate copies of process shall be served upon the Commissioner or other person in apparent charge of his office during his absence, accompanied by payment of \$2.50 as a process fee. Upon receiving such service the Commissioner shall promptly forward a copy thereof by registered or certified mail (with return receipt requested) to the nonresident licensee at his business address last of record with the Commissioner.

(c) Process served and copy thereof forwarded as in this section provided shall for all purposes constitute personal service thereof upon the licensee.

§ 1741. Adjuster's license; qualifications; catastrophe adjustments

(a) Application for adjuster's license shall be made in writing by the applicant to the Commissioner, upon a form as prescribed and furnished by the Commissioner, accompanied by the fee specified in section 701 (fee schedule) of this title.

(b) Subject to section 1742 hereof, an individual to be licensed, or named as to a firm or corporation license, as an adjuster shall be qualified as follows:

(1) Must be age 21 years or over; or of age 18 years or over if an apprentice adjuster under section 1742 hereof;

(2) Must reside, or be both principally employed and office, in this State; or be resident of another state which grants adjuster licenses to residents of this State.

(3) Must be a full-time salaried employee of a licensed adjuster, or insurer or managing general agent, or be a graduate of a recognized law school, or must have had experience or special education or training as to the handling of loss claims under insurance contracts of scope and duration reasonably

sufficient to make the applicant competent to fulfill the responsibilities of an adjuster.

(4) Must pass any written examination which the Commissioner, in his discretion, may reasonably require as to the applicant's knowledge of insurance claim adjustment matters; but no examination shall be required of an adjuster actively engaged as such, with an office in this State, on the effective date of this Act.

(5) Must be trustworthy, financially responsible, and of good reputation.

(6) Must have and maintain in this State an office accessible to the public, and keep therein the usual and customary records pertaining to transactions under the license. This provision shall not be deemed to prohibit maintenance of the office in the office of the employer or in the home of the licensee in this State.

(c) Except, that no such adjuster's license is required as to any adjuster sent into this State on behalf of an insurer for the investigation or adjustment of a particular unusual or extraordinary loss, or of a series of losses resulting from a catastrophe common to all such losses.

§ 1742. Apprentice adjusters

(a) The Commissioner may, in his discretion, issue a temporary license as adjuster to applicants qualified for license as provided in section 1741(b) of this chapter, except as to experience, education or training, if the applicant is to be the full-time employee of a licensed adjuster, or of an adjustment firm or corporation, or of an insurer or general agent, and is to engage in adjuster transactions under the direct supervision and instruction of a licensed adjuster.

(b) The license shall not extend beyond expiration of 12 months, or (subject to annual continuation) until the licensee attains age 21 years, whichever last occurs, that a basis for the license no longer exists.

§ 1743. Suspension; revocation; refusal of license

(a) The Commissioner may suspend for not more than 12 months, or may revoke or refuse to continue any license issued

under this chapter or any surplus line broker license if, after notice to the licensee and to the insurer represented (as to an agent) or to the employer (as to a solicitor, or employee adjuster), and hearing, he finds that as to the licensee any one or more of the following causes exist:

(1) For any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner.

(2) For violation of or noncompliance with any applicable provision of this title, or for wilful violation of any lawful rules, regulation, or order of the Commissioner.

(3) For obtaining or attempting to obtain any such license through misrepresentation or fraud.

(4) For misappropriation or conversion to his own use, or illegal withholding, of moneys belonging to policyholders, or insurers, or beneficiaries, or others and received in conduct of business under the license.

(5) For material misrepresentation of the terms of any actual or proposed insurance contract.

(6) Conviction, by final judgment, of a felony involving moral turpitude.

(7) If in the conduct of his affairs under the license the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public.

(b) The license of a firm or corporation may be suspended, revoked or refused also for any of such causes as relate to any individual designated in or registered as to the license to exercise its powers.

(c) In lieu of such suspension, revocation, or refusal to continue, the Commissioner may levy an administrative fine upon the licensee of not less than \$25 and not more than \$500. The order levying the fine shall specify the date before which the fine shall be paid. Upon failure to pay the fine when due, the Commissioner shall revoke the licenses of the licensee and the fine may be recovered in a civil action brought in behalf of the Commissioner by the Attorney General. Fines so collected shall

be paid by the Commissioner forthwith to the State Treasurer for the account of the general fund.

§ 1744. Procedure following suspension, revocation

(a) Upon suspension or revocation of any such license the Commissioner shall forthwith notify the licensee thereof either in person or by mail addressed to the licensee at his address last of record with the Commissioner. Notice by mail shall be deemed effectuated when so mailed. The Commissioner shall give like notice to the insurers represented by the agent, in the case of an agent's license, and to the employer in the case of a solicitor's or employee adjuster's license.

(b) Suspension or revocation of the license of an agent or broker shall automatically suspend or terminate the appointments of all solicitors employed by him.

(c) The Commissioner shall not again issue license under this title to or as to any person whose license has been revoked, until after expiration of one year and thereafter not until such person again qualifies therefor in accordance with the applicable provisions of this title. A person whose license has been revoked twice shall not again be eligible for any license under this title.

(d) If the license of a firm or corporation is so suspended or revoked, no member of such firm, or officer, or director of such corporation, shall be licensed or be designated in or as to any license to exercise the powers thereof during the period of such suspension or revocation, unless the Commissioner determines upon substantial evidence that such member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

§ 1745. Return of license to Commissioner

(a) All licenses issued under this title, although issued and delivered to the licensee or his employer, shall at all times be the property of the State of Delaware. Upon any expiration, termination, suspension, or revocation of the license, the licensee or other person having possession or custody of the license shall forthwith deliver it to the Commissioner either by personal delivery or by mail.

(b) As to any license lost, stolen, or destroyed while in the possession of any such licensee or person, the Commissioner may accept in lieu of return of the license, the affidavit of the licensee or other person responsible for or involved in the safekeeping of such license, concerning the facts of such loss, theft, or destruction.

§ 1746. Conservation of agent or broker business

(a) If the Commissioner finds that the business of any licensed general lines agent or broker in this State has become financially impaired or insolvent, or has been abandoned by the licensee, or has been conducted in such a manner as to require or justify revocation of the licenses of the licensee, that such licenses have been revoked, and that conservation and administration of the insurance business of the licensee would be in the public interest, he shall file in the Court of Chancery in the county in which the agent or broker business is located a petition for the appointment of the Commissioner as conservator or receiver of such agent or broker business.

(b) The petition shall be verified by the Commissioner, and shall set forth facts and circumstances from which the existence of one or more of the grounds required under subsection (a), above, may be determined; and may request that the licensee be required to show cause on a date certain why the prayer of the petition should not be granted.

(c) A copy of the petition, and of the order to show cause, if issued, shall be served upon the licensee in the same manner as provided by law of this State for service of other legal process.

(d) Upon the filing of the petition and pending the hearing upon the order to show cause, the Court, without notice to other parties and for good cause shown, may appoint the Commissioner temporary conservator or temporary receiver of the agent or broker business.

(e) As conservator or receiver the Commissioner shall have the power and duty to conduct and administer the affairs of the agent or broker business so that the business shall expeditiously be wound up and that to the extent reasonably possible, persons theretofore insuring and insurers theretofore doing business through such agent or broker shall receive service and an ac-

counting for funds to which entitled. Subject to orders of Court, the Commissioner as conservator or receiver shall have power to collect funds owing to the agent or broker on account of insurance business transacted by the licensee, and to account for and make payment thereof to persons entitled thereto.

(f) The Commissioner may delegate the actual conduct and administration of the business of the agent or broker to a deputy or other regular employee of the department, and no charge for services so rendered shall be made against the funds or assets of the agent or broker business.

(g) In respects other than as expressly hereinabove provided, such a conservatorship or receivership shall be subject to the applicable laws of this State applying to receivers.

CHAPTER 19. SURPLUS LINES

§ 1901. Short title

This chapter constitutes and may be cited as the "surplus lines" law.

§ 1902. Exemptions

This surplus line law shall not apply to life insurance, health insurance, or reinsurance; or to the following insurances when so placed by licensed general lines agents or brokers or surplus line brokers of this State:

- (1) Wet marine and transportation insurance.
- (2) Insurance on subjects located, resident, or to be performed wholly outside of this State, or on vehicles or aircraft owned and principally garaged outside this State.
- (3) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
- (4) Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in commercial interstate flight, or cargo of such aircraft, or against liability, other than workmen's compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

§ 1903. Definitions—"Broker," "export"

(a) "Broker" as used in this chapter and unless context otherwise requires, means a surplus line broker duly licensed as such under this chapter.

(b) To "export" means to place in an unauthorized insurer under this surplus line law insurance covering a subject of insurance resident, located, or to be performed in Delaware.

§ 1904. Conditions for export

If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated "surplus lines," may be procured from unauthorized insurers, subject to the following conditions:

(1) The insurance must be procured through a licensed surplus line broker.

(2) The full amount of insurance required must not be procurable, after diligent effort has been made to do so, from among the insurers authorized to transact and actually writing that kind and class of insurance in this State, and the amount of insurance exported shall be only the excess over or other than the amount procurable from authorized insurers.

(3) The insurance must not be so exported for the purpose of securing advantages either as to:

(i) A lower premium rate than would be accepted by an authorized insurer; or

(ii) Terms of the insurance contract.

§ 1905. Broker's affidavit

At the time of effecting any such surplus line insurance the broker shall execute an affidavit, in form prescribed or accepted by the Commissioner, setting forth facts from which it can be determined whether such insurance was eligible for export under section 1904 of this chapter. The broker shall file this affidavit with the Commissioner within 30 days after the insurance was so effected.

§ 1906. Open lines for export

(a) The Commissioner may by order declare eligible for export generally and without compliance with the provisions of sections 1904(2), 1904(3), and 1905 of this chapter, any class or classes of insurance coverage or risk for which he finds, after a hearing of which notice was given to each insurer authorized to transact such class or classes in this State, that there is not a reasonable or adequate market among authorized insurers either as to acceptance of the risk, contract terms, or premium or premium rate. Any such order shall continue in effect during the existence of the conditions upon which predicated, but subject to earlier termination by the Commissioner.

(b) The broker shall file with or as directed by the Commissioner a memorandum as to each such coverage placed by him in an unauthorized insurer, in such form and context as the Commissioner may reasonably require for the identification of the coverage and determination of the tax payable to the State relative thereto.

(c) The broker, or a licensed Delaware agent of the authorized insurer or a general lines broker, may also place with authorized insurers any insurance coverage made eligible for export generally under subsection (a) above, and without regard to rate or form filings which may otherwise be applicable as to the authorized insurer. As to coverages so placed in an authorized insurer the premium tax thereon shall be reported and paid by the insurer as required generally under Chapter 7 of this title.

§ 1907. Eligible surplus line insurers

(a) A broker shall not knowingly place surplus line insurance with an insurer that is unsound financially, or that is ineligible under this section.

(b) The Commissioner shall from time to time publish a list of all surplus lines insurers deemed by him to be eligible currently, and shall mail a copy of such list to each broker at his office last of record with the Commissioner. This subsection shall not be deemed to require the Commissioner to determine the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the Commissioner, shall indicate only that the insurer appears to be

sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary. While any such list is in effect, the broker shall restrict to the insurers so listed all surplus line business placed by him.

§ 1908. Evidence of the insurance; changes; penalty

(a) Upon placing a surplus line coverage, the broker shall promptly issue and deliver to the insured evidence of the insurance consisting either of the policy as issued by the insurer, or, if such policy is not then available, the surplus line broker's certificate. Such a certificate shall be executed by the broker and shall show the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and taxes collected from the insured, and the name and address of the insured and insurer. If the direct risk is assumed by more than one insurer, the certificate shall state the name and address and proportion of the entire direct risk assumed by each such insurer.

(b) No broker shall issue any such certificate or any cover note, or purport to insure or represent that insurance will be or has been granted by any unauthorized insurer, unless he has prior written authority from the insurer from the insurance, or has received information from the insurer in the regular course of business that such insurance has been granted, or an insurance policy providing the insurance actually has been issued by the insurer and delivered to the insured.

(c) If after the issuance and delivery of any such certificate there is any change as to the identity of the insurers, or the proportion of the direct risk assumed by an insurer as stated in the broker's original certificate, or in any other material respect as to the insurance evidenced by the certificate, the broker shall promptly issue and deliver to the insured a substitute certificate accurately showing the current status of the coverage and the insurers responsible thereunder.

(d) If a policy issued by the insurer is not available upon placement of the insurance and the broker has issued and delivered his certificate as hereinabove provided, upon request therefor by the insured the broker shall as soon as reasonably possible procure from the insurer its policy evidencing such insurance

and deliver such policy to the insured in replacement of the broker's certificate theretofore issued.

(e) Any surplus line broker who knowingly or negligently issues a false certificate of insurance or who fails promptly to notify the insured of any material change with respect to such insurance by delivery to the insured of a substitute certificate as provided in subsection (c), shall upon conviction, be subject to the penalty provided by section 113 of this title or to any greater applicable penalty otherwise provided by law.

§ 1909. Endorsement of contract

Every insurance contract procured and delivered as a surplus line coverage pursuant to this law shall have stamped upon it, initialed by or bearing the name of the surplus line broker who procured it, the following:

"This insurance contract is issued pursuant to the Delaware Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Delaware Insurance Department."

§ 1910. Surplus line insurance valid

Insurance contracts procured as surplus line coverage from unauthorized insurers in accordance with this law shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

§ 1911. Liability of insurer

(a) As to a surplus line risk which has been assumed by an unauthorized insurer pursuant to this surplus line insurance law, and if the premium thereon has been received by the surplus line broker who placed such insurance, in all questions thereafter arising under the coverage as between the insurer and the insured the insurer shall be deemed to have received the premium due to it for such coverage; and the insurer shall be liable to the insured as to losses covered by such insurance, and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not in fact the broker is indebted to the insurer with respect to such insurance or for any other cause.

(b) Each unauthorized insurer assuming a surplus line risk under this surplus lines insurance law shall be deemed thereby to have subjected itself to the terms of this section.

§ 1912. Surplus line brokers—Licensing

(a) Any person while licensed in this State as a resident general lines agent or as a general lines broker, who is deemed by the Commissioner to be competent and trustworthy with respect to the handling of surplus lines, and while maintaining an office at a designated location in this State, may be licensed as a surplus line broker.

(b) Application for the license shall be made to the Commissioner on forms as designated and furnished by the Commissioner.

(c) The license fee shall be as specified in section 701 (fee schedule) of this title.

(d) The license and licensee shall be subject to the applicable provisions of chapter 17 (agents, brokers, solicitors and adjusters) of this title.

§ 1913. Suspension; revocation of broker's license

(a) Subject to section 1743 (suspension, revocation, refusal of license) of this title, the Commissioner may also suspend or revoke any surplus line broker's license:

(1) If the broker fails to file the annual statement or to remit the tax as required by sections 1916 and 1917 of this chapter; or

(2) If the broker fails to maintain an office in this State, or to keep records, or to allow the Commissioner to examine his records as required by this law, or if he removes his records from the State; or

(3) If the broker places a surplus line coverage in an insurer other than as authorized under section 1907 of this chapter.

(b) The procedures provided by chapter 17 of this title for suspension or revocation of licenses shall apply to suspension or revocation of a surplus line broker's license.

(c) Upon suspending or revoking the broker's surplus line license the Commissioner shall also suspend or revoke all other licenses of or as to the same individual under this title.

§ 1914. Broker may compensate agents and brokers

A licensed surplus line broker may accept and place surplus line business for any insurance agent or broker licensed in this State for the kind of insurance involved, and may compensate the agent or broker therefor.

§ 1915. Records of broker

(a) Each broker shall keep in his office in this State a full and true record of each surplus line coverage procured by him, including a copy of each daily report, if any, a copy of each certificate of insurance issued by him, and such of the following items as may be applicable.

- (1) Amount of the insurance;
- (2) Gross premium charged;
- (3) Return premium paid, if any;
- (4) Rate of premium charged upon the several items of property;
- (5) Effective date of the contract, and the terms thereof;
- (6) Name and address of each insurer on the direct risk and the proportion of the entire risk assumed by such insurer if less than the entire risk;
- (7) Name and address of the insured;
- (8) Brief general description of the property or risk insured and where located or to be performed; and
- (9) Other information as may be required by the Commissioner.

(b) The record shall not be removed from this State and shall be open to examination by the Commissioner at all times within 5 years after issuance of the coverage to which it relates.

§ 1916. Annual statement of broker

(a) Each broker shall on or before the first day of March of each year file with the Commissioner a statement verified

by the broker of all surplus line insurance transacted by him during the preceding calendar year.

(b) The statement shall be on forms as prescribed and furnished by the Commissioner and shall show:

- (1) Gross amount of each kind of insurance transacted;
- (2) Aggregate gross premiums charged;
- (3) Aggregate of returned premiums paid to insureds;
- (4) Aggregate of net premiums; and
- (5) Additional information as required by the Commissioner.

§ 1917. Tax on surplus lines

(a) On or before the first day of March of each year each broker shall remit to the State Treasurer through the Commissioner a tax on surplus line insurance subject to tax transacted by him with unauthorized insurers during the next preceding calendar year as shown by his annual statement filed with the Commissioner. The tax shall be computed on premiums received, exclusive of sums collected to cover federal and state taxes and examination fees, if any, and at the same rate as applies to premiums for like kinds of insurance written in authorized insurers under this title.

(b) If a surplus line policy covers risks or exposures only partially in this State the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this State.

§ 1918. Failure to file statement or remit tax—Penalty

If any broker fails to file his annual statement, or fails to remit the tax provided by section 1917 of this chapter, prior to the first day of April after the tax is due, and if in the Commissioner's opinion such failure is without just cause, he shall be liable for a fine of \$25.00 for each day of delinquency commencing with the first day of April. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the Commissioner in any court of competent jurisdiction. Any fine collected by the Commissioner shall be paid to the State Treasurer and credited to the general fund.

§ 1919. Legal process against surplus line insurer

(a) An unauthorized insurer shall be sued, upon any cause of action arising in the State under any contract issued by it as a surplus line contract pursuant to this law, in the Superior Court of the State of Delaware.

(b) Service of legal process against the insurer may be made in any such action by service of two copies thereof upon the Commissioner, and payment of the service of process fee specified in section 701 (fee schedule) of this title. The Commissioner shall forthwith mail a copy of the process served to the person designated by the insurer in the policy for the purpose, by prepaid registered or certified mail with return receipt requested. If no such person is so designated in the policy, the Commissioner shall in like manner mail a copy of the process to the broker through whom such insurance was procured, or to the insurer at its principal place of business, addressed to the address of the broker or insurer, as the case may be, last of record with the Commissioner. Upon service of process upon the Commissioner and mailing of the same in accordance with this provision, the court shall be deemed to have jurisdiction *in personam* of the insurer.

(c) An unauthorized insurer issuing such policy shall be deemed thereby to have authorized service of process against it in the manner and to the effect as provided in this section. Any such policy shall contain a provision stating the substance of this section, and designating the person to whom the Commissioner shall mail process as provided in subsection (b) of this section.

**CHAPTER 21. UNAUTHORIZED INSURERS—
PROHIBITIONS, PROCESS AND ADVERTISING****§ 2101. Representing or aiding unauthorized insurer prohibited**

(a) No person shall in this State directly or indirectly act as agent for, or otherwise represent or aid on behalf of another, any insurer not then authorized to transact such business in this State, in the solicitation, negotiation, procurement or effectuation of insurance or annuity contracts, or renewal thereof, or forwarding of applications for insurance or annuities, or the dis-

semination of information as to coverage or rates, or inspection of risks, or fixing of rates, or investigation or adjustment of claims or losses, or collection or forwarding of premiums, or in any other manner represent or assist such an insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this State.

(b) This section does not apply to:

(1) Matters authorized to be done by the Commissioner under the unauthorized insurers process act, sections 2104 through 2108 of this chapter.

(2) Transactions as to which the insurer is not required to have a certificate of authority pursuant to section 506 (exceptions to certificate of authority requirement) of this title.

(3) A licensed adjuster or attorney at law representing such an insurer from time to time in his professional capacity.

(4) Persons in this State who secure and furnish information for the purposes of group life insurance, group or blanket health insurance or annuity coverages, or for enrolling individuals under such plans or issuing certificates thereunder or otherwise assisting in administering such plans where no commission is paid for such services and the master policy or contract was lawfully solicited, issued and delivered in and pursuant to the laws of a state in which the insurer was then authorized to transact insurance.

(5) The employee, compensated on salary only, of a Delaware employer who on behalf of the employer assists in the procurement or administration of insurance coverages on the property, risks and insurable interests of the employer.

§ 2102. Purpose of unauthorized insurers process act and unauthorized insurers false advertising act

The purpose of sections 2103 through 2108 (unauthorized insurers process act) and sections 2109 through 2111 (unauthorized insurers false advertising process act) of this chapter is to subject certain insurers to the jurisdiction of the Commissioner and the courts of this State in suits and disciplinary proceedings as provided therein, by or on behalf of insureds or beneficiaries under insurance contracts or the Commissioner. The General

Assembly declares its concern that many Delaware residents hold insurance policies delivered in this State by unauthorized insurers, other than as to surplus line coverages written pursuant to chapter 19 of this title, thus presenting to such residents the often insuperable obstacle of resort to distant courts for the assertion of legal rights under their policies; and that such insurers may induce residents to purchase insurance through false advertising sent into this State. In furtherance of such state interest, the General Assembly herein provides a method of substituted service of process upon such insurers, declares that in so doing it exercises its power to protect Delaware residents, to define, for the purposes of this chapter, what constitutes doing business in this State, and also exercises powers and privileges available to the State under Public Law 15, 79th Congress of the United States, chapter 20, 1st Session, S. 340, as amended, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

§ 2103. Unauthorized insurers process act; title; interpretation

(a) Sections 2104 through 2108 of this chapter constitute and may be cited as the unauthorized insurers process act.

(b) The act shall be so interpreted as to effectuate its general purpose to make uniform the laws of those states which enact it.

§ 2104. Commissioner process agent

Solicitation, effectuation, or delivery of any insurance contract, by mail or otherwise, within this State by an unauthorized insurer, or the performance within this State of any other service or transaction connected with such insurance by or on behalf of such insurer, shall be deemed to constitute an appointment by such insurer of the Commissioner and his successors in office as its attorney, upon whom may be served all lawful process issued within this State in any action or proceeding against such insurer arising out of any such contract or transaction; and shall be deemed to signify the insurer's agreement that any such service of process shall have the same legal effect and validity as personal service of process upon it in this State.

§ 2105. Service of process

(a) Service of process upon any such insurer pursuant to section 2104 of this chapter shall be made by delivering to and leaving with the Commissioner or some person in apparent charge of his office 2 copies thereof and the payment to him of the fees as prescribed by section 701 of this title. The Commissioner shall forthwith mail by registered or certified mail one of the copies of such process to the defendant at its principal place of business last known to the Commissioner, and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of such service and a copy of the process are sent within 10 days thereafter by registered or certified mail by plaintiff's attorney to the defendant at its last known principal place of business, and the defendant's receipt or receipt issued by the post office with which the letter is registered or certified, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(b) Service of process in any such action, suit or proceeding shall in addition to the manner provided in subsection (a) above be valid if served upon any person within this State, who in this State on behalf of such insurer, is:

- (1) Soliciting insurance; or
- (2) Making any contract of insurance or issuing or delivering any policies or written contracts of insurance; or
- (3) Collecting or receiving any premium for insurance; and a copy of such process is sent within 10 days thereafter by registered or certified mail by the plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered or certified, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is

pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(c) No plaintiff or complainant shall be entitled to a judgment by default under this section until the expiration of 30 days from the date of the filing of the affidavit of compliance.

(d) Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

§ 2106. Exemptions from service or process provisions

Sections 2104 and 2105 of this chapter shall not apply to surplus line insurance lawfully effectuated under chapter 19 of this title, or to reinsurance, or to any action or proceeding against an unauthorized insurer arising out of any of the following where the policy or contract contains a provision designating the Commissioner as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such policy, or where the insurer enters a general appearance in any such action:

- (1) Wet marine and transportation insurance;
- (2) Insurance on or with respect to subjects located, resident, or to be performed wholly outside this State, or on vehicles or aircraft owned and principally garaged outside this State;
- (3) Insurance on property or operations of railroads engaged in interstate commerce; or
- (4) Insurance on aircraft or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of such aircraft.

§ 2107. Defense of action by unauthorized insurer

(a) Before an unauthorized insurer files or causes to be filed any pleading in any action or proceeding instituted against it under sections 2104 and 2105 of this chapter, such insurer shall:

- (1) Procure a certificate of authority to transact insurance in this State; or

(2) Deposit with the clerk of the court in which such action or proceeding is pending cash or securities, or file with such clerk a bond with good and sufficient surties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action. The court may in its discretion make an order dispensing with such deposit or bond where the insurer makes a showing satisfactory to the court that it maintains in a state of the United States funds or securities, in trust or otherwise, sufficient and available to satisfy any final judgment which may be entered in such action or proceeding, and that the insurer will pay any final judgment entered therein without requiring suit to be brought on such judgment in the state where such funds or securities are located.

(b) The court in any action or proceeding in which service is made in the manner provided in section 2105 of this chapter may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (a) above, and to defend such action.

(c) Nothing in subsection (a), above, is to be construed to prevent an unauthorized insurer from filing a motion to quash or to set aside the service of any process made in the manner provided in section 2105 of this chapter on the ground either:

(1) That such unauthorized insurer has not done any of the acts enumerated in section 2104 of this chapter; or

(2) That the person on whom service was made pursuant to subsection (b) of section 2105 of this chapter was not doing any of the acts therein enumerated.

§ 2108. Attorney fees

In any such action against an unauthorized insurer, if the insurer has failed for 30 days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was vexatious and without reasonable cause, the court shall allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action,

and in no event shall such fee be less than \$100. Failure of an insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

§ 2109. Unauthorized insurers false advertising process act; title

Sections 2102 and 2109 through 2111 of this chapter constitute and may be referred to as the "unauthorized insurers false advertising process act."

§ 2110. Notice to domiciliary supervisory official

No unauthorized insurer through any estimate, illustration, circular, pamphlet, letter, announcement, statement, or any other means or medium, shall misrepresent to any person in this State as to its financial condition or the terms of any contract issued or to be issued by it or the advantages thereof, or the dividends or share to be received thereon. Whenever the Commissioner has reason to believe that any such insurer is so misrepresenting, he shall so notify the insurer and the insurance supervisory official of the insurer's domiciliary state or province by registered or certified mail.

§ 2111. Action by commissioner

(a) If within 30 days following the giving of the notice provided for in section 2110 of this chapter the insurer has not ceased such dissemination, and if the Commissioner has reason to believe that such insurer is soliciting, issuing or delivering contracts of insurance to residents of this State or collecting premiums on such contracts or performing any other transaction in connection with such insurance, and that a proceeding by him in respect to such matters would be to the interest of the public, he shall take action against such insurer under provisions of section 2316 of this title (trade practices act, service of process on unauthorized insurers).

(b) If upon such hearing the Commissioner finds that the insurer has misrepresented as referred to in section 2110 of this chapter, he shall by order on such hearing require the insurer to cease and desist from such violation, and shall mail a copy of

the order by registered or certified mail to the insurer at its principal place of business last of record with the Commissioner and to the insurance supervisory official of the insurer's domiciliary state or province. Each violation thereafter of such desist order shall subject the insurer to a penalty of \$2,000, to be recovered by a civil action brought against the insurer by the Commissioner. Service of process upon the insurer in such action may be made upon the Commissioner pursuant to sections 2105 or 2316 of this title or in any other lawful manner.

§ 2112. Suits instituted by Commissioner

(a) Any foreign or alien insurer not thereunto authorized by the Commissioner, who, by mail or otherwise, solicits insurance business in this state or transacts insurance business in this State as defined by section 110 of this title, thereby submits itself to the jurisdiction of the courts of this State in any action, suit or proceeding instituted by or on behalf of the Commissioner arising out of such unauthorized solicitation of insurance business, including, but not limited to, an action for injunctive relief by the Commissioner.

(b) Process against such unauthorized insurer may be served in the manner provided in section 2316 of this title, except that the insurer shall have 40 days from the date of such service within which to plead, answer or otherwise defend the action.

CHAPTER 23. TRADE PRACTICES AND FRAUDS

§ 2301. Purpose of act; short title

(a) The purpose of sections 2301 through 2316 of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the act of Congress of March 9, 1945, (Public Law 15, 79th Congress), by defining, or providing for the determination of, all practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

(b) Sections 2301 through 2316 of this chapter constitute and may be cited as the unfair trade practices act.

§ 2302. Unfair methods; deceptive acts prohibited

No person shall engage in this State in any trade practice which is defined in this chapter as, or determined pursuant to this chapter to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

§ 2303. Misrepresentation; false advertising of policies

No person shall make, issue, circulate, or cause to be made, issued, or circulated, any estimate, circular, or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or make any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or use any name or title or any policy or class of policies misrepresenting the true nature thereof.

§ 2304. False information; advertising

No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

§ 2305. "Twisting" prohibited

No person shall make or issue, or cause to be made or issued, any written or oral statement misrepresenting or making incomplete comparisons as to the terms, conditions, or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, surrender, retain, exchange or convert any insurance policy.

§ 2306. False or misleading financial statements

(a) No person shall file with any supervisory or other public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

(b) No person shall make any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

(c) No person shall advertise the capital or assets of an insurer without in the same advertisement setting forth the amount of the insurer's liabilities.

§ 2307. Defamation

No person shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, or of an organization proposing to become an insurer, and which is circulated to injure any person engaged or proposing to engage in the business of insurance.

§ 2308. Boycott, coercion and intimidation

No person shall enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or any monopoly in, any business of insurance.

§ 2309. Unfair discrimination—life insurance, annuities, and health insurance

(a) No person shall make or permit any unfair discrimina-

tion between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

§ 2310. Rebates—life, health and annuity contracts

Except as otherwise expressly provided by law, no person shall knowingly permit or offer to make or make any contract of life insurance, life annuity or health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, or knowingly accept, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract; or directly or indirectly give, or sell, or purchase or offer or agree to give, sell, purchase, or allow as inducement to such insurance or annuity or in connection therewith, and whether or not to be specified in the policy or contract, any agreement of any form or nature promising returns and profits, or any stocks, bonds, or other securities, or interest present or contingent therein or as measured thereby, of any insurer or other corporation, association, or partnership, or any dividends or profits accrued or to accrue thereon.

§ 2311. Exceptions to discrimination, rebates, stock inducements provision—life, health, and annuity contracts

(a) Nothing in sections 2309 and 2310 of this chapter shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating

their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses, or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders;

(2) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

(3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) Reduction of premium rate for policies of large amount, but not exceeding savings in issuance and administration expenses reasonably attributable to such policies as compared with policies of similar plan issued in smaller amounts;

(5) Reduction in premium rates for life or health insurance policies on annuity contracts on salary savings, payroll deduction, pre-authorized check, bank draft or similar plans in amounts reasonably commensurate with the savings made by the use of such plans.

(b) Nothing in this chapter shall be construed as including within the definition of securities as inducements to purchase insurance the selling or offering for sale, contemporaneously with life insurance, or mutual fund shares or face amount certificates of regulated investment companies under offerings registered with the Securities and Exchange Commission where such shares or such face amount certificates or such insurance may be purchased independently of and not contingent upon purchase of the other, at the same price and upon similar terms and conditions as where purchased independently.

§ 2312. Unfair discrimination, rebates prohibited—property, casualty, surety insurance

(a) No property, casualty or surety insurer or any employee or representative thereof, and no broker, agent, or so-

licitor shall pay, allow, or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified or provided for in the policy, except to the extent provided for in an applicable filing with the Commissioner as provided by law.

(b) No insured named in a policy, nor any employee of such insured shall knowingly receive or accept directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

(c) No such insurer shall make or permit any unfair discrimination between insureds or property having like insuring or risk characteristics, in the premium or rates charged for insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the insurance.

(d) Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to licensed agents, brokers, or solicitors, or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits. In this section "insurance" includes suretyship and "policy" includes bond. This section does not apply to wet marine and transportation insurance.

§ 2313. Stock operations and advisory board contracts

(a) No person shall offer, issue or deliver or permit its agents, officers, or employees to offer, issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or any advisory board contract promising returns and profits as an inducement to insurance.

(b) No insurer authorized or proposing to be authorized to transact insurance in this State shall offer, issue or deliver, or permit its agents, officers, or employees to offer, issue or deliver

in any other state any such agency company stock, certificates, shares, or contracts as inducement to insurance.

§ 2314. Desist orders for prohibited practices

(a) If, after a hearing thereon of which notice of such hearing and of the charges against him were given such person, the Commissioner finds that any person in this State has engaged or is engaging in any act or practice defined in or prohibited under this chapter, the Commissioner shall order such person to desist from such acts or practices.

(b) Such desist order shall become final upon expiration of the time allowed for appeals from the Commissioner's orders, if no such appeal is taken, or, in the event of such an appeal, upon final decision of the court if the court affirms the Commissioner's order or dismisses the appeal. An intervenor in such hearing shall have the right to appeal as provided in section 333 of this title.

(c) In event of such an appeal, to the extent that the Commissioner's order is affirmed the court shall issue its own order commanding obedience to the terms of the Commissioner's order.

(d) No order of the Commissioner pursuant to this section or order of court to enforce it shall in any way relieve or absolve any person affected by such order from any other liability, penalty, or forfeiture under law.

(e) Violation of any such desist order shall be deemed to be and shall be punishable as a violation of this title.

(f) This section shall not be deemed to affect or prevent the imposition of any penalty provided by this title or by other law for violation of any other provision of this chapter, whether or not any such hearing is called or held or such desist order issued.

§ 2315. Procedures as to undefined practices

(a) If the Commissioner believes that any person engaged in the insurance business is, in the conduct of such business, engaging in this State in any method of competition or in any act or practice not defined in this chapter which is unfair or deceptive and that a proceeding by him in respect thereto would

be in the public interest, he shall, after a hearing of which notice of the hearing and of the charges against him are given such person, make a written report of his findings of fact relative to such charges and serve a copy thereof upon such person and any intervenor at the hearing.

(b) If such report charges a violation of this chapter and if such method of competition, act or practice has not been discontinued, the Commissioner may, through the Attorney General, at any time after the service of such report cause an action to be instituted to enjoin and restrain such person from engaging in such method, act, or practice. In such action the court may grant a restraining order or injunction upon such terms as may be just; but the State of Delaware shall not be required to give security before the issuance of any such order or injunction. If a stenographic record of the proceedings in the hearing before the Commissioner was made, a certified transcript thereof including all evidence taken and the report and findings shall be received in evidence in such action.

(c) If the Commissioner's report made under subsection (a) above, or order on hearing made under section 332 of this title does not charge a violation of this chapter, then any intervenor in the proceedings may appeal therefrom within the time and in the manner provided in this title for appeals from the Commissioner generally.

§ 2316. Service upon unauthorized insurers

(a) Service of all process, statements of charges, and notices under this chapter upon unauthorized insurers shall be made by any deputy or employee of the department delivering to and leaving with the Commissioner or some person in apparent charge of his office, 2 copies thereof, or in the manner provided for by section 2105(b) (service of process, unauthorized insurers process act) of this title.

(b) The Commissioner shall forward all such process, statements of charges, and notices to the insurer in the manner provided in section 2105(a) of this title.

(c) No default shall be taken against any such unauthorized insurer until expiration of 30 days after date of forwarding by

the Commissioner under subsection (b) above, or date of service of process if under section 2105 (b) of this title.

(d) Section 2105 of this title shall apply as to all process, statements of charges, and notices under this section.

§ 2317. Favored agent or insurer

No person shall require as a condition precedent concurrent, or subsequent to loaning money upon the security of any real or personal property, or to the selling of any such property under contract, that the owner of the property to whom the money is to be loaned or the vendee of the property so being sold, shall place, continue, or renew any policy of insurance covering or to cover such property, or covering any liability related to such property or the use thereof, through a particular insurance agent or broker or in a particular insurer; except, that this provision shall not prevent the exercise by any such lender or vendor upon a reasonable basis of the right to approve or disapprove of the insurer and representative selected to underwrite the insurance. Such basis shall relate only to (1) the adequacy and terms of the coverage with respect to the interest of the vendor or lender to be insured thereunder, (2) the financial standards to be met by the insurer, and (3) the ability of the insurer or representative to service the policy.

§ 2318. Insurance on public construction contracts

(a) No officer or employee of this State, or of any public agency, public authority or public corporation (except a public corporation or public authority created pursuant to agreement or compact with another state, and no person acting or purporting to act on behalf of such officer or employee, or public agency or public authority or public corporation, shall, with respect to any public building or construction contract which is about to be, or which has been competitively bid, require the bidder to make application to, (or furnish financial data to) or to obtain or procure, any of the surety bonds or contracts of insurance specified in connection with such contract, or specified by any law, general, special or local, from a particular insurer or agent or broker.

(b) No such officer or employee or any person, acting or purporting to act on behalf of such officer or employee shall

negotiate, make application for, obtain or procure any of such surety bonds or contracts of insurance (except contracts of insurance for builder's risk or owner's protective liability) which can be obtained or procured by the bidder, contractor or subcontractor.

(c) This section shall not, however, prevent the exercise by such officer or employee on behalf of the State or such public agency, public authority, or public corporation of its right to approve the form, sufficiency or manner of execution of the surety bonds or contracts of insurance furnished by the insurer selected by the bidder to underwrite such bonds, or contracts of insurance.

(d) Any provisions in any invitation for bids, or in any of the contract documents, in conflict with this section are declared to be contrary to the public policy of this State.

(e) A violation of this section shall be subject to the penalties provided by section 113 (general penalty) of this title.

§ 2319. Interlocking ownership, management

(a) Any insurer may retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this title, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business or tends to create any monopoly therein.

(b) Any person otherwise qualified may be a director of 2 or more insurers which are competitors, unless the effect thereof is to lessen substantially competition between insurers generally or tends materially to create any monopoly.

§ 2320. Political contributions prohibited; penalty

(a) No insurer shall directly or indirectly pay or use, or offer, consent, or agree to pay or use, any money or property for or in aid of any political party, committee, or organization, or for or in aid of any corporation or other body organized or main-

tained for political purposes, or for or in aid of any candidate for political office, or for nomination for such office, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used.

(b) Any officer, director, stockholder, attorney, or agent of any insurer which violates any of the provisions of this section, who participates in, aids, abets, or advises, or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor, and be punished by imprisonment for not more than one year and a fine of not more than \$1,000; and any officer or director abetting in any contribution made in violation of this section shall be liable to the insurer for the amount so contributed.

(c) This section shall not prohibit reasonable expenditures by an insurer otherwise lawful, for presentation of information relative to proposed legislation affecting the insurer.

§ 2321. Illegal dealing in premiums; excess charges for insurance

(a) No person shall wilfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this title.

(b) No person shall wilfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the Commissioner; or, in cases where classifications, premiums, or rates are not required by this code to be so filed and approved, such premiums and charges shall not be in excess of those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus lines brokers licensed under chapter 19 of this title, of the amount of applicable state and federal taxes and nominal service charge to cover communication expenses, in addition to the premium required by the insurer. Nor shall it be deemed to prohibit the charging and collection,

by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy.

§ 2322. Fictitious groups

(a) No insurer, whether an authorized insurer or an unauthorized insurer, shall make available through any rating plan or form, property, casualty or surety insurance to any firm, corporation, or association of individuals, any preferred rate or premium based upon any fictitious grouping of such firm, corporation, or association.

(b) No form or plan of insurance covering any group or combination of persons or risks shall be written or delivered within or outside this State to cover persons or risks in this State at any preferred rate or on any form other than as offered to persons not in such group or combination and to the public generally, unless such form, plan of insurance, and the rates or premiums to be charged therefor have been submitted to and approved by the Commissioner as being not unfairly discriminatory, and as not otherwise being in conflict with subsection (a) above or with any provision of chapter 25 of this title (rates and rating organizations) to the extent that such chapter 25 is, by its terms, applicable thereto.

(c) This section does not apply to life insurance, health insurance, annuity contracts, or wet marine and transportation insurance.

§ 2323. Insurance as inducement to purchase

No person shall directly or indirectly participate in any plan to offer or effect any kind or kinds of life or health insurance or annuities as an inducement to, or in connection with, the purchase by the public of any goods, securities, commodities, services or subscriptions to periodicals. This section shall not apply as to insurance written in connection with an indebtedness if the purpose of such insurance is to pay the indebtedness in case of death or disability of the insured.

§ 2324. Insurer name; deceptive use prohibited

No person who is not an insurer shall assume or use any name which deceptively implies or suggests that it is an insurer.

This section shall not preclude a corporation heretofore or hereafter formed under the laws of this State from using such a name between the date it is incorporated and the date it begins to engage in any business, if during such period the corporate activities are limited to its organization or reorganization or to those activities it would be permitted to engage in, if it were an insurer, under section 4904(b) (2) of this title.

§ 2325. Service and processing charges by mortgagees prohibited

No mortgagee or agent of any mortgagee shall accept or receive any monetary charge or fee from a mortgagor for handling, servicing or processing insurance policies, or endorsements, or for the issuance or cancellation of such policies, on property located within this State.

§ 2326. False applications, claims, proofs of loss; penalty

No agent, broker, solicitor, examining physician, applicant, or other person, shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for insurance; or for the purpose of obtaining any money or benefit, knowingly or wilfully present or cause to be presented a false or fraudulent claim; or any proof in support of such a claim for the payment of the loss upon a contract of insurance; or prepare, make, or subscribe a false or fraudulent account, certificate, affidavit or proof of loss, or other document or writing, with intent that the same may be presented or used in support of such a claim.

CHAPTER 25. RATES AND RATING ORGANIZATIONS

§ 2501. Purpose of chapter; interpretation

The purpose of this chapter is to promote the public welfare by regulating insurance rates (in accordance with the intent of Congress as expressed in Public Law 15—79th Congress) and to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this chapter. Nothing in this chapter is intended

(1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

§ 2502. Scope of chapter

(a) This chapter applies to:

(1) Casualty insurance, including workmen's compensation, and all forms of motor vehicle insurance, on risks or operations in this State;

(2) Surety insurance;

(3) Fire, marine and inland marine insurance, as used in their generally accepted trade sense, on risks located in this State. Inland marine insurance shall be deemed to include insurance as defined by statute, or by ruling of the Commissioner.

(b) This chapter shall not apply to:

(1) Reinsurance, except joint reinsurance as provided in section 2523 of this chapter;

(2) Health insurance;

(3) Insurance of air-borne or water-borne vessels or craft, their cargoes, legal liability of aircraft operators, marine protection and indemnity, or other risks commonly insured under aviation or marine, as distinguished from inland marine, insurance policies;

(4) Life insurance;

(5) Title insurance.

(c) Nothing in this chapter shall abridge or restrict the freedom of contract between insurers and agents or brokers with respect to commissions or between insurers and their employees with respect to compensation.

§ 2503. Making of rates

(a) Rates shall be made in accordance with the following provisions:

(1) Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated;

(2) Rates shall not be excessive, inadequate or unfairly discriminatory;

(3) Due consideration shall be given:

(i) To past and prospective loss experience within and outside this State;

(ii) To the conflagration and catastrophe hazards;

(iii) To a reasonable margin for underwriting profit and contingencies;

(iv) To dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;

(v) To past and prospective expenses both country-wide and those specially applicable to this State;

(vi) To all other relevant factors within and outside this State; and

(vii) In the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent 5 year period for which such experience is available;

(4) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(5) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks which may have a probable effect upon losses or expenses.

(b) Nothing in this section shall be taken to prohibit as unreasonable or unfairly discriminatory the establishment of classifications or modifications of classifications or risks based upon size, expense, management, individual experience, purpose of insurance location or dispersion of hazard, or any other reasonable considerations provided such classifications and modifications apply to all risks under the same or substantially similar circumstances or conditions.

(c) Except to the extent necessary to meet the provisions of subdivisions (2) of subsection (a) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

§ 2504. Rate filings

(a) Every insurer shall file with the Commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated.

(b) When a filing is not accompanied by the information upon which the insurer supports such filing, and the Commissioner does not have sufficient information to determine whether such filing meets the requirements of this chapter he shall require the insurer to furnish the information upon which it supports the filing. The information furnished in support of a filing may include (1) the experience or judgment of the insurer or rating organization making the filing, (2) its interpretation of any statistical data it relies upon, (3) the experience of other insurers or rating organizations in conjunction with (1), or (4) any other relevant factors. A filing and supporting information shall be open to inspection by parties in interest after the filing becomes effective.

(c) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the Commissioner, and shall become effective when filed and shall be deemed approved and in compliance with the requirements of

this chapter until such time as the Commissioner rejects the filing.

§ 2505. Exemption from filing

Under such rules and regulations as he adopts the Commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The Commissioner may make such examination as he deems advisable to ascertain whether any rates affected by such order meet the standards set forth in section 2503 (a) (2) of this chapter.

§ 2506. Effective date of filing

(a) The Commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they met the requirements of this chapter. The filings shall be deemed to meet the requirements of this chapter unless disapproved by the Commissioner.

(b) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this chapter until such time as the Commissioner rejects the filing.

§ 2507. Disapproval of filing

If within 30 days after a specific inland rate, a special surety or guaranty on a risk specially rated by a rating organization, subject to subsection (b) of section 2504 of this chapter, has become effective, the Commissioner finds that such filing does not meet the requirements of this chapter or if upon review of any other filing, the Commissioner finds that the same does not meet the requirements of this chapter, he shall, after a hearing held upon not less than 10 days' written notice specifying the matters to be considered at such hearing, to every insurer and

rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

§ 2508. Limitation of disapproval power

No manual of classifications, rules, rating plans, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to section 2503 of this chapter, shall be disapproved if the rates produced meet the requirements of this chapter.

§ 2509. Excess rates

Upon the written application of the insured, stating his reasons therefor, filed with and approved by the Commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

§ 2510. Rating organizations—filing for members and subscribers authorized

Insurer may satisfy its obligation to make filings required by section 2503 of this chapter by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the Commissioner to accept such filings on its behalf. Nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

§ 2511. Rating organizations—licensing

(a) No rating organization shall make or file risks for risks located in this State without first being licensed therefor under this chapter.

(b) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this

State, may make application to the Commissioner for license as a rating organization for such kinds of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of and of its bylaws, rules and regulations governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this State upon whom notices or orders of the Commissioner or process affecting such rating organization may be served, and (4) a statement of its qualifications as a rating organization.

(c) If the Commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he may issue a license specifying the kinds of insurance, or subdivision or class of risk or part or combination thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the Commissioner within a reasonable period after the same has been filed with him.

(d) Licenses issued pursuant to this section shall remain in effect for one year unless sooner suspended or revoked by the Commissioner.

(e) Licenses issued pursuant to this section may be suspended or revoked by the Commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this section.

§ 2512. Subscribers to rating organizations

(a) Subject to rules and regulations which have been approved by the Commissioner as reasonable, each rating organization shall permit any insurer to be a subscriber to its rating services for any kind of insurance, subdivision, or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its subscribers.

(b) The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the Commissioner at a hearing held upon at least 10 days' written notice to such rating organization and to such subscriber or insurer. If the Commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within 30 days after it was made, the insurer may request a review by the Commissioner as if the application had been rejected. If the Commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

§ 2513. Notice of changes

Every rating organization shall notify the Commissioner promptly of every change in (1) its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business, (2) its list of members and subscribers, and (3) the name and address of the resident of this State designed by it upon whom notices or orders of the Commissioner or process affecting such rating organization may be served.

§ 2514. Rules not to affect dividends

No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

§ 2515. Technical services

Any rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all subscribers without discrimination.

§ 2516. Stamping Bureau

Any rating organization may provide for the examination of its subscribers' policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within 60 days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, the rating organization shall notify the Commissioner thereof. All information so submitted for examination shall be confidential.

§ 2517. Adherence to filings

No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for the insurer as provided in this chapter or in accordance with sections 2505 (exemption from filing) or 2509 (excess rates) of this chapter. This section shall not apply to contracts or policies for inland marine risks as to which filings are not required.

§ 2518. Deviations

(a) Every subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the Commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization.

(b) The Commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than 10 days' written notice thereof. If the Commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearings.

(c) In considering the application for permission to file such deviation the Commissioner shall give consideration to the

available statistics and the principles for rate making as provided in section 2503 of this chapter. The Commissioner shall issue an order permitting the deviation for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified or that the resulting premiums would be excessive, inadequate or unfairly discriminatory.

(d) Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the Commissioner. All term policies issued pursuant to such deviations may remain in force until their expiring dates.

§ 2519. Appeal from rating organization

Any subscriber to a rating organization may appeal to the Commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization.

§ 2520. Appeal by insurers and others as to filings

(a) Any person or organization in interest, aggrieved with respect to any filing which is in effect may make written application to the Commissioner for a hearing thereon except that the insurer or rating organization that made the filing shall not be authorized to proceed under this section. Such application shall specify the grounds to be relied upon by the applicant.

(b) If the Commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within 30 days after receipt of such application, hold a hearing upon not less than 10 days' written notice to the applicant and to every insurer and rating organization which made such filing.

(c) If, after such hearing, the Commissioner finds that the filing does not meet the requirements of this chapter, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be

deemed no longer effective. Copies of the order shall be sent to the applicant and to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

§ 2521. Information to be furnished insured

Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all information as to such rate.

§ 2522. Advisory organizations

(a) Every group, association or other organization of insurers, whether located within or outside this State, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this chapter, shall be known as an advisory organization.

(b) Every advisory organization shall file with the Commissioner (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules, and regulations governing its activities, (2) a list of its members, and (3) the name and address of a resident of this State upon whom notice or orders of the Commissioner or process issued at his direction may be served.

(c) If, after a hearing, the Commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filing nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organ-

ization which has not complied with this section or with an order of the Commissioner involving such statistics or recommendations issued under subsection (c) of this section. If the Commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

§ 2523. Joint underwriters; joint reinsurers

(a) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of law, and with respect to joint reinsurance, to section 2524 (examinations) of this chapter.

(b) If, after a hearing, the Commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

§ 2524. Examinations

(a) The Commissioner shall, at least once in 5 years, make or cause to be made an examination of each rating organization licensed in this State as provided in section 2511 of this chapter, and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section 2522 of this chapter and of each group, association or other organization referred to in section 2523 of this chapter. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officers, manager, agent and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation.

(b) In lieu of any such examination the Commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

(c) The provisions of section 325 of this title (examination report) apply as to such examinations.

§ 2525. Recording and reporting of loss and expense experience

(a) The Commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used hereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section 2503 of this chapter. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this State and are not susceptible of determination by a pro-rating of countrywide expense experience.

(b) In promulgating such rules and plans, the Commissioner shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it.

(c) The Commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the Commissioner, to insurers and rating organizations.

(d) Each insurer shall report its loss or expense experience to the lawful rating organization or agency of which it is a member or subscriber, but shall not be required to report its loss of expense experience to any rating organization or agency of which it is not a member or subscriber. Any insurer not

ization which has not complied with this section or with an order of the Commissioner involving such statistics or recommendations issued under subsection (c) of this section. If the Commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

§ 2523. Joint underwriters; joint reinsurers

(a) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of law, and with respect to joint reinsurance, to section 2524 (examinations) of this chapter.

(b) If, after a hearing, the Commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

§ 2524. Examinations

(a) The Commissioner shall, at least once in 5 years, make or cause to be made an examination of each rating organization licensed in this State as provided in section 2511 of this chapter, and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section 2522 of this chapter and of each group, association or other organization referred to in section 2523 of this chapter. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officers, manager, agent and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation.

(b) In lieu of any such examination the Commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

(c) The provisions of section 325 of this title (examination report) apply as to such examinations.

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(b) In promulgating such rules and plans, the Commissioner shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it.

(c) The Commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the Commissioner, to insurers and rating organizations.

(d) Each insurer shall report its loss or expense experience to the lawful rating organization or agency of which it is a member or subscriber, but shall not be required to report its loss of expense experience to any rating organization or agency of which it is not a member or subscriber. Any insurer not

reporting such experience to a rating organization or other agency may be required to report such experience to the Commissioner. Any report of such experience of any insurer filed with the Commissioner shall be deemed confidential and shall not be revealed by the Commissioner to any other insurer or other person, but the Commissioner may make compilations including such experience.

§ 2526. Interchange of rating plan data; consultation; cooperative action in rate-making

(a) Reasonable rules and plans may be promulgated by the Commissioner for the interchange of data necessary for the application of rating plans.

(b) In order to further uniform administration of rate regulatory laws, the Commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

(c) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this chapter is authorized, but the filings resulting from such cooperation are subject to all provisions of this chapter which are applicable to filings generally. The Commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

§ 2527. Assigned risk plans

Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the

use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the disapproval of the Commissioner pursuant to this chapter.

§ 2528. False or misleading information

(a) No person shall wilfully withhold information from, or knowingly give false or misleading information to:

- (1) The Commissioner;
- (2) Any statistical agency designated by the Commissioner;
- (3) Any rating organization or insurer, which affect rates or premiums chargeable under this chapter.

(b) Violation of this section shall be subject to the penalties provided in section 113 of this title, or in lieu thereof, in the Commissioner's discretion, an administrative fine of not over \$1,000.

§ 2529. Fleet rates

Two or more insurers, who, by virtue of their business associations in the United States, represent themselves to be or are customarily known as a "group" or similar insurance trade designation, may make the same filings or use the same rates for each such insurer subject to the provisions of section 2503; and nothing contained in this chapter shall be construed to prohibit an agreement to make the same filings or use the same rates and concerted action in connection with such filings or rates by such insurers. This section shall not apply to 2 or more insurers who are not under the same common executive or general management or control and who act in concert in underwriting groups or pools.

§ 2530. Penalties

(a) The Commissioner may, if he finds that any person or organization has violated any provision of this chapter, impose a penalty of not more than \$200 for each such violation, but if he finds such violation to be wilful he may impose a penalty of not more than \$500 for each such violation, in addition to any other penalty provided by law.

(b) The Commissioner may suspend the license of any rating organization or insurer which fails to comply with his order within the time limited by the order or any extension thereof granted by the Commissioner. The Commissioner shall not so suspend a license for failure to comply with an order until time prescribed for appeal therefrom has expired or if appealed, until such order has been affirmed. The Commissioner may determine the period of a suspension and it shall remain in effect for such period, unless he modifies or rescinds the suspension, or until the order upon which the suspension is based is modified, rescinded or reversed.

(c) No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the Commissioner, stating his findings, made after a hearing held upon not less than 10 days' written notice to such person or organization specifying the alleged violation.

(d) Any party aggrieved by an order or decision of the Commissioner may, within 30 days after Commissioner's notice, make written request for hearing thereon pursuant to Section 2507.

§ 2531. Appeals from Commissioner

Any order, decision or act of the Commissioner under this chapter is subject to judicial review upon petition of any person aggrieved. The appeal shall be to the Court of Chancery in any county of this State. A petition for review shall be filed within 60 days from notice of the order, decision or act. The commencement of the proceeding shall not affect enforcement or validity of the Commissioner's action unless the court determines, after notice to the Commissioner, that a stay of enforcement until further direction of the court will not unduly injure the interests of the public. Subsections (d) through (i) of section 333 (appeal from the Commissioner) of this title shall apply to such appeals.

CHAPTER 27. THE INSURANCE CONTRACT

§ 2701. Scope of chapter

This chapter applies as to all insurance contracts and annuity contracts, other than:

(a) Reinsurance.

(b) Policies or contracts not issued for delivery in this State nor delivered in this State.

(c) Wet marine and transportation insurance.

§ 2702. "Policy" defined

"Policy" means the written contract of or written agreement for or effecting insurance, by whatever name called, and includes all clauses, riders, endorsements and papers which are a part thereof.

§ 2703. "Premium" defined

"Premium" is the consideration for insurance, by whatever name called. Any "assessment," or any "membership," "policy," "survey," "inspection," "service" or similar fee or other charge in consideration for an insurance contract is deemed part of the premium.

§ 2704. Insurable interest; personal insurance

(a) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

(b) If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

(c) "Insurable interest" as to such personal insurance means that every individual has an insurable interest in the life, body, and health of himself, and of other persons as follows:

(1) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

(2) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured; and

(3) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a corporation or of an interest in such shares, has an insurable interest in the life of each individual party to such contract and for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to the life of such individual.

(d) An insurer shall be entitled to rely upon all statements, declarations and representations made by an applicant for insurance relative to the insurable interest of the applicant in the insured; and no insurer shall incur legal liability except as set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

§ 2705. Insurable interest; exception when certain institutions designated beneficiary

(a) Life insurance contracts may be entered into in which the person paying the consideration for the insurance has no insurable interest in the life of the individual insured, where charitable, benevolent, educational, or religious institutions, or their agencies, are designated irrevocably as the beneficiaries thereof.

(b) In making such contracts the person paying the premium shall make and sign the application therefor as owner, and shall designate a charitable, benevolent, educational or religious institution, or an agency thereof, irrevocably as the beneficiary or beneficiaries of such contract. The application shall be signed also by the individual whose life is to be insured.

(c) Nothing in this section shall be deemed to prohibit any combination of the applicant, premium payer, owner, and beneficiary from being the same person.

(d) Such a contract shall be valid and binding among the parties thereto, notwithstanding the absence otherwise of an insurable interest in the life of the individual insured.

§ 2706. Insurable interest; property

(a) No contract of insurance of property or of any interest in property or arising from property shall be enforceable as to the insurance except for the benefit of persons having an insurable interest in the things insured as at the time of the loss.

(b) "Insurable interest" as used in this section means any actual, lawful, and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction, or pecuniary damage or impairment.

(c) The measure of an insurable interest in property is the extent to which the insured might be directly or indirectly damaged by loss, injury, or impairment thereof.

§ 2707. Power to contract; purchase of insurance and annuities by minors

(a) Any person of competent legal capacity may contract for insurance.

(b) Any minor not less than 15 years of age, with the consent of parent or guardian, if any, unless otherwise emancipated, may, notwithstanding his minority, contract for or own annuities, or insurance, or affirm by novation or otherwise pre-existing contracts for annuities or insurance upon his own life, body, health, property, liabilities or other interests, or on the persons of another in whom the minor has an insurable interest. Such a minor shall, notwithstanding such minority, be deemed competent to exercise all rights and powers with respect to or under (1) any contract for annuity or for insurance upon his own life, body or health, or (2) any contract such minor effected upon his own property, liabilities or other interests or (3) any contract effected or owned by the minor on the person of another, as might be exercised by a person of full legal age, and may at any time surrender his interest in any such contracts and give valid discharge for any benefit accruing or money payable thereunder. Such a minor shall not, by reason of his minority, be entitled to rescind, avoid or repudiate the contract, nor to rescind,

avoid or repudiate any exercise of a right or privilege thereunder, except that such a minor not otherwise emancipated, shall not be bound by any unperformed agreement to pay by promissory note or otherwise, any premium on any such annuity or insurance contract.

(c) Any annuity contract or policy of life or disability insurance procured by or for a minor under subsection (b) above, shall be made payable either to the minor or his estate or to a person having an insurable interest in the life of the minor.

§ 2708. Consent of insured—life, health insurance

No life or health insurance contract upon an individual, except a contract of group life insurance or of group or blanket health insurance, shall be made or effectuated unless at the time of making of the contract the individual insured, being of competent legal capacity to contract, applies therefor or has consented thereto in writing, except in the following cases:

(1) A spouse may effectuate such insurance upon the other spouse.

(2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of or pertaining to such minor.

(3) Family policies may be issued insuring any 2 or more members of a family on an application signed by either parent, a step-parent, or by a husband or wife.

§ 2709. Alteration of application, life and health insurance

No alteration of any written application for any life or health insurance policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

§ 2710. Application as evidence

(a) No application for the issuance of any life or health insurance policy or annuity contract shall be admissible in evi-

dence in any action relative to such policy or contract, unless a true copy of the application was attached to or otherwise made a part of the policy or contract when issued. This provision shall not apply to industrial life insurance policies.

(b) If any policy of life or health insurance delivered in this state is reinstated or renewed, and the insured or the beneficiary or assignee of the policy makes written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall, within 30 days after receipt of such request at its home office, deliver or mail to the person making such request a copy of such application reproduced by any legible means. If such copy is not so delivered or mailed after having been so requested, the insurer shall be precluded from introducing the application in evidence in any action or proceeding based upon or involving the policy or its reinstatement or renewal. In the case of such a request from a beneficiary, the time within which the insurer is required to furnish a copy of such application shall not begin to run until after receipt of evidence satisfactory to the insurer of the beneficiary's vested interest in the policy or contract.

(c) As to kinds of insurance other than life or health insurance, no application for insurance signed by or on behalf of the insured shall be admissible in evidence in any action between the insured and the insurer arising out of the policy so applied for, if the insurer has failed, at the expiration of 30 days after receipt by the insurer of written demand therefor by or on behalf of the insured, to furnish to the insured a copy of such application reproduced by any legible means.

§ 2711. Representations in applications

All statements and descriptions in any application for an insurance policy or annuity contract, by or in behalf of the insured or annuitant, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts, and incorrect statements shall not prevent a recovery under the policy or contract unless either:

- (1) Fraudulent; or
- (2) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or

(3) The insurer in good faith would either not have issued the policy or contract, or would not have issued it at the same premium rate, or would not have issued a policy or contract in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.

§ 2712. Filing; approval of forms

(a) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this State, unless the form has been filed with the Commissioner. This provision shall not apply to surety bonds, or to specially rated inland marine risks, nor to policies, riders, endorsements or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies effectuated and delivered outside this State but covering persons resident in this State, the group certificates to be delivered or issued for delivery in this State shall be filed, for the Commissioner's information only, with the Commissioner at his request. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(b) Every such filing shall be made not less than 30 days in advance of any such delivery. At the expiration of such 30 days the form so filed shall be effective unless prior thereto it has been affirmatively acknowledged or disapproved by order of the Commissioner. Acknowledgment of any such form by the Commissioner shall constitute a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not

more than an additional 30 days the period within which he may so affirmatively acknowledge or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial 30 days period. At the expiration of any such period as so extended, and in the absence of such prior affirmative acknowledgment or disapproval, any such form may be placed in use. The Commissioner may at any time, after notice and for cause shown, withdraw any such acknowledgment or effectiveness.

(c) Any order of the Commissioner disapproving any such form or withdrawing a previous effectiveness shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously effective form shall be operative at expiration of such period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner shall in such notice prescribe.

(d) The Commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and review of which are, in his opinion, not desirable or necessary for the protection of the public.

(e) Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous effectiveness may be taken as provided in sections 327 through 333 of this title.

§ 2713. Grounds for disapproval

The Commissioner shall disapprove any form filed under section 2712 of this chapter, or withdraw any previous effectiveness thereof, only on one or more of the following grounds:

(1) If it is in any respect in violation of or does not comply with this title.

(2) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(3) If it has any title, heading, or other indication of its provisions which is misleading.

(4) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged, or if it contains any unjust, unfair or inequitable provision or provisions.

(5) As to a life insurance or health insurance policy, if it contains a provision or provisions such as to encourage misrepresentation.

§ 2714. Standard provisions, in general

(a) Insurance contracts shall contain such standard or uniform provisions as are required by the applicable provisions of this title pertaining to contracts of particular kinds of insurance. The Commissioner may waive the required use of a particular provision in a particular insurance policy form if:

(1) He finds such provision unnecessary for or unrelated to the protection of the insured and inconsistent with the purposes of the policy, and

(2) The policy is otherwise approved by him.

(b) No policy shall contain any provision inconsistent with or contradictory to any standard or uniform provision used or required to be used, but the Commissioner may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the provisions otherwise required.

(c) In lieu of the provisions required by this title for contracts for particular kinds of insurance, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the Commissioner.

(d) A policy issued by a domestic insurer for delivery in another jurisdiction may contain any provision required or permitted by the laws of such jurisdiction.

§ 2715. Charter; bylaw provisions

No policy shall contain any provision purporting to make any portion of the charter, bylaws or other constituent document of the insurer (other than the subscriber's agreement or power of attorney of a reciprocal insurer) a part of the contract unless

such portion is set forth in full in the policy. Any policy provision in violation of this section shall be invalid.

§ 2716. Execution of policies

(a) Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney in fact, employee, or representative duly authorized by the insurer.

(b) A facsimile signature of any such executing individual may be used in lieu of an original signature.

(c) No insurance contract heretofore or hereafter issued and which is otherwise valid shall be rendered invalid by reason of the apparent execution thereof on behalf of the insurer by the imprinted facsimile signature of an individual not authorized so to execute as of the date of the policy.

§ 2717. Underwriters' and combination policies

(a) Two or more authorized insurers may jointly issue, and shall be jointly and severally liable on, an underwriters' policy bearing their names. Any one insurer may issue policies in the name of an underwriter's department and such policy shall plainly show the true name of the insurer.

(b) Two or more insurers may, with the approval of the Commissioner, issue a combination policy which shall contain provisions substantially as follows:

(1) That the insurers executing the policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of insurance under the policy, and

(2) That service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing the policy, shall constitute service upon all such insurers.

(c) This section shall not apply to co-surety obligations.

§ 2718. Validity and construction of non-complying forms

(a) A policy hereafter delivered or issued for delivery to any person in this State in violation of this title but other-

wise binding on the insurer, shall be held valid, but shall be construed as provided in this title.

(b) Any condition, omission or provision not in compliance with the requirements of this title and contained in any policy, rider, or endorsement hereafter issued and otherwise valid, shall not thereby be rendered invalid but shall be construed and applied in accordance with such condition, omission or provision as would have applied had the same been in full compliance with this title.

§ 2719. Delivery of policy

In event the original policy is delivered or is so required to be delivered to or for deposit with any vendor, mortgagee, or pledgee of any motor vehicle, and in which policy any interest of the vendee, mortgagor, or pledgor in or with reference to such vehicle is insured, a duplicate of such policy setting forth the name and address of the insurer, insurance classification of vehicle, type of coverage, limits of liability, premiums for the respective coverages, and duration of the policy, or memorandum thereof containing the same such information, shall be delivered by the vendor, mortgagee, or pledgee to each such vendee, mortgagor, or pledgor named in the policy or coming within the group of persons designated in the policy to be so included. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a statement of such fact shall be printed, written, or stamped conspicuously on the face of such duplicate policy or memorandum. This subsection does not apply to inland marine floater policies.

§ 2720. Assignability

A policy may be assignable or not assignable, as provided by its terms. Subject to its terms relating to assignability, a life or health insurance policy, whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the insured or owner, may be assigned either by pledge or transfer of title, by an assignment executed by the insured or owner alone and delivered to the insurer, whether or not the pledgee or assignee is the

insurer. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge, or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.

§ 2721. Payment discharges insurer

Whenever the proceeds of or payments under a life or health insurance policy or annuity contract heretofore or hereafter issued become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance therewith or in accordance with any written assignment thereof, the person then designated as being entitled thereto shall be entitled to receive such proceeds or payments and to give full acquittance therefor, and such payments shall fully discharge the insurer from all claims under the policy or contract unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.

§ 2722. Forms for proof of loss to be furnished

An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued by such insurer, forms of proof of loss for completion by such person, but such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of such proof or the manner of any such completion or attempted completion.

§ 2723. Minor may give acquittance

(a) Any minor domiciled in this State who has attained the age of 18 years shall be deemed competent to receive and to give full acquittance and discharge for a payment or payments in aggregate amount not exceeding \$3,000 in any one year made by a life insurer under the maturity, death, or set-

tlement agreement provisions in effect or elected by such minor under a life insurance policy or annuity contract, if such policy contract or agreement provides for payment to such minor. No such minor shall be deemed competent to alienate the right to or to anticipate or commute such payments. This section shall not be deemed to restrict the rights of minors set forth in section 2707 of this chapter.

(b) If a guardian of the property of any such minor is duly appointed and written notice thereof is given to the insurer at its home office, any such payment thereafter falling due shall be paid to the guardian for the account of the minor, unless the policy or contract under which the payment is made expressly provides otherwise.

(c) This section shall not be deemed to require any insurer making any such payment to determine whether any other insurer may be effecting a similar payment to the same minor.

§ 2724. Claims administration not waiver

Without limitation of any right or defense of an insurer otherwise, none of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder:

(1) Acknowledgment of the receipt of notice of loss or claim under the policy.

(2) Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.

(3) Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

§ 2725. Exemption of proceeds, life insurance

(a) If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life, or on another life, in favor of a person other than himself, or,

except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such insurance or executors or administrators of such insured or the person so effecting such insurance, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted and whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall pre-decease such person, and such proceeds and avails shall be exempt from all liability for any debt of the beneficiary existing at the time the policy is made available for his use; Provided, that subject to the statute of limitations, the amount of any premiums for such insurance paid with intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy; but the insurer issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless, before such payment, the insurer shall have received written notice at its home office, by or in behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specifications of the amount claimed along with such facts as will assist the insurer to ascertain the particular policy.

(b) For the purposes of subsection (a) above, a policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the policy permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

§ 2726. Exemption of proceeds; health insurance

Except as may otherwise be expressly provided by the policy or contract, the proceeds or avails of all contracts of health insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts heretofore or hereafter

effected shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing at the time the proceeds are made available for his use.

§ 2727. Exemption of proceeds; group insurance

(a) A policy of group life insurance or group health insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any debt or liability of such insured individual or his beneficiary or of any other person having a right under the policy.

(b) This section shall not apply to group insurance issued pursuant to this title to a creditor covering his debtors, to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

§ 2728. Exemption of proceeds, annuity contracts; assignability of rights

(a) The benefits, rights, privileges and options which under any annuity contract heretofore or hereafter issued are due or prospectively due the annuitant, shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers, or options, nor shall creditors be allowed to interfere with or terminate the contract, except:

(1) As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payment to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payment sought to be avoided on the ground of fraud.

(2) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant, shall

not at any time exceed \$350 per month for the length of time represented by such installments, and that such periodic payments in excess of \$350 per month shall be subject to garnishee execution to the same extent as are wages and salaries.

(3) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, shall at any time exceed payment at the rate of \$350 per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

(b) If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained herein for the annuitant, shall apply with respect to such beneficiary or assignee.

§ 2729. Retention of proceeds of policy by Company

(a) Any life insurer shall have power to hold payment of proceeds, as shall have been agreed to in writing by the insurer and the insured or beneficiary. The insurer shall not be required to segregate funds so held but may hold them as a part of its general corporate assets.

(b) The provisions of this section shall not impair or affect any rights of creditors under sections 2725 through 2728 of this chapter.

CHAPTER 29. LIFE INSURANCE AND ANNUITY CONTRACTS

§ 2901. Scope of chapter

This chapter, except as to section 2933 hereof, applies only to contracts of life insurance and annuities, other than reinsurance, group life insurance and group annuities.

§ 2902. "Annuity" defined

For this title an "annuity" is a contract under which obligations are assumed as to periodic payments for specific term or terms or where the making or continuance of all or some such payments, or the amount of any such payment, is dependent upon continuance of human life. Such a contract which includes extra benefits of kinds set forth in sections 902 ("life insurance" defined) and 903 ("health insurance" defined) of this title shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.

§ 2903. "Industrial life insurance" defined

For the purposes of this title "industrial life insurance" is that form of life insurance written under policies of face amount of \$1,000 or less bearing the words "industrial policy" imprinted on the face thereof as part of the descriptive matter, and under which premiums are payable monthly or more often.

§ 2904. Standard provisions required

(a) No policy of life insurance, other than pure endowments with or without return of premiums or of premiums and interest, shall be delivered or issued for delivery in this State unless it contains in substance all of the applicable provisions required by sections 2905 to 2916, inclusive, of this chapter. This section shall not apply to annuity contracts nor to any provision of a life insurance policy, or contract supplemental thereto, relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(b) Any of such provisions or portions thereof not applicable to single premium or nonparticipating or term policies or insurance granted in exchange for lapsed or surrendered policies, shall to that extent not be incorporated therein.

§ 2905. Payment of premiums

There shall be a provision relating to the time and place of payment of premiums.

§ 2906. Grace period

There shall be a provision that a grace period of 30 days, or, at the option of the insurer, of one month of not less than 30

days, or of 4 weeks in the case of industrial life insurance policies the premiums for which are payable more frequently than monthly, shall be allowed within which the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force. The insurer may impose an interest charge not in excess of 6% per annum for the number of days of grace elapsing before the payment of the premium, and, whether or not such interest charge is imposed, if a claim arises under the policy during such period of grace the amount of any premium due or overdue, together with interest and any deferred installment of the annual premium, may be deducted from the policy proceeds. Grace shall date from the premium due date specified in the policy.

§ 2907. Entire contract

There shall be a provision that except as otherwise expressly provided by law, the policy and the application therefor, if a copy of such application is endorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties, and that all statements contained in the application shall, in the absence of fraud, be deemed representations and not warranties.

§ 2908. Incontestability

There shall be a provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of not more than 2 years after its date of issue, except for (1) nonpayment of premiums, and (2) at the insurer's option, provisions relating to benefits in the event of total and permanent disability and provisions granting additional benefits specifically against death by accident or accidental means.

§ 2909. Misstatement of age

There shall be a provision that if the age of the insured or of any other person whose age is considered in determining the premium or benefit has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

§ 2910. Dividends

(a) There shall be a provision in participating policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy provided the policy is in force and all premiums to that date are paid. Except as herein-after provided, any dividend becoming payable shall at the option of the party entitled to elect such option be either:

(1) Payable in cash, or

(2) Applied to any one of such other dividend options as may be provided by the policy. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than 30 days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of (1) above even though the policy provides that payment of such dividend is to be deferred for a specified period, provided such period does not exceed 6 years from the date of apportionment and that interest will be added to such dividend at a specified rate.

(b) Renewable term policies of 10 years or less may provide that the surplus accrued to such policies shall be determined and apportioned each year after the second policy year, and accumulated during each renewal period, and that at the end of the renewal period, on renewal of the policy by the insured, the insurer shall apply the accumulated surplus as an annuity for the next succeeding renewal term in the reduction of premiums.

(c) In participating industrial life insurance policies, in lieu of the provision required in subsection (a) above, there shall be a provision that, beginning not later than the end of the fifth policy year, the policy shall participate annually in the divisible surplus, if any, in the manner set forth in the policy.

(d) This section does not apply to insurance issued under nonforfeiture provisions of lapsed or surrendered policies.

§ 2911. Policy loan

(a) There shall be a provision that after 3 full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest, not exceeding 6% per annum, or if payable in advance such interest shall not exceed the rate of 5.7% per annum, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, and the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void, but not until at least 30 days' notice has been mailed by the insurer to the last address, of record with the insurer, of the insured or other policy owner and of any assignee of record at the insurer's home office. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for 6 months after application therefor. Such provision shall also contain a table showing in figures the loan values each year during the first 20 years of the policy, or during the term of the policy, whichever is shorter. The policy, at the insurer's option, may provide for automatic premium loan.

(b) This section shall not apply to term policies, or to term insurance benefits provided by rider or supplemental policy provisions or to industrial life insurance policies.

§ 2912. Table of installments

In case the policy provides that the proceeds may be payable in installments which are determinable at issue of the policy, there shall be a table showing the amounts of the guaranteed installments.

§ 2913. Reinstatement

There shall be a provision that unless:

(1) The policy has been surrendered for its cash surrender value, or

(2) Its cash surrender value has been exhausted, or

(3) The paid-up term insurance, if any, has expired.

The policy will be reinstated at any time within 3 years (or 2 years in the case of industrial life insurance policies) from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest at a rate not exceeding 6% per annum compounded annually.

§ 2914. Payment of claims

There shall be a provision that when the benefits under the policy shall become payable by reason of the death of the insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy and/or proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed 2 months from the receipt of such proofs.

§ 2915. Beneficiary; industrial policies

An industrial life insurance policy shall have the name of the beneficiary designated thereon or in the application or other form if attached to the policy, with a reservation of the right to designate or change the beneficiary after the issuance of the policy, unless such beneficiary be irrevocably desig-

nated. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured. The policy may also provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within the period stated in the policy, which shall not be less than 30 days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or dies before the insured, or is not legally competent to give a valid release, then the insurer may make any payment thereunder to the executor or administrator of the insured, or to any relative of the insured by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. The policy may also include a similar provision applicable to any other payment due under the policy.

§ 2916. Title

There shall be a title on the policy, briefly describing the same.

§ 2917. Excluded or restricted coverage

A clause in any policy of life insurance providing that such policy shall be incontestable after a specified period shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions in the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

§ 2918. Standard provisions—annuity and pure endowment contracts

(a) No annuity or pure endowment contract, other than reversionary annuities (also called survivorship annuities) or

group annuities and except as stated herein, shall be delivered or issued for delivery in this State unless it contains in substance each of the provisions specified in sections 2919 to 2924, inclusive, of this chapter. Any of such provisions not applicable to single premium annuities or single premium pure endowment contracts shall not, to that extent, be incorporated therein.

(b) This section shall not apply to contracts for deferred annuities included in, or upon the lives of beneficiaries under, life insurance policies.

§ 2919. Grace period—annuities

In an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, there shall be a provision that there shall be a period of grace of one month, but not less than 30 days, within which any stipulated payment to the insurer falling due after the first may be made, subject at the option of the insurer to an interest charge thereon at a rate to be specified in the contract but not exceeding 6% per annum for the number of days of grace elapsing before such payment, during which period of grace the contract shall continue in full force; but in case a claim arises under the contract on account of death prior to expiration of the period of grace before the overdue payment to the insurer or the deferred payments of the current contract year, if any, are made, the amount of such payments, with interest on any overdue payments, may be deducted from any amount payable under the contract in settlement.

§ 2920. Incontestability—annuities

If any statements, other than those relating to age, sex and identity are required as a condition to issuing an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, and subject to section 2922 of this chapter, there shall be a provision that the contract shall be incontestable after it has been in force during the lifetime of the person or of each of the persons as to whom such statements are required, for a period of 2 years from its date of issue, except for nonpayment of stipulated payments to the insurer; and at the option of the insurer such contract may also except any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means.

§ 2921. Entire contract—annuities

In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract shall constitute the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the contract when issued, a provision that the contract and the application therefor shall constitute the entire contract between the parties.

§ 2922. Misstatement of age or sex—annuities

In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that if the age or sex of the person or persons upon whose life or lives the contract is made, or of any of them has been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or sex and that if the insurer shall make or has made any overpayment or overpayments on account of any such misstatement, the amount thereof with interest at the rate to be specified in the contract but not exceeding 6% per annum, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract.

§ 2923. Dividends—annuities

If an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract.

§ 2924. Reinstatement—annuities

In an annuity or pure endowment contract, other than a reversionary or group annuity, there shall be a provision that the contract may be reinstated at any time within one year from the default in making stipulated payments to the insurer, unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated with interest thereon at a rate to be specified in the contract but not exceeding 6% per annum

payable annually, and in cases where applicable the insurer may also include a requirement of evidence of insurability satisfactory to the insurer.

§ 2925. Standard provisions—reversionary annuities

(a) Except as stated herein, no contract for a reversionary annuity shall be delivered or issued for delivery in this State unless it contains in substance each of the following provisions:

(1) Any such reversionary annuity contract shall contain the provisions specified in sections 2919 through 2923 of this title except that under section 2919 the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue payment in lieu of providing for deduction of such payments from an amount payable upon settlement under the contract.

(2) In such reversionary annuity contracts there shall be a provision that the contract may be reinstated at any time within 3 years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon condition that all overdue payments and any indebtedness to the insurer on account of the contract be paid, or, within the limits permitted by the then cash values of the contract, reinstated, with interest as to both payments and indebtedness at a rate to be specified in the contract but not exceeding 6% per annum compounded annually.

(b) This section shall not apply to group annuities or to annuities included in life insurance policies, and any of such provisions not applicable to single premium annuities shall not to that extent be incorporated therein.

§ 2926. Limitation of liability

(a) No policy of life insurance shall be delivered or issued for delivery in this State if it contains any of the following provisions:

(1) A provision limiting the time within which an action at law or in equity may be commenced on such a policy to less than 3 years after the cause of action has accrued.

(2) A provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

(i) Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval, or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

(ii) Death as a result of aviation or any air travel or flight;

(iii) Death as a result of a specified hazardous occupation or occupations or avocation;

(iv) Death while the insured is a resident outside continental United States and Canada; or

(v) Death within 2 years from the date of issue of the policy as a result of suicide, while sane or insane.

(b) A policy which contains any exclusion or restriction pursuant to subdivision (2) above, shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the Commissioners reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

(c) This section shall not apply to group life insurance, health insurance, reinsurance, or annuities, or to any provision in a life insurance policy or contract supplemental thereto relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(d) Nothing contained in this section shall prohibit any provision which in the opinion of the Commissioner is more favorable to the policyholder than a provision permitted by this section.

§ 2927. Prohibited provisions

(a) No life insurance policy, other than industrial life insurance, shall be delivered or issued for delivery in this State, if it contains any of the following provisions:

(1) A provision by which the policy purports to be issued or to take effect more than one year before the original application for the insurance was made.

(2) A provision for any mode of settlement at maturity of the policy of less value than the amount insured under the policy, plus dividend additions, if any, less any indebtedness to the insurer on or secured by the policy and less any premium that may be by the terms of the policy be deducted.

(3) A provision to the effect that the agent soliciting the insurance is the agent of the person insured under the policy, or making the acts or representations of such agent binding upon the person so insured under the policy.

(b) No policy of industrial life insurance shall contain any of the following provisions:

(1) A provision by which the insurer may deny liability under the policy for the reason that the insured has previously obtained other insurance from the same insurer.

(2) A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within 2 years prior to the issuance of the policy, received institutional, hospital, medical or surgical treatment or attention and if the insured or claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk.

(3) A provision giving the insurer the right to declare the policy void because the insured has been rejected for insurance, unless such right be conditioned upon a showing by the insurer that knowledge of such rejection would have led to a refusal by the insurer make such contract.

§ 2928. Provisions required by law of other jurisdiction

The policies of a foreign life insurer when issued in this State may contain any provision which the law of the state, territory, district, or country under which the insurer is organized prescribes shall be in such policies, and the policies of a domestic life insurer may, when issued or delivered in any other state, territory, district, or country, contain any provisions required by the laws thereof, anything in this chapter to the contrary notwithstanding.

§ 2929. Standard nonforfeiture law

(a) In the case of policies issued on or after the operative date of this section, as defined in subsection (g) of this section, no policy of life insurance, except as stated in subsection (f) of this section, shall be issued or delivered in this State unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the Commissioner are at least as favorable to the defaulting or surrendering policyholder:

(1) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

(2) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least 3 full years in the case of ordinary insurance or 5 full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(3) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled

to make such election elects another available option not later than 60 days after the due date of the premium in default.

(4) That, if the policy shall have become paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(5) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(6) A statement of the method to be used in calculating the cash surrender value and the paid-up nonforfeiture benefit available under the policy or any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy, with an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The insurer shall reserve the right to defer the payment of any cash surrender value for a period of 6 months after demand therefor with surrender of the policy.

(b) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (a) of this

section, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (1) the then present value of the adjusted premiums as defined in subsections (d), (d-1) and (d-2) of this section, corresponding to premiums which would have fallen due on and after such anniversary, and (2) the amount of any indebtedness to the insurer on the policy. Any cash surrender value available within 30 days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection (a) of this section, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on the policy.

(c) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(d) Except as provided in the third paragraph of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums to cover impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (1) the then present value of the future guaranteed benefits provided for by the policy; (2) 2% of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (3) 40% of the adjusted premium for the first policy year; (4) 25% of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform

premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. In applying the percentages specified in (3) and (4) above, no adjusted premium shall be deemed to exceed 4% of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (1) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (2) the adjusted premiums for such term insurance, the foregoing items (1) and (2) being calculated separately and as specified in the first two paragraphs of this subsection except that, for the purposes of (2), (3) and (4) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (2) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (1).

Except as otherwise provided in subsection (d-1) and (d-2) of this section, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be

calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than 3 years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding $3\frac{1}{2}\%$ per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may not be more than 130% of the rates of mortality according to such applicable table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the Commissioner.

(d-1) In the case of ordinary policies issued on or after the operative date of this subsection as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest, not exceeding $3\frac{1}{2}\%$ per annum, specified in the policy for calculating cash surrender values and paid-up non-forfeiture benefits, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured; provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the Commissioner.

After May 21, 1959, any insurer may file with the Commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January 1,

1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this subsection for such insurer), this subsection shall become operative with respect to the ordinary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1966.

(d-2) In the case of industrial policies issued on or after the operative date of this subsection as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest, not exceeding $3\frac{1}{2}\%$ per annum, specified in the policy for calculating cash surrender values and paid-up non-forfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the Commissioner.

After July 7, 1964, any insurer may file with the Commissioner, a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1968. After the filing of such notice, then upon such date (which shall be the operative date of this subsection for such insurer), this subsection shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1968.

(e) Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowances for the lapse of time and the payment of fraction premiums beyond the last preceding policy anniversary. All values referred to in subsections (b), (c), (d), (d-1) and (d-2) of this section may be calculated upon the assumption that any death benefit is payable

at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provision of subsection (b) of this section, additional benefits payable (1) in the event of death or dismemberment by accident or accidental means, (2) in the event of total and permanent disability, (3) as reversionary annuity or deferred reversionary annuity benefits, (4) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, (5) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child, and (6) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(f) This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsections (d), (d-1) and (d-2) of this section, is less than the adjusted premium so calculated, on such 15 year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this State through an agent or other representative of the insurer issuing the policy.

(g) After March 30, 1943, any insurer may file with the Commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1948. After the filing of such notice, then upon such specified date (which shall be the operative date of this section for such insurer), this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no

such election the operative date of this section for such insurer shall be January 1, 1948.

§ 2930. (Reserved for future use)

§ 2931. Incontestability; limitation of liability after reinstatement

(a) A reinstated policy of life insurance or annuity contract may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement and with the same conditions and exceptions as the policy provides with respect to contestability after original issuance.

(b) When any life insurance policy or annuity contract is reinstated, such reinstated policy or contract may exclude or restrict liability to the same extent that such liability could have been or was excluded or restricted when the policy or contract was originally issued, and such exclusion or restriction shall be effective from the date of reinstatement.

§ 2932. Participating, nonparticipating policies—right to issue

A life insurer may issue policies on either the participating basis or the nonparticipating basis, or on both basis, if the right or absence of right of participation is reasonably related to the premium charged and the insurer is otherwise not in violation of sections 2309 (unfair discrimination—life insurance, annuities, and health insurance) or 2310 (rebates—life, health and annuity contracts) of this title.

§ 2933. Pension, profit sharing, annuity agreements—separate accounts

(a) A domestic life insurer may establish one or more separate accounts, and may allocate thereto, in accordance with the terms of a written contract or agreement, any amounts paid to the insurer in connection with a pension, retirement or profit sharing plan or an annuity which are to be applied to provide benefits payable in fixed or in variable dollar amounts or in both.

(b) The amounts allocated to each such account and accumulations thereon may be invested and reinvested as provided in

section 1322 (special investments of pension, profit sharing or annuity funds) of this title.

(c) The income, if any, and gains and losses, realized or unrealized, on each such account shall be credited to or charged against the amounts allocated to the account in accordance with the agreement, without regard to other income, gains or losses of the insurer.

(d) Assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then in accordance with the terms of the applicable contract or agreement; except, that the portion of the assets of such separate account at least equal to the insurer's reserve liability with regard to the guaranteed benefits and funds referred to in section 1322 of this title, if any, shall be valued in accordance with rules otherwise applicable to the insurer's assets.

(e) If the contract or agreement provides for payment of benefits in variable amounts, it shall state the essential features of the procedure to be followed by the insurer in determining the dollar amount of such variable benefits. Any such contract or agreement and any certificate issued thereunder shall state that such dollar amount may decrease or increase and shall state in its first page that the benefits thereunder are on a variable basis.

(f) No insurer shall be authorized to deliver within this State any such contract or agreement providing benefits in variable amounts until the insurer has satisfied the Commissioner that its condition or methods of operation in connection with the issuance of such contracts or agreement will not render its operation hazardous to the public or its policyholders in this State. In determining the qualification of an insurer requesting such authority, the Commissioner shall consider, among other things:

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

(2) The character, responsibility and general fitness of the officers and directors of the insurer; and

(3) In the case of an insurer other than a domestic insurer, whether the statutes or regulations of the jurisdiction of its incorporation provide a degree of protection to policyholders and the public substantially equal to that provided by this section and rules and regulations issued hereunder.

(g) Any domestic life insurer which establishes one or more separate accounts pursuant to subsection (a) above, may amend its charter to provide for special voting rights and procedures for such separate account contract owners giving them jurisdiction over matters relating to investment policy, investment advisory services and selection of certified public accountants, in relation to the administration of the assets in any such separate account. This provision shall not in any way affect existing laws pertaining to the voting rights of the insurer's policyholders.

(h) The Commissioner has sole authority to regulate issuance and sale of such contracts and agreements, and to make rules and regulations for effectuation of this section.

§ 2934. Prohibited policy plans

(a) No life insurer shall hereafter deliver or issue for delivery in this state:

(1) As part of or in combination with any life insurance, endowment or annuity contract, any agreement or plan, additional to the rights, dividends, and benefits arising out of any such contract, which provides for the accumulation of profits over a period of years and for payment of all or any part of such accumulated profits only to members or policyholders of a designated group or class who continue as members or policyholders until the end of a specified or ascertainable period of years.

(2) Any "registered" policy, that is, any policy (other than one "registered" as a security under applicable state or federal law) purporting to be "registered" or otherwise specially recorded, with any agency of the State of Delaware, or of any other state, or with any bank, trust company, escrow company, or other institution other than the insurer; or purporting that any reserves, assets or deposits are held, or will be so held, for the special benefit or protection of the holder of such policy, by or through any such agency or institution.

(3) Any policy or contract under which any part of the premium or of funds or values arising from the policy or contract or from investment of reserves, or from mortality savings, lapses or surrenders, in excess of the normal reserves or amounts

required to pay death, endowment, and nonforfeiture benefits in respective amounts as specified in or pursuant to the policy or contract, are on a basis not involving insurance or life contingency features, (i) to be placed in special funds or segregated accounts or specially designated places or (ii) to be invested in specially designated investments or types thereof, and the funds or earnings thereon to be divided among the holders of such policies or contracts, or their beneficiaries or assignees. This provision does not apply as to any contract authorized under section 2933 of this chapter.

(4) Any policy providing for the segregation of policyholders into mathematical groups and providing benefits for a surviving policyholders arising out of the death of another policyholder of such group, or under any other similar plan.

(5) Any policy providing benefits or values for surviving or continuing policyholders contingent upon the lapse or termination of the policies of other policyholders, whether by death or otherwise.

(6) Any policy containing or referring to one or more of the following provisions or statements:

(i) Investment returns or profit-sharing, other than as a participation in the divisible surplus of the insurer under a regular participation provision as provided for in section 2910 of this chapter;

(ii) Special treatment in the determination of any dividend that may be paid as to such policy;

(iii) Reference to premiums as "deposits;"

(iv) Relating policyholder interest or returns to those of stockholders;

(v) That the policyholder as a member of a select group will be entitled to extra benefits or extra dividends not available to policyholders generally.

(b) This section shall not be deemed to prohibit the provision, payment, allowance or apportionment of regular annual dividends or "savings" under regular participating forms of policies or contracts.

§ 2935. Registered policies, bonds—deposit

Any domestic life insurer shall deposit with the Commissioner securities of the kind required and authorized by law for the investment of life insurance funds, for the common benefit of the holders of its "registered" policies and bonds heretofore issued, which deposit shall be held by him and his successors in office, in trust for the purposes and objects specified therein.

§ 2936. Same—identification

All such registered policies or bonds of each kind and class issued shall have imprinted thereon some appropriate designating letter, combination of letters or terms identifying the special forms of contract, and whenever any change or modification is made in the forms of contracts, policy or bond, the designating letters or terms thereon shall be correspondingly changed.

§ 2937. Same—record of Commissioner—valuation

(a) The Commissioner shall prepare and keep such records of all "registered" policies and bonds as will enable him to ascertain the reserve required thereon at any time according to the method and basis of valuation prescribed in sections 1109 through 1111 of this title. Upon sufficient proof, attested by the president or vice-president and secretary of an insurer which has issued such "registered" policies or bonds, that any of them have been commuted or terminated, the Commissioner shall commute or cancel them upon his records.

(b) On the 31st day of December in every year, or within 60 days thereafter, the Commissioner shall cause the registered policies and bonds in force in each insurer to be carefully valued and the net reserve thereon ascertained according to the method and basis of valuation prescribed in sections 1109 through 1111 of this title, and he shall thereupon furnish a certificate of the aggregate amount of such reserve to the respective insurers. The Commissioner may employ a competent actuary to make such computation, who shall be paid by the insurer for which the services are rendered, or the Commissioner may accept the computations of any of the insurers upon such proof as he may determine.

§ 2938. Same—additional deposits

Each insurer which shall have registered policies or bonds outstanding shall make additional deposits from time to time, as the Commissioner may prescribe, in amounts of not less than \$5,000, and of such securities as domestic life insurers are authorized by law to invest in, so that the market or amortized value of the securities on deposit shall always at least equal the net reserve required by the method and basis of valuation prescribed in sections 1109 through 1111 of this title, on all the registered policies and bonds in force in the insurer.

§ 2939. Same—deficient deposit

The Commissioner shall keep a careful record of the securities deposited by each insurer, and when furnishing the annual certificates of value, he shall enter thereon the amount and value of the securities deposited by such insurer. If at any time it appears from such certificates or otherwise that the value of securities held on deposit is less than the reserve required by the method and basis of valuation prescribed in sections 1109 through 1111 of this title on all the registered policies and bonds in force in such insurer, the insurer shall have made good the deficit. If the insurer fails to make good such deficit for 60 days it shall be deemed insolvent and shall be proceeded against in the manner provided by chapter 59 (rehabilitation and liquidation) of this title.

§ 2940. Same—effect of insolvency

In case an insurer having securities on deposit as to such registered policies or bonds shall be adjudged insolvent or be dissolved, the proper court shall make and enforce the necessary orders to place said securities, or any part of them, at the sole disposal of the Commissioner.

§ 2941. Same—applicability of general deposit provisions

The applicable provisions of chapter 15 of this title (administration of deposits) shall apply as to all deposits relating to such registered policies and bonds, where not inconsistent with the express provisions of sections 2935 through 2940 of this chapter.

§ 2935. Registered policies, bonds—deposit

Any domestic life insurer shall deposit with the Commissioner securities of the kind required and authorized by law for the investment of life insurance funds, for the common benefit of the holders of its "registered" policies and bonds heretofore issued, which deposit shall be held by him and his successors in office, in trust for the purposes and objects specified therein.

§ 2936. Same—identification

All such registered policies or bonds of each kind and class issued shall have imprinted thereon some appropriate designating letter, combination of letters or terms identifying the special forms of contract, and whenever any change or modification is made in the forms of contracts, policy or bond, the designating letters or terms thereon shall be correspondingly changed.

§ 2937. Same—record of Commissioner—valuation

(a) The Commissioner shall prepare and keep such records of all "registered" policies and bonds as will enable him to ascertain the reserve required thereon at any time according to the method and basis of valuation prescribed in sections 1109 through 1111 of this title. Upon sufficient proof, attested by the president or vice-president and secretary of an insurer which has issued such "registered" policies or bonds, that any of them have been commuted or terminated, the Commissioner shall commute or cancel them upon his records.

(b) On the 31st day of December in every year, or within 60 days thereafter, the Commissioner shall cause the registered policies and bonds in force in each insurer to be carefully valued and the net reserve thereon ascertained according to the method and basis of valuation prescribed in sections 1109 through 1111 of this title, and he shall thereupon furnish a certificate of the aggregate amount of such reserve to the respective insurers. The Commissioner may employ a competent actuary to make such computation, who shall be paid by the insurer for which the services are rendered, or the Commissioner may accept the computations of any of the insurers upon such proof as he may determine.

§ 2938. Same—additional deposits

Each insurer which shall have registered policies or bonds outstanding shall make additional deposits from time to time, as the Commissioner may prescribe, in amounts of not less than \$5,000, and of such securities as domestic life insurers are authorized by law to invest in, so that the market or amortized value of the securities on deposit shall always at least equal the net reserve required by the method and basis of valuation prescribed in sections 1109 through 1111 of this title, on all the registered policies and bonds in force in the insurer.

§ 2939. Same—deficient deposit

The Commissioner shall keep a careful record of the securities deposited by each insurer, and when furnishing the annual certificates of value, he shall enter thereon the amount and value of the securities deposited by such insurer. If at any time it appears from such certificates or otherwise that the value of securities held on deposit is less than the reserve required by the method and basis of valuation prescribed in sections 1109 through 1111 of this title on all the registered policies and bonds in force in such insurer, the insurer shall have made good the deficit. If the insurer fails to make good such deficit for 60 days it shall be deemed insolvent and shall be proceeded against in the manner provided by chapter 59 (rehabilitation and liquidation) of this title.

§ 2940. Same—effect of insolvency

In case an insurer having securities on deposit as to such registered policies or bonds shall be adjudged insolvent or be dissolved, the proper court shall make and enforce the necessary orders to place said securities, or any part of them, at the sole disposal of the Commissioner.

§ 2941. Same—applicability of general deposit provisions

The applicable provisions of chapter 15 of this title (administration of deposits) shall apply as to all deposits relating to such registered policies and bonds, where not inconsistent with the express provisions of sections 2935 through 2940 of this chapter.

CHAPTER 31. GROUP LIFE INSURANCE

§ 3101. Scope of chapter—short title

(a) This chapter applies only to group life insurance and "employee life insurance."

(b) This chapter may be known and cited as the "group life insurance law."

(c) Except, that this chapter shall not apply as to any group life insurance contract entered into or issued prior to the effective date of this title, or to any extensions, renewals or modifications thereof or amendments thereto whenever made.

§ 3102. Group contracts must meet group requirements

(a) No life insurance policy shall be delivered or issued for delivery in this State insuring the lives of more than one individual unless to one of the groups as provided for in sections 3103 through 3110 of this chapter, and unless in compliance with the other applicable provisions of this chapter.

(b) Subsection (a) above, shall not apply to life insurance policies:

(1) Insuring only individuals related by blood, marriage or legal adoption; or

(2) Insuring only individuals having a common interest through ownership of a business enterprise, or a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or

(3) Insuring only individuals otherwise having an insurable interest in each other's lives.

§ 3103. Employee groups

The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, or contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 60% of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at least 4 employees at date of issue.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

§ 3104. Debtor groups

The lives of a group of individuals may be insured under a policy issued to a creditor, or to a trustee or agent appointed by 2 or more creditors, which creditors, trustee or agent shall be deemed the policyholder, to insure debtors of the creditor or creditors, subject to the following requirements:

(1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or creditors whose indebtedness is repayable either (i) in installments or (ii) in one sum at the end of a period not in excess of 18 months from the initial date of debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. No debtor shall be eligible unless the indebtedness constitutes an irrevocable obligation to repay which is binding upon him during his lifetime, at and from the date the insurance becomes effective upon his life.

(2) The premium for the policy shall be paid by the policyholder, either from the creditor's or creditors' funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of insurability unless at least 60% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, of all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 60% of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

(4) The amount of the insurance on the life of any debtor shall at no time exceed the amount of the unpaid indebtedness. Where the indebtedness is repayable in one sum to the creditor or creditors, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of 18 months except that such insurance may be continued for an additional period not exceeding 6 months in the case of default, extension or recasting of the loan.

(5) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(6) Notwithstanding the provisions of the above subsections, insurance on agricultural credit transaction commitments not exceeding 2 years in duration may be written up to the amount of the loan commitment on a nondecreasing or level term plan, and insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

§ 3105. Labor union groups

The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such

funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 60% of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at least 25 members at date of issue.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

§ 3106. Trustee groups

The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by 2 or more employers in the same industry or in related industries or by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

(1) No policy may be issued to insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer, except where such other employer exercises substantial control over the business operations of the participating employers.

(2) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions

pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(3) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both or partly from such funds and partly from funds contributed by the insured persons. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least 60% of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(4) The policy must cover at date of issue at least 100 persons; and it must cover an average of not less than 3 persons per employer unit unless the policy is issued to the trustees of a fund established by employers which have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with regard to one or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

(5) The amounts of insurance under the policy must be based on a plan precluding individual selection either by insured persons or by the policyholder, employers, or unions.

§ 3107. Public employee groups

The lives of a group of individuals may be insured under a policy issued to the departmental head of any department or agency of the State of Delaware and its political subdivisions, state college or university, and school districts or to an association of public employees formed for purposes other than obtaining insurance having, when the policy is placed in force, a membership in the classes eligible for insurance of not less than 60% of the employees eligible for membership in such classes, which association or departmental head shall be deemed the policyholder, to insure members of such association or public employees for the benefit of persons other than the departmental head, the association or any of its officials, subject to the following requirements:

(1) The persons eligible for insurance under the policy shall be all members of the association or employees of the department, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the association, or both. The policy may provide that "employees" includes retired employees.

(2) The premium for the policy shall be paid by the policyholder, either from the association's own funds, or from charges collected from the insured members or employees specifically for the insurance, or from both, or as may otherwise be authorized by existing or future legislation. Any charges collected from the insured members or employees specifically for the insurance, and the dues of the association if they include the cost of insurance, shall be collected through deductions by the employer from salaries of the members or employees. Such deductions from salary may be paid by the employer to the association or directly to the insurer. No policy may be placed in force unless at least 60% of the then eligible members of the association or employees of the department, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered and have authorized their employer to make the required deductions from salary.

(3) Charges collected from the insured members or employees specifically for the insurance, and the dues of the association if they include the cost of insurance, shall be determined according to each attained age or in not less than 4 reasonably spaced attained age groups. In no event shall the rate of such dues or charges be level for all members or employees regardless of attained age.

(4) The policy must cover at least 10 persons at the date of issue.

(5) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members, employees, or by the association.

(6) As used herein "employees" means employees of the United States government, or of any State, or of any political subdivision or instrumentality of any of them, together with elective or appointed officials.

(7) This section does not preclude the insuring of public employees under any other applicable provision of this chapter.

§ 3108. Dependents' coverage

(a) Insurance under any group life insurance policy issued pursuant to sections 3103 (employee groups), 3105 (labor union groups), 3106 (trustee groups), and 3107 (public employee groups) of this chapter, may if 60% of the then insured employees or members who then have eligible dependents elect, be extended to insure the dependents, or any class or classes thereof, of each insured employee or member who so elects in amounts in accordance with a plan which precludes individual selection and shall not be in excess of 50% of the insurance on the life of such employee or member nor in any event in excess of \$2,000 upon the life of a spouse or in excess of \$1,000 upon the life of a child, or as to a child whose age at death is under 6 months, the amount shall not be in excess of \$100. A "dependent" is the husband or wife of the insured employee or member and an insured employee's or member's child under 21 years of age or his child 21 years or older who is attending an educational institution and relying upon the insured employee or member for financial support.

(b) Premiums for the insurance on such dependents may be paid by the group policyholder, or by the employee or member or by the group policyholder and the employee or member jointly.

(c) A spouse pursuant to this section shall have the same conversion right as to the insurance on his or her life as is vested in the employee or member.

(d) Notwithstanding the provision of section 3118 of this chapter only one certificate need be issued for each family unit if a statement concerning any dependent's coverage is included in such certificate.

§ 3109. Credit union groups

The lives of a group of individuals may be insured under a policy issued to a credit union, which shall be deemed the policyholder, to insure eligible members of the credit union for the benefit of persons other than the credit union or its officials, subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of the credit union, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer, or all of any class or classes thereof determined by conditions pertaining to their age or membership in the credit union or both.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the credit union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued for which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance.

(3) The policy must cover at least 25 members at the date of issue.

(4) The amount of insurance under the policy shall not exceed the amount of the total shares and deposits of the member in or with the credit union.

§ 3110. Professional association groups

The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by an associa-

tion of individuals licensed by the State of Delaware or authorized by law to engage in a recognized profession, which trustees shall be deemed the policyholder, to insure members of such association, or all of any class or classes thereof determined by conditions pertaining to their employment or to membership in the association, subject to the following requirements:

(1) The individuals eligible for insurance shall be all the members of the association or all of any class or classes thereof, determined by conditions pertaining to their employment or to membership in the association, or to both.

(2) The premium for the policy shall be paid by the trustees wholly from funds contributed by the association, or partly from such funds and partly from funds contributed by the insured individuals. The premiums may be paid by funds contributed by the insured individuals specifically for their insurance if the number of individuals covered by the policy exceeds 60% of the eligible individuals, excluding any as to whom evidence of insurability is not satisfactory to the insurer, and all of whom elect to make the required contribution. A policy on which no part of the premium is to be derived from funds contributed by the insured individuals specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at date of issue at least 100 individuals, and thereafter cover not less than 60% of those eligible therefor under subdivision (1) above, excluding any as to whom evidence of insurability is not satisfactory to the insurer, subject to further requirements, if any, relating to payment of premiums as stated in subdivision (2) above.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder.

§ 3111. Provisions required in group contracts

No policy of group life insurance shall be delivered in this State unless it contains in substance the provisions set forth in sections 3111 through 3122 of this chapter or provisions which in the opinion of the Commissioner are more favorable to the

persons insured, or at least as favorable to the persons insured and more favorable to the policyholder; except however, that;

(1) Sections 3117 to 3121 of this chapter, inclusive, shall not apply to policies issued to a creditor to insure debtors of such creditor;

(2) The standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and

(3) If the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the Commissioner is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies.

§ 3112. Grace period

The group life insurance policy shall contain a provision that the policyholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

§ 3113. Incontestability

The group life insurance policy shall contain a provision that the validity of the policy shall not be contested, except for nonpayment of premium, after it has been in force for 2 years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of 2 years during such person's lifetime nor unless it is contained in a written instrument signed by him.

§ 3114. Application; statements deemed representations

The group life insurance policy shall contain a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued and become a part of the contract; that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary.

§ 3115. Insurability

The group life insurance policy shall contain a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

§ 3116. Misstatement of age

The group life insurance policy shall contain a provision specifying an equitable adjustment of premiums or of benefits or both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

§ 3117. Payment of benefits

The group life insurance policy shall contain a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provision of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding \$500 to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

§ 3118. Certificate

The group life insurance policy shall contain a provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in sections 3119, 3120 and 3121 of this chapter.

§ 3119. Conversion on termination of eligibility

There shall be a provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within 31 days after such termination, and provided further that:

(1) The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

(2) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination less the amount of any life insurance for which such person is or becomes eligible under the same or any other group policy within 31 days after such termination, provided that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

(3) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person

then belongs, and to his age attained on the effective date of the individual policy.

§ 3120. Conversion on termination of policy

The group life insurance policy shall contain a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least 5 years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by section 3118 of this chapter, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of:

(1) The amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within 31 days after such termination; and

(2) \$2,000.

§ 3121. Death pending conversion

The group life insurance policy shall contain a provision that if a person insured under the policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with sections 3118 or 3119 of this chapter and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

§ 3122. Information to debtor

A policy issued to a creditor to insurance debtors of such creditor shall contain a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the

policy a form which will contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness.

§ 3123. Notice as to conversion right

If any individual insured under a group life insurance policy hereafter delivered in this State becomes entitled under the terms of such policy to have an individual policy of life insurance issued to him without evidence of insurability, subject to making of application and payment of the first premium within the period specified in such policy, and if such individual is not given notice of the existence of such right at least 15 days prior to the expiration date of such period, then, in such event the individual shall have an additional period within which to exercise such right, but nothing herein contained shall be construed to continue any insurance beyond the period provided in such policy. This additional period shall expire 15 days next after the individual is given such notice but in no event shall such additional period extend beyond 60 days next after the expiration date of the period provided in such policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section.

§ 3124. Readjustment of premium

Any group life insurance contract may provide for a readjustment of the premium rate based upon the experience thereunder.

§ 3125. Application of dividends; rate reductions

If a policy dividend is hereafter declared or a reduction in rate is hereafter made or continued for the first or any subsequent year of insurance under any policy of group life insurance heretofore or hereafter issued to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies

made from funds contributed by the policyholder, or by an employer of insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

§ 3126. "Employee life insurance" defined

"Employee life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where such policies are issued on the lives of not less than 3 employees at date of issue. Premiums for such policies shall be paid either wholly from the employer's funds, or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees.

CHAPTER 33. HEALTH INSURANCE CONTRACTS

§ 3301. Scope of chapter

Nothing in this chapter shall apply to or affect:

(1) Any policy of liability or workmen's compensation insurance with or without supplementary expense coverage therein.

(2) Any group or blanket policy.

(3) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to health insurance as:

(i) Provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means, or as

(ii) Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contracts.

(4) Reinsurance.

§ 3302. Short title

This chapter may be cited as the "uniform health policy provisions law."

§ 3303. Scope; format of policy

No policy of health insurance shall be delivered or issued for delivery to any person in this State unless it otherwise complies with this title, and complies with the following:

(1) The entire money and other considerations therefor shall be expressed therein;

(2) The time when the insurance takes effect and terminates shall be expressed therein;

(3) It shall purport to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed 19 years and any other person dependent upon the policyholder;

(4) The style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in light-faced type of a style in general use; the size of which shall be uniform and not less than ten-point with a lower case unspaced alphabet length not less than one hundred and twenty-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions);

(5) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in sections 3305 to 3327, inclusive, of this chapter, shall be printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions," or "Exceptions and Reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

(6) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the Commissioner.

§ 3304. Required provisions; captions—omissions—substitutions

(a) Except as provided in subsection (b) below, each such policy delivered or issued for delivery to any person in this State shall contain the provision specified in sections 3305 to 3316, inclusive, of this chapter, in the words in which the same appear; except, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the Commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision shall be preceded individually by the applicable caption shown, or, at the option of the insurer, by such appropriate individual or group captions or sub-captions as the Commissioner may approve.

(b) If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the Commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of a provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

§ 3305. Entire contract—changes

There shall be a provision as follows:

“Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be

valid until approved by an executive officer of the company and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions."

§ 3306. Time limit on certain defenses

There shall be a provision as follows:

"Time Limit on Certain Defenses: (a) After three years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such three-year period."

(1) (The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial three-year period, nor to limit the application of sections 3318 through 3321 of this chapter in the event of misstatement with respect to age or occupation or other insurance.)

(2) (A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (i) until at least age 50 or, (ii) in the case of a policy issued after age 44, for at least 5 years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "Incontestable:")

"After this policy has been in force for a period of three years during the lifetime of the insured (excluding any period which the insured is disabled), it shall become incontestable as to the statements contained in the application.)"

"(b) No claim for loss incurred or disability (as defined in the policy) commencing after three years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy."

§ 3307. Grace period

There shall be a provision as follows:

"A grace period of . . . (insert a number not less than "7" for weekly premium policies, "10" for monthly premium policies and "31" for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force."

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision:

"Unless not less than five days prior to the premium due date the company has delivered to the insured or has mailed to his last address as shown by the records of the company written notice of its intention not to renew this policy beyond the period for which the premium has been accepted."

§ 3308. Reinstatement

(a) There shall be a provision as follows:

"Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the company to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the company or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the company or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the company has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and company shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed herein or attached hereto in connection with the reinstatement. Any premium ac-

cepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement."

(b) The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums.

(1) Until at least age 50, or

(2) In the case of a policy issued after age 44, for at least 5 years from its date of issue.

§ 3309. Notice of claim

(a) There shall be a provision as follows:

Notice of Claim: Written notice of claim must be given to the company within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the company at (insert the location of such office as the company may designate for the purpose), or to any authorized agent of the company, with information sufficient to identify the insured, shall be deemed notice to the company."

(b) In a policy providing a loss-of-time benefit which may be payable for at least 2 years, as insurer may at its option insert the following between the first and second sentence of the above provision:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of the claim, give to the company notice of continuance of the disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the company on account of such claim or any denial of liability in whole or in part by the company shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have

accrued during the period of six months preceding the date on which such notice is actually given."

§ 3310. Claim forms

There shall be a provision as follows:

Claim Forms: The company, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

§ 3311. Proofs of loss

There shall be a provision as follows:

Proofs of Loss: Written proof of loss must be furnished to the company at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety days after the termination of the period for which the company is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

§ 3312. Time of payment of claims

There shall be a provision as follows:

Time of Payment of Claims: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment, will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy pro-

vides periodic payment will be paid (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof."

§ 3313. Payment of claims

(a) There shall be a provision as follows:

Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the company, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

(b) The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

(1) If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the company may pay such indemnity, up to an amount not exceeding \$. (insert an amount which shall not exceed \$1,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the company to be equitably entitled thereto. Any payment made by the company in good faith pursuant to this provision shall fully discharge the company to the extent of such payment.

(2) Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the company's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services, but it is not required that the service be rendered by a particular hospital or person.

§ 3314. Physical examination; autopsy

There shall be a provision as follows:

Physical Examinations and Autopsy: The company at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

§ 3315. Legal actions

There shall be a provision as follows:

Legal Actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

§ 3316. Change of beneficiary

(a) There shall be a provision as follows:

Change of Beneficiary: Unless the insured make an irrevocable designation of beneficiary, the right to change the beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

(b) The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.

§ 3317. Optional policy provisions

Except as provided in section 3304 of this chapter, no such policy delivered or issued for delivery to any person in this State shall contain provisions respecting the matters set forth in sections 3318 to 3326, inclusive, of this chapter unless such provisions are in the words in which the same appear in the applicable section, except that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different

wording approved by the Commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Commissioner may approve.

§ 3318. Change of occupation

There may be a provision as follows:

Change of Occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the company as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the company will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the company for such more hazardous occupation. If the insured changes his occupation to one classified by the company as less hazardous than that stated in this policy, the company, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the company prior to the occurrence of the loss for which the company is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the company in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

§ 3319. Misstatement of age

There may be a provision as follows:

Misstatement of Age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

§ 3320. (Reserved for future use)

§ 3321. Overinsurance—all coverages

(a) There may be a provision as follows:

Overinsurance: If, with respect to a person covered under this policy, benefits for allowable expense incurred during a claim determination period under this policy together with benefits for allowable expense during such period under all other valid coverage (without giving effect to this provision or to any "overinsurance provision" applying to such other valid coverage), exceed the total of such person's allowable expense during such period, this company shall be liable only for such proportionate amount of the benefits for allowable expense under this policy during such period as

(1) the total allowable expense during such period bears to

(2) the total amount of benefits payable during such period for such expense under this policy and all other valid coverage (without giving effect to this provision or to any "overinsurance provision" applying to such other valid coverage) less in both (1) and (2) any amount of benefits for allowable expense payable under other valid coverage which does not contain an "overinsurance provision." In no event shall this provision operate to increase the amount of benefits for allowable expense payable under this policy with respect to a person covered under this policy above the amount which would have been paid in the absence of this provision. This company may pay benefits to any insurer providing other valid coverage in the event of overpayment by such insurer. Any such payment shall discharge the liability of this company as fully as if the payment had been made directly to the insured, his assignee or his beneficiary. In the event that this company pays benefits to the insured, his assignee or his beneficiary, in excess of the amount which would have been payable if the existence of other valid coverage had been disclosed, this company shall have a right of action against the insured, his assignee or his beneficiary, to recover the amount which would not have been paid had there been a disclosure of the existence of the other valid coverage. The amount of other valid coverage which is on a provision of service basis shall be

computed as the amount the services rendered would have cost in the absence of such coverage.

For the purposes of this provision:

(1) "allowable expense" means 110% of any necessary, reasonable and customary item of expense which is covered, in whole or in part, as a hospital, surgical, medical or major medical expense under this policy or under any other valid coverage.

(2) "claim determination period" with respect to any covered person means the initial period of (insert period of not less than 30 days) and each successive period of a like number of days, during which allowable expense covered under this policy is incurred on account of such person. The first such period begins on the date when the first such expense is incurred, and successive periods shall begin when such expense is incurred after expiration of a prior period.
or, in lieu thereof:

"claim determination period" with respect to any covered person means each (insert calendar or policy period of not less than a month) during which allowable expense covered under this policy is incurred on account of such person.

(3) "overinsurance provision" means this provision and any other provision which may reduce an insurer's liability because of the existence of benefits under other valid coverage.

(b) The foregoing policy provisions may be inserted in all policies providing hospital, surgical, medical or major medical benefits. The insurer may make this provision applicable to either or both (1) other valid coverage with other insurers and (2), other valid coverage with the same insurer. The insurer shall include in this provision a definition of "other valid coverage" approved as to form by the Commissioner. Such term may include hospital, surgical, medical or major medical benefits provided by group, blanket or franchise coverage, individual and family-type coverage. Blue Cross-Blue Shield coverage and other prepayment plans, group practice and individual practice plans, uninsured benefits provided by labor-management trustee plans, or union welfare plans, or by employer or employee benefit organizations, benefits provided under governmental programs, workmen's compensation insurance or any coverage required or

provided by any other statute, and medical payments under automobile liability and personal liability policies. Other valid coverage shall not include payments made under third party liability coverage as a result of a determination of negligence, but an insurer may at its option include a subrogation clause in its policy. The insurer may require, as part of the proof of claim, the information necessary to administer this provision.

(c) If by application of any of the foregoing provisions the insurer effects a material reduction of benefits otherwise payable under the policy, the insurer shall refund to the insured any premium unearned on the policy by reason of such reduction of coverage subject to the insurer's right to provide in the policy that no such reduction of benefits or refund will be made unless the unearned premium to be so refunded amounts to \$5 or such larger sum as the insurer may specify.

§ 3322. Relation of earnings to insurance

(a) There may be a provision as follows:

After the loss-of-time benefit of this policy has been payable for 90 days, such benefit will be adjusted, as provided below, if the total amount of unadjusted loss-of-time benefits provided in all valid loss-of-time coverage upon the insured should exceed% of the insured's earned income; provided, however, that if the information contained in the application discloses that the total amount of loss-of-time benefits under this policy and under all other valid loss-of-time coverage expected to be effective upon the insured in accordance with the application for this policy exceeded% of the insured's earned income at the time of such application, such higher percentage will be used in place of%. Such adjusted loss-of-time benefit under this policy for any month shall be only such proportion of the loss-of-time benefit otherwise payable under this policy as

(1) the product of the insured's earned income and% (or, if higher the alternative percentage described at the end of the first sentence of this provision) bears to

(2) the total amount of loss-of-time benefits payable for such month under this policy and all other valid loss-of-time cov-

erage on the insured (without giving effect to the "overinsurance provision" in this or any other coverage) less in both (1) and (2) any amount of loss-of-time benefits payable under other valid loss-of-time coverage which does not contain an "overinsurance provision." In making such computation, all benefits and earnings shall be converted to a consistent (insert "weekly" if the loss-of-time benefit of this policy is payable weekly, "monthly" if such benefit is payable monthly, etc.) basis. If the numerator of the foregoing ratio is zero or is negative, no benefit shall be payable under this policy. In no event shall this provision (i) operate to reduce the total combined amount of loss-of-time benefits for such month payable under this policy and all other valid loss-of-time coverage below the lesser of \$300 and the total combined amount of loss-of-time benefits determined without giving effect to any "overinsurance provision", nor (ii) operate to increase the amount of benefits payable under this policy above the amount which would have been paid in the absence of this provision, nor (iii) take into account or operate to reduce any benefit other than the loss-of-time benefit. For purposes of this provision:

(A) "earned income", except where otherwise specified, means the greater of the monthly earnings of the insured at the time disability commences and his average monthly earnings for a period of two years immediately preceding the commencement of such disability, and shall not include any investment income or any other income not derived from the insured's vocational activities.

(B) "overinsurance provision" shall include this provision and any other provision with respect to any loss-of-time coverage which may have the effect of reducing an insurer's liability if the total amount of loss-of-time benefits under all coverage exceeds a stated relationship to the insured's earnings.

(b) The foregoing provision may be included only in a policy which provides a loss-of-time benefit which may be payable for at least 52 weeks, which is issued on the basis of selective underwriting of each individual application, and for which the application includes a question designed to elicit information necessary either to determine the ratio of the total loss-of-time benefits of the insured to the insured's earned income or to de-

termine that such ratio does not exceed the percentage of earnings, not less than 60% selected by the insurer and inserted in lieu of the blank factor above. The insurer may require, as part of the proof of claim, the information necessary to administer this provision. If the application indicates that other loss-of-time coverage is to be discontinued, the amount of such other coverage shall be excluded in computing the alternative percentage in the first sentence of the overinsurance provision. The policy shall include a definition of "valid loss-of-time coverage," approved as to form by the Commissioner, which definition may include coverage provided by governmental agencies and by organization subject to regulation by insurance law and by insurance authorities of this or any other state of the United States or of any other country or subdivision thereof, coverage provided for such insured pursuant to any disability benefits statute or any workmen's compensation or employer's liability statute, benefits provided by labor-management trustee plans or union welfare plans or by employer or employee benefit organizations, or by salary continuance or pension programs, and any other coverage the inclusion of which may be approved by the Commissioner.

(c) If by application of any of the foregoing provisions the insurer effects a material reduction of benefits otherwise payable under the policy, the insurer shall refund to the insured any premium unearned on the policy by reason of such reduction of coverage subject to the insurer's right to provide in the policy that no such reduction of benefits or refund will be made unless the unearned premium to be so refunded amounts to \$5.00 or such larger sum as the insurer may so specify.

§ 3323. Unpaid premiums

There may be a provision as follows:

Unpaid Premium: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

§ 3324. Conformity with state statutes

There may be a provision as follows:

Conformity with State Statutes: Any provision of this policy which, on its effective date is in conflict with the statutes of

the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

§ 3325. Illegal occupation

There may be a provision as follows:

Illegal Occupation. The company shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

§ 3326. Intoxicants and narcotics

There may be a provision as follows:

Intoxicants and Narcotics: The company shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

§ 3327. Renewability

Health insurance policies, other than accident insurance only policies, in which the insurer reserves the right to refuse renewal on an individual basis, shall provide in substance in a provision thereof or in an endorsement thereon or rider attached thereto that subject to the right to terminate the policy upon nonpayment of premium when due, such right to refuse renewal may not be exercised so as to take effect before the renewal date occurring on, or after and nearest, each policy anniversary (or in the case of lapse and reinstatement, at the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement), and that any refusal of renewal shall be without prejudice to any claim originating while the policy is in force. (The parenthetical reference to lapse and reinstatement may be omitted at the insurer's option.)

§ 3328. Order of certain provisions

The provisions which are the subject of sections 3305 to 3327, inclusive, of this chapter, or any corresponding provisions

which are used in lieu thereof in accordance with such sections shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided that the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

§ 3329. Third party ownership

The word "insured", as used in this chapter, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits, and rights provided therein.

§ 3330. Requirements of other jurisdictions

(a) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this State, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this chapter and which is prescribed or required by the law of the state or country under which the insurer is organized.

(b) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

§ 3331. Policies issued for delivery in another state

If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the Insurance Commissioner or corresponding public official of such other state has informed the Commissioner that any such policy is not subject to approval or disapproval by such official, the Commissioner may by ruling require that the policy meet the standards set forth in sections 3303 to 3330, inclusive, of this chapter.

§ 3332. Conforming to statute

(a) No policy provision which is not subject to this chapter shall make a policy, or any portion thereof, less favorable in any

respect to the insured or the beneficiary than the provisions thereof which are subject to this chapter.

(b) A policy delivered or issued for delivery to any person in this State in violation of this chapter shall be held valid but shall be construed as provided in this chapter. When any provision in a policy subject to this chapter is in conflict with any provision of this chapter, the rights, duties, and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this chapter.

§ 3333. Age limit

If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

§ 3334. Filing of rates

Each insurer issuing health insurance policies for delivery in this State shall, before use thereof, file with the Commissioner its premium rates and classification of risks pertaining to such policies. The insurer shall adhere to its rates and classifications as filed with the Commissioner. The insurer may change such filings from time to time as it deems proper.

§ 3335. Franchise health insurance law

Health insurance on a franchise plan is hereby declared to be that form of health insurance issued to:

(1) Three or more employees of any corporation, co-partnership, or individual employer or any governmental corporation, agency or department thereof; or

(2) Ten or more members, employees or employees of members of any trade or professional association or of a labor union or of any other association having had an active existence for at least 2 years where such association or union has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance; where such persons with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association or union for its members, or by some designated person acting on behalf of such employer or association or union. The term "employees" as used herein may be deemed to include the officers, managers and employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership.

CHAPTER 35. GROUP AND BLANKET HEALTH INSURANCE

§ 3501. Scope of chapter—short title

(a) This chapter applies only to group health insurance contracts and to blanket health insurance contracts as herein provided for.

(b) This chapter may be cited as the "group or blanket health insurance law."

(c) This chapter shall not apply as to any group health insurance contract made or issued prior to the effective date of this Act or to any extensions, renewals, reinstatements, or modifications thereof or amendments thereto whenever made.

§ 3502. "Group health insurance" defined—eligible groups

"Group health insurance" is hereby declared to be that form of health insurance covering groups of persons as defined below, with or without one or more members of their families or one or more of their dependents, or covering one or more members of the families or one or more dependents of such groups of persons, and issued upon the following basis:

(1) Under a policy issued to an employer or trustees of a fund established by an employer, who shall be deemed the policyholder, insuring employees of such employer for the benefit of persons other than the employer. The term "employees" as used herein shall be deemed to include the officers, managers, and employees of the employer, the individual proprietor or partner if the employer is an individual proprietor or partnership, the officers, managers, and employees of subsidiary or affiliated corporations, the individual proprietors, partners and employees of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract, or otherwise. The term "employees" as used herein may include retired employees. A policy issued to insure employees of a public body may provide that the term "employees" shall include elected or appointed officials. The policy "employees" shall include elected or appointed officials. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(2) Under a policy issued to an association, including a labor union, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring members, employees, or employees of members of the association for the benefit of persons other than the association or its officers or trustees. The term "employees" as used herein may include retired employees.

(3) Under a policy issued to the trustees of a fund established by 2 or more employers in the same or related industry or by one or more labor unions or by one or more employers and one or more labor unions or by an association as defined in subdivision (2) above, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions or of such association, or employees of members of such association, for the benefit of persons other than the employers or the unions or such association. The term "employees" as used herein may include the officers, managers and employees of the employer, and the individual proprietor or partners if the employer is an individual proprietor or partnership. The term "em-

ployees" as used herein may include retired employees. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(4) Under a policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this State to insure any class or classes of individuals that could be insured under such group life policy.

(5) Under a policy issued to cover any other substantially similar group which, in the discretion of the Commissioner, may be subject to the issuance of a group health policy or contract.

(6) Any group health policy which contains provisions for the payment by the insurer of benefits for expenses incurred on account of hospital, nursing, medical, or surgical services for members of the family or dependents of a person in the insured group may provide for the continuation of such benefit provisions, or any part or parts thereof, after the death of the person in the insured group.

§ 3503. Required provisions in group policies

Each such group health insurance policy shall contain in substance the following provisions:

(1) A provision that, in the absence of fraud, all statements made by applicants or the policyholders or by an insured person shall be deemed representations and not warranties, and that no statement made for the purpose of effecting insurance shall void such insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to such policyholder or to such person or his beneficiary.

(2) A provision that the insurer will furnish to the policyholder for delivery to each employee or member of the insured group, a statement in summary form of the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one statement need be issued for each family unit.

(3) A provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

§ 3504. Direct payment of hospital, medical services

Any group 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 the policy may not require that the service be rendered by a particular hospital or person. Payments so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

§ 3505. Readjustment of premiums—dividends

Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder. If a policy dividend is hereafter declared or a reduction in rate is hereafter made or continued for the first or any subsequent year of insurance under any policy of group health insurance heretofore or hereafter issued to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholders for the sole benefit of insured employees or members.

§ 3506. "Blanket health insurance" defined

Blanket health insurance is hereby declared to be that form of health insurance covering groups of persons as enumerated in one of the following subdivisions:

(1) Under a policy or contract issued to any common carrier or to any operator, owner or lessee of a means of transportation, who or which shall be deemed the policyholder, covering

a group of persons who may become passengers defined by reference to their travel status on such common carrier or such means of transportation.

(2) Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering any group of employees, dependents or guests, defined by reference to specified hazards incident to an activity or activities or operations of the policyholder.

(3) Under a policy or contract issued to a college, school or other institution of learning, a school district or districts, or school jurisdictional unit, or to the head, principal or governing board of any such educational unit, who or which shall be deemed the policyholder, covering students, teachers, or employees.

(4) Under a policy or contract issued to any religious, charitable, recreational, educational, or civic organization, or branch thereof, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(5) Under a policy or contract issued to a sports team, camp or sponsor thereof, which shall be deemed the policyholder, covering members, campers, employees, officials or supervisors.

(6) Under a policy or contract issued to any volunteer fire department, first aid, civil defense, or other such volunteer organization, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(7) Under a policy or contract issued to a newspaper or other publisher, which shall be deemed the policyholder, covering its carriers.

(8) Under a policy or contract issued to an association, including a labor union, which has a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, which shall be deemed the policyholder, covering any group of members or

participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(9) Under a policy or contract issued to cover any other risk or class of risks which, in the discretion of the Commissioner, may be properly eligible for blanket health insurance. The discretion of the Commissioner may be exercised on an individual risk basis or class of risks, or both.

§ 3507. Filing and required provisions in blanket policies

Any insurer authorized to write health insurance in this State shall have the power to issue blanket health insurance. No such blanket policy, except as provided in section 2711(d) of this title, may be issued or delivered in this State unless a copy of the form thereof shall have been filed in accordance with such section 2711. Every such blanket policy shall contain provisions which in the opinion of the Commissioner are not less favorable to the policyholder and the individual insured than the following:

(1) A provision that the policy, including endorsements, a copy of the application, if any, of the policyholder and the persons insured shall constitute the entire contract between the parties, and that any statement made by the policyholder or by a person insured shall in absence of fraud, be deemed a representation and not a warranty, and that no such statements shall be used in defense to a claim under the policy, unless contained in a written application. Such person, his beneficiary, or assignee, shall have the right to make written request to the insurer for a copy of such application and the insurer shall, within 15 days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action based upon or involving any statements contained therein.

(2) A provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when such sickness or injury occurred. Failure to give notice within

such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

(3) A provision that the insurer will furnish either to the claimant or to the policyholder for delivery to the claimant such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of 15 days after giving of such notice, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

(4) A provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within 90 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within 90 days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to furnish such proof and that such proof was furnished as soon as was reasonably possible.

(5) A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of due written proof of such loss, and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof.

(6) A provision that the insurer at its own expense, shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy where it is not prohibited by law.

(7) A provision that no action at law or in equity shall be brought to recover under the policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action shall be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

§ 3508. Application and certificates not required

An individual application need not be required from a person covered under a blanket health policy or contract, nor shall it be necessary for the insurer to furnish each person a certificate.

§ 3509. Payment of benefits under blanket policy

All benefits under any blanket health policy or contract shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, except that if the person insured be a minor or otherwise not competent to give a valid release, such benefits may be made payable to his parent, guardian or other person actually supporting him. Except, however, that the policy may provide that all or a portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the option of the insurer and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the obligation of the insurer with respect to the amount of insurance so paid.

CHAPTER 37
CREDIT LIFE AND HEALTH INSURANCE

§ 3701. Scope of chapter

(a) All life insurance and all health insurance in connection with loans or other credit transactions shall be subject to the provisions of this chapter; except, that insurance in connection with a loan or other credit transaction of 5 years duration or more shall not be subject to this chapter, nor shall insurance be subject to this chapter where the issuance thereof is an iso-

lated transaction on the part of the insurer not related to an agreement or plan or regular course of conduct for insuring debtors of the creditor.

(b) Except as provided in section 3707 (f) hereof, this chapter shall not apply as to any contract made or issued prior to January 1, 1969, or to any extensions, renewals, reinstatements, or modifications thereof or amendments thereto when ever made.

§ 3702. Definitions

For the purposes of this chapter ;

(1) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

(2) "Credit health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(3) "Creditor" means the lender of money or vendor of goods, services or property, including a lessor under a lease intended as a security, rights or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender or vendor, and an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any other person in any way associated with any of them.

(4) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction.

(5) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

§ 3703. Forms of credit life insurance and credit health insurance

Credit life insurance and credit health insurance shall be issued only in the following forms :

(1) Individual policies of life insurance issued to debtors on the term plan.

(2) Individual policies of health insurance issued to debtors on a term plan, or disability benefit provisions in individual policies of credit life insurance.

(3) Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan.

(4) Group policies of health insurance issued to creditors on a term plan insuring debtors, or disability benefit provisions in group credit life insurance policies to provide such coverage.

§ 3704. Amounts of insurance

(a) Credit life insurance:

(1) The amount of credit life insurance shall not exceed the initial indebtedness, however the indebtedness may be repayable.

(2) In cases where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.

(3) Notwithstanding the provisions of (1) or (2) above, insurance on agricultural credit transactions not exceeding two years in duration may be written up to the amount of the loan commitment on a nondecreasing or level term plan.

(4) Notwithstanding the provisions of (1) and (2) above, or any other subsection, insurance on educational credit transaction commitments may be written for the amount of the portion of such commitment that has not been advanced by the creditor.

(b) Credit health insurance: The total amount of indemnity payable by credit health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments.

§ 3705. Term of insurance

The term of any credit life insurance or credit health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, or the date when the debtor applies for such insurance, whichever is later, except that, where a group policy provides coverage with respect to the existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. Where evidence of insurability is required and such evidence is furnished more than 30 days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurer determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. The term of such insurance shall not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 3708 of this chapter.

§ 3706. Provisions of policies and certificates of insurance—disclosure to debtors

(a) All credit life insurance and credit health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate shall be delivered to the debtor.

(b) Each individual policy or group certificate of credit life insurance and/or credit health insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurer, and the identity of the person or persons insured, by name in the case of individual policies, the rate or amount of payment, if any, by the debtor separately for credit life insurance and credit health insurance, a description of the amount, term and coverage including any exceptions, limitations

and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

(c) The individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.

(d) If a debtor makes a separate payment for credit life or credit health insurance and an individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance shall be delivered at such time to the debtor. The copy of the application for, or notice of proposed insurance, shall be signed by the debtor and shall set forth the identity by name or otherwise of the person or persons insured, the rate or amount of payment by the debtor, if any, separately for credit life insurance and credit health insurance, and a statement that within 30 days, if the insurance is accepted by the insurer, there will be delivered to the debtor an individual policy or group certificate of insurance containing the name and home office address of the insurer, a description of the amount, term and coverage including any exceptions, limitations and restrictions. The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and with 30 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. Such application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in section 3705 of this chapter.

(e) If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy or certificate of insurance setting forth the name and home office of the substi-

tuted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance an appropriate refund shall be made.

§ 3707. Filing; effectiveness and withdrawal

(a) All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and the schedule of premium rates pertaining thereto shall be filed with the Commissioner.

(b) The Commissioner shall within 30 days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the premium rates charged or to be charged are excessive in relation to benefits, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of this title or of any rule or regulation promulgated thereunder. In determining whether to disapprove any such forms the Commissioner shall give due consideration to past and prospective loss experience within and outside this State, to underwriting practice and judgment to the extent appropriate, and to all other relevant factors within and outside this State.

(c) If the Commissioner notifies the insurer that the form is disapproved; it is unlawful thereafter for such insurer to issue or use such form. In such notice, the Commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement, or rider, shall be issued or used until the expiration of 30 days after it has been so filed, unless the Commissioner shall give his prior written acknowledgment thereof.

(d) The Commissioner may, at any time after a hearing held not less than 20 days after written notice to the insurer, withdraw any such form on any ground set forth in subsection (b) above. The written notice of such hearing shall state the reason for the proposed withdrawal.

(e) The insurer shall not issue such forms or use them after the effective date of such withdrawal.

(f) If a group policy has been delivered in this State before January 1, 1969, or has been or is delivered in another state before or on or after January 1, 1969, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in subsections (b) and (d) of section 3706 of this chapter, and such forms shall be acknowledged by the Commissioner if they conform with the requirements specified in such subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the Commissioner; provided, that the premium rate in effect on existing group policies may be continued until the first policy anniversary date following December 31, 1968.

§ 3708. Premiums and refunds

(a) Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the Commissioner. No insurer shall issue any credit life insurance or credit health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the Commissioner.

(b) Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, that the Commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the Commissioner.

(c) If a creditor requires a debtor to make any payment for credit life insurance or credit health insurance and an individual policy or group certificate of insurance is not issued the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

(d) The amount charged to a debtor for any credit life or credit health insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

(e) Nothing in this chapter shall be construed to authorize any payments for insurance now prohibited under any statute, or rule thereunder, governing credit transactions.

§ 3709. Premium—how collected

The insurance premium or other identifiable charge for credit life or credit health insurance may be collected from the insured or included in the principal of any loan or other transaction at the time such transaction is completed.

§ 3710. Premiums not deemed interest

The premium or cost of credit life or credit health insurance when issued through any creditor shall not be deemed interest or charges, or consideration, or an amount in excess of permitted charges in connection with the loan or other credit transaction, and any gain or advantage to the creditor arising out of the premium or commission or dividend from the issuance of such insurance, shall not be deemed a violation of any other law, general or special, civil or criminal, of the State of Delaware.

§ 3711. Issuance of policies

All policies of credit life insurance and credit health insurance shall be delivered or issued for delivery in this State only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the Commissioner.

§ 3712. Claims

(a) All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

(b) All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

(c) No plan or arrangement shall be used whereby any person other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; except, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

§ 3713. Existing insurance—choice of insurer

When credit life insurance or credit health insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this State.

CHAPTER 39. CASUALTY INSURANCE CONTRACTS

§ 3901. Contracts subject to general provisions

All contracts of casualty insurance covering subjects resident, located, or to be performed in this State are subject to the applicable provisions of chapter 27 (the insurance contract) of this title, and to other applicable provisions of this title.

§ 3902. Uninsured vehicle coverage; insolvency of insurer

(a) No policy insuring against liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this State with respect to any such vehicle registered or principally garaged in this State unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages, from owners or operators of uninsured or

hit-and-run motor vehicles, for bodily injury, sickness or disease, including death, resulting from the ownership, maintenance, or use of such uninsured or hit-and-run motor vehicle. Except, that no such coverage shall be required in or supplemental to a policy where rejected in writing, on a form furnished by the insurer describing the coverage being rejected, by an insured named therein; or upon any renewal of such policy unless the coverage is then requested in writing by the named insured. The coverage herein required may be referred to as "uninsured vehicle coverage."

(b) The amount of coverage to be so provided shall be not less than the minimum limits for bodily injury liability insurance provided for under the motorists financial responsibility laws of this State.

(c) For the purposes of this section the term "uninsured motor vehicle" shall be deemed also to include, subject to the terms and conditions of such coverage, an insured other motor vehicle where:

(1) The liability insurer of such other motor vehicle is unable because of its insolvency to make payment with respect to the legal liability of its insured within the limits specified in its policy; and

(2) The occurrence out of which such legal liability arose took place while the uninsured vehicle coverage required under subsection (a), above, was in effect; and

(3) The insolvency of the liability insurer of such other motor vehicle existed at the time of, or within one year after, such occurrence.

Nothing contained in this subsection (c) shall be deemed to prevent any insurer from providing insolvency protection to its insureds under more favorable terms.

(d) In the event of payment to any person under uninsured vehicle coverage, and subject to the terms of such coverage, to the extent of such payment the insurer shall be entitled to the proceeds of any settlement or recovery from any person legally responsible for the bodily injury as to which such payment was made, and to amounts recoverable from the assets of the insolvent insurer of the other motor vehicle.

§ 3903. Cancellation or non-renewal of automobile policy; definitions, scope

(a) As used in sections 3903 through 3907 of this chapter:

(1) "Policy" means any one or more of the following portions of an automobile insurance policy:

(i) Insuring against bodily injury and property damage liability;

(ii) Insuring against physical damage;

(iii) Insuring against risks commonly included under "comprehensive coverage;"

(iv) Relating to medical payments;

(v) Providing uninsured motorist coverage, delivered or issued for delivery in this State, insuring a natural person as named insured, or one or more related individuals resident of the same household, and under which the insured vehicles therein designated are motor vehicles of the private passenger or station wagon type (not used for public or livery conveyance of passengers, or rented to others) or any other four-wheel motor vehicles with a load capacity of 1500 pounds or less not used in the occupation, profession, or business of the insured; and other than a policy of automobile liability insurance:

(A) Issued under an assigned risk plan; or

(B) Insuring more than 4 motor vehicles; or

(C) Covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

(2) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term. Any policy with a policy period or term of less than 6 months or any policy with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of 6 months.

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

(b) Sections 3903 through 3907 of this chapter shall not apply to any policy which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy.

§ 3904. Same—reasons for cancellation; nonrenewal

No notice of cancellation of a policy shall be effective and the insurer shall not refuse renewal of a policy, unless based on one or more of the following reasons:

(1) Nonpayment of premium; or

(2) The policy was obtained through a material misrepresentation; or

(3) Any insured violated any of the terms and conditions of the policy; or

(4) The named insured failed to disclose fully his motor vehicle accidents and moving traffic violations, or his losses covered under any automobile physical damage or comprehensive coverage, for the preceding 36 months if called for in the application; or

(5) As to renewal of the policy, if the insured at any time while the policy was in force failed to disclose fully to the insurer, upon request therefor, facts relative to accidents and losses incurred material to underwriting of the risk; or

(6) Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or

(7) The named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such policy:

(i) Has, within the 36 months prior to the notice of cancellation or nonrenewal, had his driver's license under suspension or revocation; or

(ii) Has a history of and is subject to epilepsy or heart attacks, and such individual cannot produce a certificate from a physician testifying to his unqualified ability to operate a motor vehicle safely; or

(iii) Has an accident record, conviction record (criminal or traffic), physical, mental, or other condition which is such that his operation of an automobile might endanger the public safety; or

(iv) Has, while the policy is in force, engaged in a pre-arranged competitive speed contest while operating or riding in an automobile insured under the policy; or

(v) Has, within the 36 months prior to the notice of cancellation or nonrenewal been addicted to the use of narcotics or other drugs; or

(vi) Uses alcoholic beverages to excess; or

(vii) Has been convicted, or forfeited bail, during the 36 months immediately preceding the notice of cancellation or nonrenewal, for:

(A) Any felony; or

(B) Criminal negligence resulting in death, homicide, or assault arising out of the operation of a motor vehicle; or

(C) Operating a motor vehicle while in an intoxicated condition or while under the influence of drugs; or

(D) Leaving the scene of an accident without stopping to report; or

(E) Theft or unlawful taking of a motor vehicle; or

(F) Making false statements in an application for a driver's license; or

(viii) Has been convicted of, or forfeited bail for 3 or more violations within the 36 months immediately preceding the notice of cancellation or nonrenewal, of any law, ordinance, or

regulation limiting the speed of motor vehicles, or any of the provisions of the motor vehicle laws of any state, violation of which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or different offenses.

(8) The insured automobile is:

(i) So mechanically defective that its operation might endanger public safety; or

(ii) Used in carrying passengers for hire or compensation, except that the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation; or

(iii) Used in the business of transportation of flammables or explosives; or

(iv) An authorized emergency vehicle; or

(v) Modified or changed in condition during the policy period so as to increase the risk substantially; or

(vi) Subject to an inspection law and has not been inspected or, if inspected, has failed to qualify.

§ 3905. Same—notice of cancellation or of intention not to renew; notice of reasons

(a) No cancellation of a policy to which section 3904 of this chapter applies shall be effective unless notice thereof is mailed or delivered by the insurer to the named insured at least 20 days prior to the effective date of cancellation, except that where cancellation is for nonpayment of premium at least 10 days notice of cancellation accompanied by the reason therefor shall be given. Unless the reason or reasons accompany or are included in the notice, the notice shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than 10 days prior to the effective date of cancellation, the insurer will specify the reason or reasons for such cancellation.

(b) No insurer shall fail to renew a policy to which section 3904 of this chapter applies unless it shall mail or deliver to the named insured, at the address shown in the policy, at least 30 days advance notice of its intention not to renew. Unless the

reason or reasons accompany or are included in the notice, the notice shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than 15 days prior to the effective date or nonrenewal, the insurer will specify the reason or reasons for such nonrenewal. This subsection shall not apply in case of nonpayment of premium, or if the insurer has manifested its willingness to renew. Notwithstanding the failure of an insurer to comply with this subsection, the policy shall terminate on the effective date of any other policy procured by the insured, with respect to any automobile designated in both policies. Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation or nonrenewal which existed before the effective date of the renewal.

(c) Proof of mailing of notice of cancellation, or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at his address last of record with the insurer, shall be sufficient proof of notice.

(d) When a policy is cancelled, other than for nonpayment of premium, or in the event of failure to renew a policy to which subsection (b), above, applies, the insurer shall notify the named insured of any possible eligibility for insurance through an automobile assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew, and shall state that such notice of availability of the automobile assigned risk plan is given pursuant to this section.

(e) Where the reason or reasons for cancellation or nonrenewal do not accompany or are not included in the notice of cancellation or of intention not to renew, the insurer shall upon written request of the named insured mailed or delivered to the insurer not less than 10 days prior to the effective date in the case of cancellation or not less than 15 days prior to the effective date in the case of nonrenewal, specify in writing the reason or reasons for such cancellation or nonrenewal. Such reasons shall be mailed or delivered to the named insured within 5 days after receipt of such request, except in the case of cancellation for nonpayment of premium, and shall contain or be accompanied by a notice of the named insured's right to apply to the Commissioner for a hearing thereon if the application is made not less

than 4 days prior to the effective date of cancellation or 10 days prior to the effective date of nonrenewal, and is accompanied by a filing fee of \$10. If the reasons for cancellation or nonrenewal are stated in or accompany the notice of cancellation or of intention not to renew, such notice shall, except in the case of cancellation for non-payment of premium, also contain or be accompanied by a notice of the named insured's right to apply to the Commissioner for a hearing if the application is made not less than 10 days prior to the effective date of cancellation or of nonrenewal and is accompanied by a filing fee of \$10. This subsection shall apply only to a cancellation or refusal to renew to which section 3904 of this chapter applies.

§ 3906. Same—hearing before Commissioner; filing fee; order

(a) A named insured who wishes to contest the reason or reasons for a cancellation or nonrenewal to which section 3904 of this chapter is applicable, shall, not less than 4 days prior to the effective date of cancellation where the reasons for cancellation are furnished upon written request and not less than 10 days prior to the effective date of cancellation, where the reasons for cancellation are furnished with the notice of cancellation or of effective date of nonrenewal, mail or deliver to the Commissioner a written request for a hearing, which shall state clearly the basis for the appeal and be accompanied by a filing fee of \$10. - This subsection shall not apply to cancellation for nonpayment of premium. A cancellation or nonrenewal which is subject to the provisions of section 3904 of this chapter shall be deemed effective unless the Commissioner determines otherwise in accordance with the provisions of such section.

(b) Within 2 days after receipt of a timely request for a hearing, the Commissioner shall call a hearing upon 10 days notice to the parties. The Commissioner may, where he finds that a request for a hearing is not timely made because the insurer did not, within the time period provided in subsection (a), furnish the reason for cancellation or nonrenewal upon the timely request therefor by the named insured, accept the request for a hearing and, after notice to the insurer, extend the effective date of cancellation or nonrenewal for a period not to exceed 4 days from the date the reason for cancellation or nonrenewal was mailed or delivered. Each insurer authorized to transact auto-

mobile insurance in this State shall maintain on file with the Commissioner the name and address of the person authorized to receive notices pursuant to this section on behalf of the insurer.

(c) The Commissioner at the conclusion of any hearing provided for under subsection (b), above, or not later than 2 days thereafter, shall issue his written findings to the parties and, if he finds for the named insured, he shall assess the insurer \$10 to defray the cost of the hearing and shall refund the \$10 filing fee to the named insured, and he shall either order the insurer to rescind its notice of cancellation or nonrenewal, or, if the date cancellation or nonrenewal is to be effective has elapsed, order the policy reinstated. Such order shall operate retroactively only to cover a period not to exceed 15 days from the date cancellation or nonrenewal otherwise would have been effective, and prospectively from the date on which the order was issued, except that no policy shall be reinstated while the named insured is in arrears in payment of premium on the policy. If the Commissioner finds for the insurer, his written order shall so state and he shall assess the named insured \$10 and apply the named insured's \$10 filing fee against the assessment to defray the cost of the hearing. Reinstatement of a policy under this subsection shall not operate in any way to extend the expiration, termination, or anniversary date provided in the policy.

(d) The Commissioner shall promptly deposit all filing fees provided for in this section with the State Treasurer to the credit of the general fund of this State.

§ 3907. Same—nonliability as to information; statements

There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner, or the insurer, its authorized representative, its agents, its employees, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or refusal to renew any policy under sections 3903 through 3906 of this chapter, for any statement made by any of them in any written notice or explanation of cancellation or refusal to renew, for the providing of information pertaining thereto, or for statements made or evidence submitted at the hearings conducted in connection therewith.

§ 3908. Same—exceptions related to insurer's condition

Nothing contained in sections 3903 through 3907 of this chapter shall be construed to prevent the cancellation or nonrenewal of any such insurance where:

(1) Cancellation or nonrenewal is ordered under or in connection with a statutory delinquency proceeding commenced against the insurer under chapter 59 of this title (rehabilitations and liquidations), or

(2) Cancellation or nonrenewal has been consented to by the Commissioner on a showing that continuation of such insurance can reasonably be expected to create a condition in the insurer hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public.

§ 3909. Automobile insurance—exclusion, cancellation, or nonrenewal as to designated individual

The insurer shall have the right to exclude, cancel or refuse to renew coverage under an automobile insurance policy as to designated individuals. Any such cancellation or refusal to renew shall be acknowledged by the signature of the named insured, and shall be subject to the applicable provisions of sections 3903 through 3907 of this chapter as for cancellation or refusal to renew the policy.

§ 3910. Automobile insurance—insurer's right to impose deductible on renewal

Nothing in sections 3903 through 3909 of this chapter shall prohibit, or be construed to prohibit, an insurer from requiring a provision for a reasonable deductible not exceeding \$100 in amount as to physical damage and comprehensive coverages of the policy, as a condition to renewal of an automobile insurance policy.

CHAPTER 41. PROPERTY INSURANCE CONTRACTS**§ 4101. Contracts subject to general provisions**

All contracts of property insurance covering subjects located in this State are subject to the applicable provisions of

chapter 27 (the insurance contract) of this title, and to other applicable provisions of this title.

§ 4102. Attorney's fees

The court upon rendering judgment against any insurer upon any policy of property insurance, as "property" insurance is defined in section 904 of this title, shall allow the plaintiff a reasonable sum as attorney's fees to be taxed as part of the costs.

CHAPTER 43. SURETY INSURANCE CONTRACTS

§ 4301. Subject to general laws

Contracts of surety insurance issued by surety insurers shall be subject to the applicable general provisions of chapter 27 (the insurance contract) of this title and to applicable general laws of suretyship.

CHAPTER 45. TITLE INSURANCE CONTRACTS

§ 4501. Filing of rates; rate standard; adherence

(a) Every title insurer shall, before use in this State, file with the Commissioner its schedule of rates and charges for title insurance, and thereafter every modification or amendment thereof.

(b) Rates and charges for title insurance shall not be excessive, inadequate, or unfairly discriminatory.

(c) The insurer shall adhere to the rates and charges as so filed by it.

CHAPTER 47. FINANCING OF INSURERS

§ 4701. Scope of chapter

This chapter applies as to domestic and foreign insurers of all types, and as to persons providing finances as to such insurers.

§ 4702. Solicitation permit required; penalty

(a) No person forming or proposing to form an insurer, or insurance holding corporation, or corporation to be attorney-in-fact for a reciprocal insurer, or proposing to secure funds for the formation or financing of an insurer, or production of insurance business therefor, or an insurance holding corporation, or attorney-in-fact corporation of a reciprocal insurer, or for the formation of a syndicate, association, firm, partnership, or organization for any such purposes, whether domestic or foreign, shall in this State advertise or offer for sale any securities, or solicit or receive any funds, subscriptions, applications, or membership, except as authorized by a currently effective permit (hereinafter sometimes referred to as a "solicitation permit") issued by the Commissioner.

(b) Any person violating this section shall upon conviction thereof be subject to a fine of not more than \$10,000 or imprisonment for not more than 10 years, or by both such fine and imprisonment.

§ 4703. Insurance holding corporation defined

Within the intent of this chapter an insurance holding corporation is one owning or proposing to own a controlling stock interest in a stock insurer. Shares owned directly or indirectly by the corporation or by its subsidiary or affiliate corporation, firm or organization, or by its officers, directors or principal stockholders shall be deemed to be owned by the corporation for the purposes of this provision.

§ 4704. Exemptions

Section 4702 of this chapter shall not apply as to:

(1) Sales of securities not involving a public offering; that is, sales on which no commission is payable resulting from offers privately made to not over 20 persons (other than banks, savings associations, investment companies registered as such under the Investment companies Act of 1940, registered securities dealers, investment houses and other financial institutions) within a 12 month period and where all persons (including such banks, associations, companies, dealers, houses

and institutions) so acquiring such securities do so for investment purposes only and not with a view to further distribution.

(2) Sales of securities by an insurance holding corporation for purposes which do not include that of financing, directly or indirectly, an insurer.

(3) Stock of the insurer or insurance holding corporation to be offered and sold without payment of commission thereon, exclusively to directors, employees, and agents of the insurer or corporation, or any of them, under stock options granted pursuant to a written lawful plan therefor adopted by the Board of Directors and approved by a majority of the stock of the issuer corporation having voting rights, and which plan has been filed with the Commissioner.

(4) Securities issued or proposed to be issued pursuant to any merger, consolidation, bulk reinsurance, conversion, mutualization, or corporate affiliation approved by him pursuant to chapter 49 of this title.

(5) Securities issued in exchange for outstanding securities of the issuer, or partly in exchange for such outstanding securities and partly for cash, in connection with a recapitalization of the issuer or the exercise of conversion or exchange rights under such outstanding securities.

(6) Fractional share interests in stock of the issuer offered and sold for the purpose of rounding out to whole shares in connection with any stock dividend or other distribution of shares to existing security holders of the issuer.

§ 4705. Application for permit

(a) Written application for any permit required under section 4702 of this chapter shall be filed with the Commissioner. The application shall show, or be accompanied by:

(1) The name, type, and purpose of the insurer, corporation, syndicate, association, firm, or organization formed or proposed to be formed or financed;

(2) The name, residence address, business background and qualifications of each person associated or to be associated

in the enterprise, or in the formation of the proposed insurer, corporation, syndicate, association, firm or organization, or in the proposed financing;

(3) Full disclosure of the terms of all pertinent understandings and agreements existing or proposed among persons so associated or to be associated; and a copy of each such agreement relating to the proposed financing, or insurer, corporation, syndicate, association, firm or organization, or the formation thereof;

(4) The plan according to which solicitations are to be made;

(5) A copy of any security, receipt, or certificate proposed to be issued and copy of any proposed application or subscription agreement;

(6) Copy of any prospectus, offering circular, advertising, or sales literature or material proposed to be used;

(7) Copy of proposed form of any escrow agreement required;

(8) Irrevocable appointment of the Commissioner as process agent to receive service of process issued in this State and arising out of any transaction under the permit, if issued. The Commissioner shall prescribe and furnish the form of such appointment;

(9) A copy of the certificate of incorporation or charter of the insurer or proposed insurer, or of any other corporation proposing to offer its securities, certified by the public official having custody of the original thereof; and a copy of any syndicate, association, firm, organization or other similar agreement, by whatever name called, if funds for any of the purposes referred to in section 4702 of this chapter are to be secured through the sale of any security, interest, or right in or relative to such syndicate, association, firm, or organization; and, if the insurer is or is to be a reciprocal insurer, a copy of the power of attorney and of other agreements existing or proposed affecting subscribers, investors, the attorney-in-fact or the insurer; and

(10) Such additional pertinent information as the Commissioner may reasonably require.

(b) The application shall be accompanied by deposit of the fees required under section 701 (fee schedule) of this title for the filing of the application and for issuance of the permit, if granted.

(c) In lieu of a special filing thereof of information called for in subsection (a), the Commissioner may, in his discretion, accept a copy of any pertinent filing made with the Securities and Exchange Commission relative to the same offering.

§ 4706. Application for permit to solicit qualifying mutual applications

Written application for any permit required under section 4702 of this chapter in connection with the formation of a domestic mutual insurer by the securing of qualifying applications for insurance as provided in section 4905 of this title, shall be filed with the Commissioner. The application shall contain such information and be accompanied by such of the documents and the fees as required under section 4705 of this chapter as may be applicable, and in addition shall be accompanied by:

(1) A copy of the policy for which applications are proposed to be solicited;

(2) A copy of the proposed insurance application form, consistent with the requirements of section 4907 (qualifying applications for insurance) of this title;

(3) A schedule of the premiums or premium rates proposed to be charged in connection with such insurance applications; and

(4) A copy of the bylaws of the proposed insurer.

§ 4707. Investigation

(a) Upon completion of the application for a permit under sections 4705 and 4706 of this chapter, the Commissioner shall promptly cause an investigation to be made of:

(1) The identity, character, reputation, financial standing and motives of the persons proposing to organize, or promote, and manage the proposed insurer or organization;

(2) The character, financial responsibility, insurance management experience, and business qualifications of the officers, directors, and managers of the insurer or proposed insurer or organization;

(3) Such other aspects of the proposed insurer or financing as the Commissioner deems advisable.

(b) The Commissioner may waive such an investigation as to an insurer already duly authorized to transact insurance in this State.

§ 4708. Granting; denial of permit

(a) The Commissioner shall expeditiously examine an application for a solicitation permit as soon as it is completed, and complete the investigation as called for. Subject to subsection (b) below, if the Commissioner finds on such examination and investigation that

(1) The application is complete; and

(2) The documents therewith filed are proper in form; and

(3) That the proposed finances are reasonable and adequate in amount for the purposes intended, he shall give notice to the applicant that he will issue the permit upon the filing of any bond required by section 4713 or deposit required by section 4906 of this title, and the filing of an executed copy of any escrow agreement required in connection therewith.

(b) If the Commissioner does not so find, or finds that

(1) The proposed sale of securities would be or tend to be unfair or inequitable as to present or proposed security holders or investors; or

(2) Any of the individuals associated or to be associated in the insurer, corporation, syndicate, association, firm, organization or financing are not of good reputation as to business affairs; or

(3) The insurer or proposed insurer would not be able to qualify for a certificate of authority in this State by virtue of the provisions of section 508(b) of this title,

he shall give notice to the applicant that a permit will not be granted, stating the particulars of the grounds therefor, and refund to the applicant all sums deposited in connection with the application except the fee for filing the application for a permit.

§ 4709. Terms of permit; compliance

(a) Upon filing any bond required by section 4713 or deposit required by section 4906 of this title, or upon decision to grant the permit if such a bond is not so required, and upon filing an executed copy of any required escrow agreement, the Commissioner shall issue a permit to the applicant.

(b) Every such permit shall contain provisions, as applicable, as follows:

(1) It shall state the securities which are to be offered, the number, par value if any, and selling price; or identify the insurance contract or contracts for which applications and advance premiums are to be solicited in the case of formation of a new domestic mutual insurer.

(2) It shall require that all purchases and premiums shall be payable only in lawful money of the United States of America, except where stock or other securities are to be issued in exchange for securities or rights thereto under a plan approved by the Commissioner, of recapitalization or refinancing of an insurer or other corporation.

(3) It shall require that any securities proposed to be offered or sold under the permit shall be so offered and sold at the same price to all parties, subject, at the option of the issuer, in the case of subscriptions to be paid in installments, to a reasonable additional charge to cover expenses and loss of interest earnings attributable to such installment subscriptions.

(4) It shall limit the portion of funds received on account of sale of securities under the permit, which may be used for organization, securities sales, and promotion expenses to such amount as the Commissioner deems reasonably adequate under the proposed plan of solicitation, but in no event to exceed 15% of such funds as and when the funds are actually received.

(5) If the Commissioner believes the same to be desirable for the protection of the public or for any other reasonable purpose, the permit may:

(i) Require the founders, promoters, incorporators, or other persons directly involved in the proposed offering, to subscribe and pay for immediately and in cash, a reasonable proportion of the same securities as proposed to be offered in this State, at a price not less than that at which any such securities are to be offered to other subscribers or purchasers.

(ii) Prohibit, limit, or control the granting of options to such founders, promoters, incorporators or other persons to buy the securities.

(iii) Prohibit, by any founder, promoters, incorporator or other person associated or to be associated in solicitations under the permit, the resale or transfer for a period terminating 1 year after expiration or other termination of the permit, of his interest in any security, right, or interest of the kind proposed to be offered under the permit, or any other security, interest or right which he may have in or as to the same issuing entity, or the granting of any option or lien as to any such security, right, or interest. The Commissioner may, in his discretion, require that any security, right, or interest the resale or transfer of which is herein prohibited, shall be deposited and held in escrow for the prescribed period. This provision shall not prohibit the sale or transfer of any such security, right or interest by the estate or personal representative of a deceased founder, promoter, or incorporator, or deceased person associated in solicitations under the permit.

(iv) Contain other reasonable provisions for the protection of existing or proposed investors in this State.

(6) If the permit is issued in connection with the solicitation of qualifying applications for a proposed domestic mutual insurer, it shall limit the portion of funds received therefor which may be used for organization and sales expense to a reasonable commission related to the kind of insurance policy involved and costs incurred by mutual insurers in Delaware in the production of similar business; and provide that no such commissions shall be paid or be deemed earned until the insurer

has received its certificate of authority and the policies so applied for have been actually issued, delivered to and accepted by the respective insureds.

(7) The permit shall expire at expiration of a period stated therein, which period shall be not more than 2 years after its date of issue, unless earlier terminated by the Commissioner, but subject to an extension of time for such additional reasonable period, not to exceed one year, as the Commissioner may grant for good cause shown.

(8) The permit shall contain such other reasonable conditions relative to accounting, reports, deposits, or other matters consistent with this chapter as the Commissioner deems advisable for the reasonable protection of existing or prospective investors.

(c) The holder of the permit, and its directors, officers, employees, agents, founders, promoters, incorporators and representatives shall comply with the terms of the permit.

§ 4710. Permit as inducement

The granting of a solicitation permit is permissive only and shall not constitute an endorsement by the Commissioner of any person or thing related to any such insurer, corporation, syndicate, association, firm, organization, or financing, nor constitute evidence of the completeness or accuracy of information presented in any prospectus or other sales literature, and the existence of the permit shall not be advertised or used as an inducement in any solicitation. The Commissioner shall place the substance of this section in conspicuous type at the top of each such permit issued.

§ 4711. Prospectus required; other literature

(a) An offering of securities under a solicitation permit shall be made only by written prospectus delivered to the prospective investor.

(b) The prospectus shall make a disclosure of all facts relative to the issuer and the offered security which are reasonably material to the offered investment, and shall not omit a material fact necessary to make the statements made, in the

light of the circumstances under which they are made, not misleading. The Commissioner may make reasonable rules and regulations concerning the form and contents of prospectuses, not inconsistent with the provisions of this chapter.

(c) The Commissioner may accept, as a compliance with this section, a prospectus or offering circular covering securities to be offered in this State under an existing registration thereof with the Securities and Exchange Commission or under an existing exemption from such registration pursuant to "Regulation A" of the general rules and regulations of the Securities and Exchange Commission under the Securities Act of 1933, as amended.

(d) As to securities covered by a solicitation permit no sales literature or other visual sales material other than the prospectus or offering circular shall be used in solicitations unless a copy of the same has been filed with the Commissioner in advance of such use and not disapproved by him in writing mailed or delivered to the filing party within 10 days after the date of such filing. The Commissioner shall disapprove any such literature or material found by him to be untrue or misleading. The provision shall not be deemed to modify or affect any applicable requirement or prohibition under or pursuant to the Securities Act of 1933, as amended.

§ 4712. Modification; revocation of permit

The Commissioner may for cause modify a solicitation permit theretofore issued; or may after a hearing thereon revoke the permit for violation of law or the terms of the permit, or any proper order of the Commissioner, or for material misrepresentation in the offering or sale of securities or policies under the permit.

§ 4713. Bond for permit

(a) The Commissioner shall not issue a solicitation permit until the applicant therefor has filed with the Commissioner a corporate surety bond in the penalty of \$10,000, aggregate amount, in favor of the State of Delaware and for the use and benefit of the State and of proposed Delaware investors in and creditors of the permittee.

(b) The bond shall be conditioned upon the payment of costs incurred by the State in event of any proceeding for liquidation or dissolution of the proposed organization before completion of organization or, if to be an insurer, a certificate of authority is not granted; and upon a full accounting for funds received until the proposed insurer has been granted its certificate of authority or until the corporation, syndicate, association, firm or organization or financing has been completed within the terms of the permit.

(c) In lieu of filing such bond the applicant may deposit with the State Treasurer through the Commissioner, \$10,000 in cash, or in a certificate of deposit issued by a bank located in Delaware, or an equivalent amount in United States government bonds at market value, to be held in trust under the same conditions as required of the bond. The amount so deposited may be credited toward payment of subscription to securities by founders, promoters and incorporators if required under section 4709(b) (5) (i) of this chapter.

(d) The Commissioner may, in his discretion, waive the requirement for a bond or deposit in lieu thereof if the securities are to be issued in connection with subsequent financing as provided in section 4717 of this chapter.

(e) The Commissioner shall release and discharge any such bond or deposit or remaining portion thereof held under this section upon written request of the person entitled thereto and upon proof to the Commissioner's satisfaction that all liabilities and obligations with respect to which the bond or deposit was filed or made have been fully settled or terminated or otherwise adequately provided for.

(f) This section does not apply as to solicitation of initial qualifying applications for insurance in a domestic mutual insurer pursuant to section 4906 of this title, except as provided in such section 4906.

§ 4714. Escrow of funds

(a) The holder of the solicitation permit shall promptly deposit all funds received from an offering of securities in this State pursuant to the permit, other than advance premiums for

insurance which are subject to section 4907 of this title, in escrow in a bank or trust company located in this State and under an agreement consistent with this chapter approved by the Commissioner.

(b) No part of such funds shall be withdrawn from such deposit, except:

(1) For payment of organization, sales and promotion expenses as earned and as authorized by the permit, and funds for such purposes may be withheld from the deposit; or

(2) For the purpose of making any deposit with the Commissioner required for issuance of a certificate of authority to an insurer; or if the organization is not, or is not to be, an insurer, upon completion of payments on securities subscriptions made under the permit and deposit or appropriation of such funds to the purposes specified in the permit; or

(3) For the making of refunds as provided in section 4716 of this chapter.

(c) Funds while so held in escrow may be invested in certificates of deposit or savings accounts. Interest accruing thereon shall become part of the funds released as provided in subdivision (2) above; or shall be applied toward the costs of making refunds under subdivision (3) above or to supplement the bond or deposit in lieu thereof in event the same is called on pursuant to section 4713 of this chapter.

(d) When the Commissioner has issued a certificate of authority to a proposed insurer any such funds remaining in escrow for its account shall be released to the insurer.

(e) The Commissioner may in his discretion waive compliance with this section as to funds to be received under a subsequent financing permit under section 4717 of this chapter, or in other circumstances where he deems such an escrow to be reasonably unnecessary for the protection of investors or of the public.

§ 4715. Subscriptions

All subscriptions to securities under a solicitation permit shall be binding upon and enforceable against the parties thereto

in accordance with the terms of the subscription contract and subject to the provisions of this chapter. No such contract shall be made conditional, except upon such reasonable conditions consistent with applicable statutes as may uniformly be set forth in all such contracts with the Commissioner's approval as not being inappropriate or inequitable.

§ 4716. Failure to complete or qualify

(a) The Commissioner shall withdraw all funds held in escrow under section 4714 of this chapter, and refund to securities subscribers or purchasers all sums paid in thereon under the solicitation permit, less that part allowed and used for organization, sales and promotion expenses, if:

(1) The permit holder has failed to complete its organization or financing, within the terms of the permit, or if to be an insurer it has failed to secure its certificate of authority, all before expiration of the permit; or

(2) The permit is revoked.

(b) As to funds paid in on subscriptions by founders, promoters and incorporators and held on deposit in lieu of bonds under section 4713(c) of this chapter, only such portion of such funds shall be refundable under this section as may remain after discharge of all liabilities against the deposit under section 4713 of this chapter and the charging of such funds with a proportionate share of organization, sales and promotion expenses.

§ 4717. Subsequent financing; penalty

(a) No person referred to in section 4702 (solicitation permit required; penalty) of this chapter, after receiving a certificate of authority, if an insurer, in this or any other State, or after completing its original organization and financing, if other than an insurer, shall in this State solicit or receive funds in exchange for its securities until it has applied to the Commissioner for, and has been granted a solicitation permit. This provision is subject to the same exemptions as are provided by section 4704 of this chapter.

(b) The Commissioner shall expeditiously issue such a permit unless he finds:

(1) That the funds proposed to be secured are inadequate or excessive in amount for the purposes intended, or

(2) That the proposed securities or the manner of their distribution would be unfair or inequitable to existing or proposed security holders or policyholders of the issuer.

(c) Any such permit granted by the Commissioner shall be for such duration, and shall contain such terms and be issued upon such conditions as the Commissioner may reasonably specify or require for the protection of existing or proposed investors. In the Commissioner's discretion such terms and conditions may be substantially the same as or materially different from requirements made under this chapter as to solicitation permits for initial financing.

(d) Violation of subsection (a) of this section shall be subject to the same penalties as prescribed by section 4702(b) (solicitation permit required; penalty) of this chapter.

CHAPTER 49. ORGANIZATION AND CORPORATE POWERS, PROCEDURES OF DOMESTIC STOCK AND MUTUAL INSURERS

§ 4901. Scope of chapter

This chapter shall apply only as to domestic stock insurers and domestic mutual insurers. This chapter shall apply as to domestic mutual assessment property insurers only as stated in section 5306 of this title.

§ 4902. "Stock," "mutual" insurer; definitions

"Stock" insurer and "mutual" insurer are as defined in sections 501 and 502, respectively, of this title.

§ 4903. General corporation statutes; applicability

Domestic stock and mutual insurers shall be governed by the applicable provisions of the general statutes of this State, as such statutes now are or hereafter may be constituted, relating to private corporations except where such general statutes are in conflict with the express provisions of this title and the rea-

sonable implications of such provisions, in which case the provisions of this title shall govern.

§ 4904. Insurance business exclusive

No domestic insurer heretofore or hereafter formed shall engage directly or indirectly in any business other than the insurance business and in business activities reasonably and necessarily incidental to such insurance business; except that:

(1) A title insurer may also engage in business as an escrow agent; and

(2) Any insurer may also engage in business activities reasonably related to the management, supervision, servicing of, and protection of its interests as to, its lawful investments, and to the full utilization of its facilities.

(3) This section shall not preclude a corporation heretofore or hereafter formed under the laws of this State from possessing corporate powers to engage in business additional to the insurance business, or preclude such a corporation prior to issuance of a certificate of authority thereto as an insurer, from engaging in any such additional business or businesses.

§ 4905. Mutual insurers; initial qualifications

(a) When newly organized, a domestic mutual insurer may be authorized to transact any one of the kinds of insurance listed in the schedule contained in subsection (b) below.

(b) When applying for an original certificate of authority, the insurer must be otherwise qualified therefor under this title, and must have received and accepted bona fide applications as to substantial insurable subjects for insurance coverage of a substantial character of the kind of insurance proposed to be transacted, must have collected in cash the full premium therefor at a rate not less than that usually charged by other insurers for comparable coverages, must have surplus funds on hand and deposited as of the date such insurance coverages are to become effective, or, in lieu of such applications, premiums, and surplus, may deposit and thereafter maintain surplus, all in accordance with that part of the following schedule which applies to the one kind of insurance the insurer proposed to transact:

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
Kind of Ins.	Min. No. of Apps. Accepted	Min. No. Sub- jects Covered	Minimum Pre- mium Collected	Minimum Amt. Ins. Ea. Subj.	Max. Amt. Ins. Ea. Subject (v)	Deposit Min. Surpl. Fund (vi)	Deposit Surplus in Lieu (vi)
Life (i)	500	500	Annual	\$2,000	\$ 5,000	\$100,000	\$200,000
Health (ii)	500	500	Quarterly	\$ 25 (weekly indem.)	\$ 50 (weekly indem.)	\$100,000	\$200,000
Property (iii)	100	250	Annual	\$3,000	\$ 7,000	\$100,000	\$200,000
Casualty (iv)	250	500	Annual	\$5,000	\$25,000	\$200,000	\$300,000

Expendable surplus: In addition to surplus deposited and thereafter to be maintained as shown in columns (G) or (H) above, the insurer when first authorized must have on hand surplus funds, which it can thereafter expend in the conduct of its business, in amount not less than 50% of the applicable deposited and maintained surplus required of it under the above schedule. The following provisos are respectively applicable to the foregoing schedule and provisions as indicated by like Roman numerals appearing in such schedule:

(i) No group insurance or term policies for terms of less than 10 years shall be included.

(ii) No group, blanket or family plans of insurance shall be included. In lieu of weekly indemnity a like premium value in medical, surgical, and hospital benefits may be provided. Any accidental death or dismemberment benefit provided shall not exceed \$5,000.

(iii) Only insurance of the owner's interest in real property may be included.

(iv) Must include insurance of legal liability for bodily injury and property damage, to which the maximum and minimum insured amounts apply.

(v) The maximums provided for in this column (F) are net of applicable reinsurance.

(vi) The deposit of surplus in the amount specified in columns (G) and (H) must thereafter be maintained unimpaired. The deposit is subject to the provisions of chapter 15 (administration of deposits) of this title.

§ 4906. Mutual insurers; permit, deposit

(a) Before soliciting any applications for insurance as required under section 4905 of this chapter, the incorporators of the proposed insurer shall procure a solicitation permit as required by section 4702 of this title, and shall deposit with the Commissioner \$10,000 in cash or in certificate of deposit issued by a bank located in this State or in United States Government bonds at market value, to be held in trust for the use and benefit of the State and of applicant members and creditors of the corporation. The deposit shall be conditioned as follows:

(1) Upon due accounting for and deposit, as required under section 4908 of this chapter, of funds received as premium upon preliminary applications for insurance; and

(2) That in event the corporation fails to complete its organization and secure a certificate of authority issued by the Commissioner within one year after the date of its solicitation permit, all premiums collected in advance from applicant members will be promptly returned to them, all other indebtedness of the corporation other than any compensation to directors, officers, or solicitors of insurance applications, will be paid, and for payment of costs incurred by the State in event of any legal proceedings for liquidation or dissolution of the corporation.

(b) If the corporation or an affiliate corporation proposes also to issue securities for initial financing of the proposed insurer, in addition to the securing of qualifying applications for insurance, the deposit required by this section may be combined with that required under section 4713 of this title, with appropriate extension of the conditions of such deposit to comply with the requirements of both sections, in order that only one such deposit of \$10,000 shall be necessary for all such purposes.

(c) The Commissioner shall release such deposit or remaining portion thereof held under this section upon written request of the person entitled thereto and upon proof to the Commissioner's satisfaction that all liabilities and obligations with respect to which the deposit was made and held have been fully settled or terminated or otherwise adequately provided for.

of the deposit as provided in section 4906 of this chapter, the directors and officers of the proposed domestic mutual insurer

may commence solicitation of such requisite applications for insurance policies as they may accept, and may receive deposits of premiums thereon.

(b) All such applications shall be in writing signed by the applicant, covering subjects of insurance resident, located or to be performed in this State.

(c) All such applications shall provide that:

(1) Issuance of the policy is contingent upon the insurer qualifying for and receiving a certificate of authority;

(2) No insurance is in effect unless and until the certificate of authority has been issued; and

(3) The prepaid premium or deposit, and membership or policy fee, if any, shall be refunded in full to the applicant if organization is not completed and the certificate of authority is not issued and received by the insurer before a specified reasonable date, which date shall be not later than one year after the date of the solicitation permit.

(d) All qualifying premiums collected shall be in cash.

(e) Solicitation for such qualifying applications for insurance shall be by licensed agents of the corporation, and the Commissioner shall, upon the corporation's application therefor, issue temporary agent's licenses expiring on the date specified pursuant to subdivision (3) above to individuals qualified as for an agent's license. The Commissioner may suspend or revoke any such license for any of the causes and pursuant to the same procedures as are applicable to suspension or revocation of licenses of agents in general under chapter 17 of this title.

§ 4908. Mutual insurers; trust deposit of qualifying premiums; issuance of policies

(a) All sums collected by a domestic mutual corporation as premiums or fees on qualifying applications for insurance therein shall be deposited in trust in a bank or trust company in this State under a written trust agreement approved by the Commissioner and consistent with this section and with section 4907 of this chapter. The corporation shall file an executed copy of such trust agreement with the Commissioner.

(b) Upon issuance to the corporation of a certificate of authority as an insurer for the kind of insurance for which such applications were solicited, all funds so held in trust shall become the funds of the insurer, and the insurer shall thereafter in due course issue and deliver its policies for which premiums had been paid and accepted. The insurance provided by such policies shall be effective as of the date of the certificate of authority or thereafter as provided by the respective policies.

§ 4909. Mutual insurers; failure to qualify

If the proposed domestic mutual insurer fails to complete its organization and to secure its original certificate of authority within one year from and after date of its solicitation permit, the corporation shall transact no further business, and the Commissioner shall return or cause to be returned to the persons entitled thereto all advance deposits or payments of premiums held in trust under section 4907 of this chapter.

§ 4910. Mutual insurers; additional kinds of insurance

A domestic mutual insurer, after being authorized to transact one kind of insurance, may be authorized to transact such additional kinds of insurance as are permitted under section 510 of this title, while otherwise in compliance with this title and while maintaining unimpaired surplus funds in an amount not less than the amount of paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance, subject further, when first so authorized to transact an additional kind of insurance, in the case of insurers other than those to which section 511(a)(1) of this title, is applicable, to the additional expendable surplus requirements of such section 511 applicable to such a stock insurer.

§ 4911. Membership in mutual

(a) Each policyholder of a domestic mutual insurer, other than of a reinsurance contract, is a member of the insurer during the period of the insurance with all rights and obligations of such membership, and the policy shall so specify.

(b) Any person, government or governmental agency, state or political subdivision thereof, public or private corporation,

board, association, estate, trustee or fiduciary may be a member of a domestic mutual insurer. The right of certain governmental bodies or agencies of this State to become and be members of mutual insurers shall be subject further to the laws of this State governing such bodies or agencies.

§ 4912. Bylaws of mutual insurer

Every domestic mutual insurer shall promptly file with the Commissioner a copy, certified by the insurer's secretary, of its bylaws and of every modification thereof or addition thereto. The bylaws and modifications thereof shall be subject to the Commissioner's approval. The Commissioner shall not disapprove any such bylaw or modification unless found by him, after a hearing held thereon, to be unlawful, unreasonable, inadequate, unfair or injurious to the proper interests or protection of the insurer's members or any class thereof. The insurer shall not, after receiving written notice of such disapproval and during the existence thereof, effectuate any bylaw provision so disapproved.

§ 4913. Minutes of corporate meetings; mutual insurers

A domestic mutual insurer upon the Commissioner's written request therefor shall promptly file with the Commissioner a copy, certified by the insurer's secretary, of the notice, minutes and other record of every meeting of the insurer's board of directors or other similar governing body and of every meeting of the insurer's members. All such copies so filed shall constitute confidential records for the information of the Commissioner only, and shall not constitute or be treated as public records in his office or be open to public inspection.

§ 4914. Contingent liability of mutual members

(a) Except as provided otherwise in section 4916 of this chapter with respect to nonassessable policies, each member of a domestic mutual insurer shall have a contingent liability, pro-rata and not one for another, for the discharge of its obligations, which contingent liability shall be in such maximum amount—not less than 1 nor more than 6 times the premium for the member's policy at the annual premium rate—as shall be specified in the insurer's certificate of incorporation or bylaws.

(b) Every policy issued by the insurer shall contain a statement of the contingent liability.

(c) Termination of the policy of any such member shall not relieve the member of contingent liability for his proportion of the obligations of the insurer which accrued while the policy was in force.

(d) Unrealized contingent liability of members does not constitute an asset of the insurer in any determination of its financial condition.

§ 4915. Levy of contingent liability

(a) If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it under this title for authority to transact the kinds of insurance being transacted, and the deficiency is not cured from other sources, its directors may, if the same is approved by the Commissioner as being reasonable and in the best interests of the insurer and its members, levy an assessment only on its members who held the policies providing for contingent liability at any time within the 12 months next preceding the date the levy was authorized by the board of directors, and such members shall be liable to the insurer for the amount so assessed.

(b) The levy of assessment shall be for such an amount as is required to cure such deficiency and to provide a reasonable amount of working funds above such minimum amount of surplus, but such working funds so provided shall not exceed 5% of the sum of the insurer's liabilities and such minimum required surplus as of the date of the levy.

(c) As to the respective policies subject to the levy, the assessment shall be computed upon the basis of premium earned during the period covered by the levy.

(d) No member shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or loss payable.

(e) As to life insurance, any part of such an assessment upon a member which remains unpaid following notice of assessment, demand for payment, and lapse of a reasonable waiting

period as specified in such notice, may, if approved by the Commissioner as being in the best interests of the insurer and its members, be secured by placing a lien upon the cash surrender values and accumulated dividends held or to be held by the insurer to the credit of the member's policy.

§ 4916. Enforcement of contingent liability

(a) The insurer shall notify each member of the amount of the assessment to be paid by written notice mailed to the address of the member last of record with the insurer. Failure of the member to receive the notice so mailed, within the time specified therein for the payment of the assessment or at all, shall be no defense in any action to collect assessment.

(b) If a member fails to pay the assessment within the period specified in the notice, which period shall not be less than 20 days after mailing, the insurer may institute suit to collect the same.

§ 4917. Nonassessable policies, mutual insurers; revocation of authority

(a) A domestic mutual insurer, by depositing through the Commissioner and thereafter maintaining unimpaired surplus funds not less in amount than the minimum paid-in capital stock required of a domestic stock insurer for authority to transact the same kind or kinds of insurance, may, upon receipt of the Commissioner's order so authorizing, extinguish the contingent liability to assessment of its members as to all its policies in force and, so long as such surplus and deposit are maintained, may omit provisions imposing contingent liability in all policies currently issued. Any deposit of the insurer made through the Commissioner as prerequisite to its certificate of authority may be included as part of the deposit required under this section.

(b) The Commissioner shall not authorize a domestic insurer to extinguish the contingent liability of any of its members or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its members and in all such policies for all kinds of insurance transacted by it.

(c) The Commissioner shall revoke the authority of a

domestic mutual insurer to issue policies without contingent liability if

(1) At any time the insurer's assets are less than the sum of its liabilities and the surplus required for such authority; or

(2) The insurer, by resolution of its board of directors approved by a majority of its members, requests that the authority be revoked.

(d) During the absence of such authority the insurer shall not issue any policy without providing therein for the contingent liability of the policyholder, nor renew any policy which is then in force without endorsing the same to provide for such contingent liability.

§ 4918. Information to stockholders and proxy regulations

(a) This section shall apply to all domestic stock insurers except:

(1) A domestic stock insurer having less than 100 stockholders; except, that if 95% or more of the insurer's stock is owned or controlled by a parent or affiliated insurer, this section shall not apply to such insurer unless its remaining shares are held by 500 or more stockholders.

(2) Domestic stock insurers which file with the Securities and Exchange Commission forms of proxies, consents and authorizations pursuant to the Securities Exchange Act of 1934, as amended.

(b) Every insurer to which this section is applicable shall seasonably furnish its stockholders in advance of stockholder meetings, information in writing reasonably adequate to inform them relative to all matters to be presented by the insurer's management for consideration of stockholders at such meeting.

(c) No person shall solicit a proxy, consent, or authorization in respect of any stock or other voting security of such an insurer unless he furnishes the person so solicited with written information reasonably adequate as to

(1) the material matters in regard to which the powers so solicited are proposed to be used; and

(2) the person or persons on whose behalf the solicitation is made, and the interest of such person or persons in relation to such matters.

(d) No person shall so furnish to another, information which the informer knows or has reason to believe is false or misleading as to any material fact, or which fails to state any material fact reasonably necessary to prevent any other statement made from being misleading.

(e) The form of all such proxies shall:

(1) Conspicuously state on whose behalf the proxy is solicited;

(2) Provide for dating the proxy;

(3) Impartially identify each matter or group of related matters intended to be acted upon;

(4) Provide means for the principal to instruct the vote of his shares as to approval or disapproval of each matter or group, other than election to office; and

(5) Be legibly printed, with context suitably organized.

Except, that a proxy may confer discretionary authority as to matters as to which choice is not specified pursuant to item (4), above, if the form conspicuously states how it intended to vote the proxy or authorization in each such case; and may confer discretionary authority as to other matters which may come before the meeting but unknown for a reasonable time prior to the solicitation by the persons on whose behalf the solicitation is made.

(f) No proxy shall confer authority (1) to vote for election of any person to any office for which a bona fide nominee is not named in the proxy statement, or (2) to vote in any annual meeting (or adjournment thereof) other than the annual meeting next following the date on which the proxy statement and form were furnished stockholders.

(g) The Commissioner shall have authority to make and promulgate reasonable rules and regulations for the effectuation of this section, and in so doing shall give due consideration to rules and regulations promulgated for similar purposes by the insurance supervisory officials of other states.

(h) Any proxy, consent or authorization obtained in violation of this section or of the lawful rules and regulations of the Commissioner hereunder, shall be void.

§ 4919. Change of directors, officers—notice

Every domestic stock or mutual insurer shall promptly notify the Commissioner in writing of any change of personnel among its directors or principal officers.

§ 4920. Prohibited pecuniary interest of officials

(a) Any officer or director, or any member of any committee or an employee of a domestic insurer, having the duty or power of investing or handling the insurer's funds, shall not deposit or invest such funds except in the insurer's name; shall not borrow the funds of the insurer; or be pecuniarily interested in any loan, pledge, deposit, security, investment, sale, purchase, exchange, reinsurance, or other similar transaction or property of the insurer except as a stockholder, member, employee, or director, unless the transaction is authorized or approved by the insurer's board of directors, with knowledge and recording of such pecuniary interest, by affirmative vote of not less than two-thirds of the directors; and shall not take or receive to his own use any fee, brokerage, commission, gift, or other similar consideration for or on account of any such transaction made by or on behalf of the insurer.

(b) No insurer shall guarantee the financial obligation of any of its officers or directors.

(c) This section shall not prohibit such a director, officer, member of a committee, or employee from becoming a policyholder of the insurer and enjoying the usual rights of a policyholder or from participating as beneficiary in any pension trust, deferred compensation plan, profit sharing plan, stock option plan or similar plan authorized by the insurer and to which he may be eligible; or prohibit any director or member of a committee from receiving a reasonable fee for lawful services actually rendered to the insurer.

(d) The Commissioner may, by regulation from time to time, define and permit additional exceptions to the prohibition contained in subsection (a) of this section solely to enable pay-

ment of a reasonable compensation to a director who is not otherwise an officer or employee of the insurer, or to a corporation or firm in which a director is interested, for necessary services performed or sales or purchases made to or for the insurer in the ordinary course of the insurer's business and in the usual private professional or business capacity of such director, corporation or firm.

§ 4921. Management and exclusive agency contracts

(a) No domestic insurer shall hereafter make any contract whereby any person is granted or is to enjoy in fact the management of the insurer to the material exclusion of its board of directors or to have the controlling or preceptive right to produce substantially all insurance business for the insurer, or, if an officer, director, or otherwise part of the insurer's management, is to receive any commission, bonus or compensation based upon the volume of the insurer's business or transactions, unless the contract is filed with and not disapproved by the Commissioner. The contract shall become effective in accordance with its terms unless disapproved by the Commissioner within 20 days after date of filing, subject to such reasonable extension of time as the Commissioner may require by notice given within such 20 days. Any disapproval shall be delivered to the insurer in writing stating the grounds therefor.

(b) Any such contract shall provide that any such manager, producer of its business, or contract holder shall within 90 days after expiration of each calendar year furnish the insurer's board of directors a written statement of amounts received under or on account of the contract and amounts expended thereunder during such calendar year, with specification of the emoluments received therefrom by the respective directors, officers, and other principal management personnel of the manager or producer, and with such classification of items and further detail as the insurer's board of directors may reasonably require.

(c) The Commissioner shall disapprove any such contract if he finds that it:

- (1) Subjects the insurer to excessive charges; or
- (2) Is to extend for an unreasonable length of time; or

(3) Does not contain fair and adequate standards of performance; or

(4) Contains other inequitable provision or provisions which impair the proper interests of stockholders or members of the insurer.

(d) The Commissioner may, after a hearing held thereon, disapprove any such contract theretofore permitted to become effective, if he finds that the contract should be disapproved on any of the grounds referred to in subsection (c) above.

(e) This section does not apply as to contracts entered into prior to the effective date of this Act, or to extensions or amendments of such contracts.

§ 4922. Dividends to stockholders

(a) A domestic stock insurer shall not pay any cash dividend to stockholders except out of that part of its available and accumulated surplus funds which is derived from realized net operating profits on its business and realized capital gains.

(b) A cash dividend otherwise lawful may be payable out of the insurer's earned surplus even though its total surplus is then less than the aggregate of its past contributed or paid-in surplus.

(c) A stock dividend may be paid out of any available surplus funds.

§ 4923. Participating policies

(a) If provided for in its certificate of incorporation or charter, a stock insurer or mutual insurer may issue any or all of its policies or contracts with or without participation in profits, savings, unabsorbed portions of premiums, or surplus; may classify policies issued and perils insured on a participating and nonparticipating basis, and may determine the right to participate and the extent of participation of any class or classes of policies. Any such classification or determination shall be reasonable, and shall not unfairly discriminate as between policies so classified.

(b) A life insurer may issue both participating and nonparticipating policies or contracts if the right or absence of right to participate is reasonably related to the premium charged.

(c) After the first policy year, no dividend, otherwise earned, shall be made contingent upon the payment of renewal premium on any policy or contract; except, that a participating life of health insurance policy providing for participation at the end of the first and/or second policy year may provide that the dividend or dividends will be paid subject to payment of premium for the next ensuing year.

§ 4924. Dividends to policyholders

(a) The directors of a domestic mutual insurer may from time to time apportion and pay or credit to its members dividends only out of that part of its surplus funds which represents net realized savings, net realized earnings, and net realized capital gains, all in excess of the surplus required by law to be maintained by the insurer.

(b) A dividend otherwise proper may be payable out of such savings, earnings, and gains even though the insurer's total surplus is then less than the aggregate of contributed surplus remaining unpaid by the insurer.

(c) A domestic stock insurer may pay dividends to holders of its participating policies out of any available surplus funds.

(d) No dividend shall be paid which is inequitable, or which unfairly discriminates as between classifications of policies or policies within the same classifications.

§ 4925. Solicitation of business, issuance of policies in other jurisdictions

(a) No domestic insurer shall knowingly solicit insurance business in any reciprocating state in which not then licensed as an authorized insurer. This subsection shall not prohibit advertising through publications and radio, television and other media originating outside such reciprocating state, if the insurer is licensed in the state in which the advertising originates and the advertising is not specifically directed to residents of such reciprocating state. This subsection shall not apply as to surplus line insurance, or prohibit insurance covering persons or risks located in a reciprocating state, under contracts solicited and issued in states in which the insurer is then licensed, or insurance otherwise effectuated in accordance with the laws of the recip-

rocating state. A "reciprocating" state, as used herein, is one under the laws of which a similar prohibition is imposed upon and enforced against insurers domiciled in that state.

(b) A domestic insurer duly authorized to transact insurance in another jurisdiction may frame and issue policies for delivery in such jurisdiction pursuant to applications for insurance solicited and obtained therein, in accordance with the laws thereof, subject only to such restrictions, if any, as may be contained in the insurer's certificate of incorporation or bylaws; and subject, in the case of health insurers, to the provisions of section 3331 of this title (policies issued for delivery in another state).

§ 4926. Payment of taxes; exoneration

(a) Every domestic insurer may comply with any law of any state or political subdivision imposing any license, excise, privilege, premium, occupation or other fee or tax, and pay such fee or tax unless prior to such payment the law shall have been expressly held invalid by the state court having final appellate jurisdiction in the premises or by the Supreme Court of the United States.

(b) No officer, director, or trustee of any insurer shall be subject to personal liability by reason of any payment, or determination not to contest payment, deemed by the board of directors or trustee to be in the corporate interests of the insurer, of any license, excise, privilege, premium, occupation or other fee or tax to any such state or political subdivision unless prior to such payment the law imposing such fee or tax shall have been expressly held invalid by the state court having final appellate jurisdiction in the premises or by the Supreme Court of the United States.

§ 4927. Impairment of capital or assets

(a) If a domestic stock insurer's paid-in capital stock (as represented by the aggregate par value of its outstanding capital stock) becomes impaired, or the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it under this title for authority to transact the kinds of insurance being transacted, the

Commissioner shall at once determine the amount of deficiency and serve notice upon the insurer to cure the deficiency and file proof thereof with him within the period specified in the notice, which period shall be not less than 30 nor more than 90 days from the date of the notice. Such notice may be so served by delivery to the insurer, or by mailing to the insurer addressed to its registered office in this State.

(b) The deficiency may be made good in cash or in assets eligible under chapter 13 (investments) of this title for the investment of the insurer's funds' or by amendment of the insurer's certificate of authority to cover only such kind or kinds of insurance thereafter for which the insurer has sufficient paid-in capital stock (if a stock insurer) or surplus (if a mutual insurer) under this title; or, if a stock insurer, by reduction of the number of shares of the insurer's authorized capital stock or the par value thereof through amendment of its articles of incorporation, to an amount of authorized and unimpaired paid-in capital stock not below the minimum required for the kinds of insurance thereafter to be transacted.

(c) If the deficiency is not made good and proof thereof filed with the Commissioner within the period required by the notice as specified in subsection (a) above, the insurer shall be deemed insolvent and the Commissioner shall institute delinquency proceedings against it under chapter 59 of this title.

§ 4928. Mutualization of stock insurer

(a) A stock insurer other than a title insurer may become a mutual insurer under such plan and procedure as may be approved by the Commissioner after a hearing thereon.

(b) The Commissioner shall not approve any such plan, procedure or mutualization unless:

(1) It is equitable to stockholders and policyholders;

(2) It is subject to approval by the holders of not less than two-thirds of the insurer's outstanding capital stock having voting rights, and by not less than two-thirds of the insurer's policyholders who vote on such plan in person, by proxy or by mail pursuant to such notice and procedure as may be approved by the Commissioner;

(3) If a life insurer, the right to vote thereon is limited to holders of policies other than term or group policies, and whose policies have been in force for more than one year;

(4) Mutualization will result in retirement of shares of the insurer's capital stock at a price not in excess of the fair market value thereof as determined by competent disinterested appraisers;

(5) The plan provides for the purchase of the shares of any nonconsenting stockholder in the same manner and subject to the same applicable conditions as provided by the general corporation law of the State as to rights of nonconsenting stockholders, with respect to consolidation or merger of private corporations;

(6) The plan provides for definite conditions to be fulfilled by a designated early date upon which such mutualization will be deemed effective; and

(7) The mutualization leaves the insurer with surplus funds reasonably adequate for the security of its policyholders and to enable it to continue successfully in business in the states in which it is then authorized to transact insurance, and for the kinds of insurance included in its certificates of authority in such states.

(c) No director, officer, agent or employee of the insurer, nor any other person, shall receive any fee, commission or other valuable consideration whatsoever, other than their customary salaries or other regular compensation, for in any manner aiding, promoting, or assisting in the mutualization, except as set forth in the plan of mutualization as approved by the Commissioner.

(d) This section shall not apply to mutualization under order of court pursuant to rehabilitation or reorganization of an insurer under chapter 59 of this title.

§ 4929. Conversion to ordinary business corporation

(a) A domestic stock insurer may convert to a Delaware ordinary business corporation through the following procedures:

(1) The insurer must give the Commissioner written notice of its intent to convert to an ordinary business corporation;

(2) The insurer must bulk reinsure all of its insurance in force, if any, with another authorized insurer under a bulk reinsurance agreement approved by the Commissioners as provided in section 4943 of this chapter. The agreement of bulk reinsurance may be made contingent upon approval of stockholders as provided in subdivision (4) below;

(3) The insurer must set aside in a special reserve funds in such amount and subject to such administration as may be found by the Commissioner to be adequate and reasonable for the purpose, for payment of all obligations, if any, of the insurer incurred by it under its insurance contracts prior to the effective date of such bulk reinsurance, and remaining unpaid, or make other reasonable disposition satisfactory to the Commissioner for such payment;

(4) The proposed conversion must be approved by affirmative vote of not less than two-thirds of each class of the outstanding securities of the insurer having voting rights, at a special meeting of holders of such securities called for the purpose, and at such meeting and by a like vote the certificate of incorporation of the corporation must be amended to remove therefrom the power to transact an insurance business as an insurer and to provide for such new powers and purposes as may be consistent with the purposes for which the corporation is thereafter to exist;

(5) Security holders of the corporation who dissent from such proposed conversion shall have the same applicable rights as exist under the general corporation laws of this State with respect to dissent from a proposed merger of the corporation;

(6) Upon compliance with subdivisions (1) through (4) above, and upon filing of the amendment of the certificate of incorporation as required by law, the conversion shall thereupon become effective.

(b) An insurer which has once converted to an ordinary business corporation shall not have the power thereafter to convert to an insurer.

§ 4930. Merger; consolidation of stock insurers

(a) A domestic stock insurer may merge or consolidate with one or more domestic or foreign stock insurers, by com-

plying with the applicable provisions of the statutes of this State governing the merger or consolidation of stock corporations formed for profit, but subject to subsection (b) and (c) below. A domestic stock insurer shall not merge or consolidate with any corporation not formed for the purpose of transacting insurance as an insurer.

(b) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the Commissioner and approved in writing by him after a hearing thereon after notice to the stockholders of each insurer involved. The Commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(1) Is contrary to law; or

(2) Unfair or inequitable to the stockholders of any insurer involved; or

(3) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this State or elsewhere; or

(4) Would materially tend to lessen competition in the insurance business in this State or elsewhere as to the kinds of insurance involved, or would materially tend to create a monopoly as to such business; or

(5) Is subject to other material and reasonable objections.

(c) No director, officer, agent or employee of any insurer party to such merger or consolidation shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in such plan or agreement.

(d) If the Commissioner does not approve any such plan or agreement, he shall so notify the insurer in writing specifying his reasons therefor.

§ 4931. Affiliation of stock insurers

(a) A domestic stock insurer shall not acquire a controlling interest in the shares of another stock insurer by an exchange of securities or partly in exchange for securities and partly for

cash or property, unless the insurer has first submitted the plan for such acquisition and exchange to the Commissioner and the Commissioner has approved the same.

(b) The Commissioner shall not so approve unless he finds the plan for such acquisition and the terms and conditions thereof to be fair and equitable to all parties concerned therein, after a hearing to which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear.

(c) Notice and conduct of such hearing shall be as provided in chapter 3 of this title.

§ 4932. Acquisition of controlling stock

(a) Any person proposing to acquire the controlling capital stock of any domestic stock insurer and thereby to change the control of the insurer, other than through merger or consolidation or affiliation as provided for in sections 4930 and 4931 of this chapter, shall first apply to the Commissioner in writing for approval of such proposed change of control. The application shall state the names and addresses of the proposed new owners of the controlling stock and contain such additional information as the Commissioner may reasonably require.

(b) The Commissioner shall not approve the proposed change of control if he finds:

(1) That the proposed new owners are not qualified by character, experience and financial responsibility to control and operate the insurer, or cause the insurer to be operated, in a lawful and proper manner; or

(2) That as a result of the proposed change of control the insurer may not be qualified for a certificate of authority under the provisions of section 508(b) (general eligibility for certificate of authority—ownership, management) of this title; or

(3) That the interests of the insurer or other stockholders of the insurer or policyholders would be impaired through the proposed change of control; or

(4) That the proposed change of control would tend materially to lessen competition, or to create any monopoly, in a business of insurance in this State or elsewhere.

(c) If the Commissioner does not by affirmative action approve or disapprove the proposed change of control within 30 days after the date such application was so filed with him, the proposed change may be made without such approval. Except, that if the Commissioner gives notice to the parties of a hearing to be held by him with respect to the proposed change of control, and the hearing is held within such 30 days or on a date mutually acceptable to the Commissioner and the parties, the Commissioner shall have 10 days after the conclusion of the hearing within which to so approve or disapprove the proposed change; and if not so approved or disapproved, the change may thereafter be made without the Commissioner's approval.

(d) If the Commissioner disapproves the proposed change he shall give written notice thereof to the parties, setting forth in detail the reasons for disapproval.

(e) The Commissioner shall suspend or revoke the certificate of authority of any insurer the control of which has been changed in violation of this section.

§ 4933. Converting mutual insurer

(a) A mutual insurer may become a stock insurer under such reasonable plan and procedure as may be approved by the Commissioner after a hearing thereon of which notice was given to the insurer, its directors or trustees, its officers, employees and its members, all of whom shall have the right to appear at the hearing.

(b) The Commissioner shall not approve any such plan or procedure unless:

(1) Its terms and conditions are fair and equitable;

(2) It is subject to approval by vote of not less than three-fourths of the insurer's current members voting thereon in person, by proxy, or by mail at a meeting of members called for the purpose pursuant to such reasonable notice and procedure as may be approved by the Commissioner; if a life insurer, right to vote shall be limited to members who hold policies other than group policies or term policies for terms of less than 20 years, and whose policies have been in force for not less than one year;

(3) The equity of each member in the insurer is determinable under a fair and reasonable formula approved by the Com-

missioner, which such equity shall be based upon the insurer's entire surplus, including all voluntary reserves but excluding contingently repayable funds; and without taking into account nonadmitted assets or insurance business in force;

(4) The plan gives to each member of the insurer as specified in subdivision (5) below, a pre-emptive right to acquire his proportionate part of all of the proposed capital stock of the insurer within a designated reasonable period, as such part is determinable under the plan of conversion, and to apply upon the purchase thereof the amount of his equity in the insurer as determined under subdivision (3) above;

(5) The members entitled to participate in the purchase of stock or distribution of assets shall include not less than all current policyholders of the insurer and each existing person who had been a policyholder of the insurer within 3 years prior to the date such plan was submitted to the Commissioner;

(6) Shares are to be offered to members at a price not greater than to be thereafter offered under the plan to others;

(7) The plan provides for payment to each member not electing to apply his equity in the insurer for or upon the purchase price of stock to which pre-emptively entitled, of cash in an amount found to be reasonable by the Commissioner but not in excess of 50% of the amount of his equity not so used for the purchase of stock, and which cash payment together with stock so purchased, if any, shall constitute full payment and discharge of the member's equity or property interest as an owner of such mutual insurer;

(8) The plan, when completed, would provide for the converted insurer paid-in capital stock in an amount not less than the minimum paid-in capital stock required of a domestic stock insurer upon initial authorization to transact like kinds of insurance, together with expendable surplus funds in amount not less than one-half of such required capital stock; and

(9) The Commissioner finds that the insurer's management has not, through reduction in volume of new business written, or cancellation or through any other means sought to reduce, limit, or affect the number or identity of the insurer's members

to be entitled to participate in such plan, or to secure for the individuals comprising management any unfair advantage through such plan.

(c) Subsection (b) shall not be deemed to prohibit the inclusion in the mutualization plan of provisions under which the individuals comprising the insurer's management and employee group shall be entitled to purchase for cash at the same price as offered to the insurer's members, shares of stock not taken by members on the pre-emptive offering to members, in accordance with such reasonable classifications of such individuals as may be included in the plan and approved by the Commissioner.

(d) No director, officer, agent or employee of the insurer, or any other person, shall receive any fee, commission or other valuable consideration whatsoever, other than their usual regular salaries and compensation, for in any manner aiding, promoting, or assisting in such conversion except as set forth in the plan approved by the Commissioner. This provision shall not be deemed to prohibit the payment of reasonable fees and compensation to attorneys at law, accountants, and actuaries for services performed in the independent practice of their professions, even though also directors of the insurer.

§ 4934. Merger; consolidation of mutual insurers

(a) A domestic mutual insurer shall not merge or consolidate with a stock insurer.

(b) A domestic mutual insurer may merge or consolidate with another domestic or foreign mutual insurer under the procedures provided for in this and sections 4935 through 4942 of this chapter.

(c) If for a consolidation and the new corporation is to be domiciled in this State, the new corporation shall be formed under the applicable provisions of the general corporation laws of this State.

(d) For the purposes of this chapter the "surviving insurer" is that which survives and continues as a result of a merger of 2 or more corporations into one corporation.

§ 4935. Approval of merger; consolidation agreement by boards of directors

(a) The board of directors of each of the mutual insurers proposing to merge or consolidate shall, by resolution adopted by at least a majority of all the members of each board, approve a joint agreement of merger or consolidation, as the case may be, between the insurer parties, setting forth the terms and conditions of the merger or consolidation, the mode of carrying the same into effect, and such other provisions as are deemed advisable.

(b) Upon approving such agreement each such board shall by resolution direct that the same be submitted to the Commissioner and be subject to his disapproval as provided in section 4936 of this chapter, and to approval of the members of the respective insurers as provided in section 4937 of this chapter.

§ 4936. Effectuation; disapproval by Commissioner

(a) No such merger or consolidation of a domestic mutual insurer shall be effectuated unless in advance thereof the agreement therefor has been filed with the Commissioner and has not been disapproved by him in writing. If the insurer is not then impaired the Commissioner shall not act with respect to such agreement until after a hearing thereon. The agreement shall be effectuated in accordance with its terms unless the Commissioner disapproves the same within ten days after the date of such filing or the conclusion of such hearing, if any, whichever is the later date, subject to the Commissioner's right to have a reasonable extension of time not to exceed 10 days, upon written notice to the insurers involved. The Commissioner may disapprove the agreement upon one or more of the following grounds—that the agreement:

(1) Is inequitable to the policyholders of any domestic insurers involved; or

(2) Would materially reduce the security of and service to be rendered to policyholders of the domestic insurer in this State and elsewhere;

(3) Would materially tend to lessen competition in this State or elsewhere as to the kinds of insurance involved, or would materially tend to create a monopoly therein; or

(4) Is subject to other reasonable objections.

(b) If the Commissioner disapproves the agreement he shall so notify the insurers in writing specifying his reasons therefor.

(c) No director, officer, agent or employee of any insurer involved, or any other person, shall receive any fee, commission or other valuable consideration whatsoever, other than their usual regular salaries and compensation, for in any manner aiding, promoting, or assisting in such merger or consolidation except as set forth in the agreement approved by the Commissioner. This provision shall not be deemed to prohibit payment of reasonable fees and compensation to attorneys at law, accountants, and actuaries for services performed in the independent practice of their professions, even though also directors of the insurer.

§ 4937. Approval by members

(a) After the Commissioner has approved the proposed agreement of merger or consolidation, and if the insurer is then unimpaired, the agreement shall be submitted to the domestic insurer's members for approval at a regular or special meeting of members. If a life insurer, right to vote shall be limited to members whose policies are other than term policies for terms of less than 20 years, and other than group policies, and have been in force for at least one year.

(b) Not less than 15 days before such meeting written notice of the meeting and of the proposed merger or consolidation shall be given to each member of the insurer. The notice shall state the day, hour, place, and purposes of the meeting, and be accompanied by a copy or summary of agreement of merger or consolidation, as the case may be. Notice and accompanying copy or summary shall be deemed given when enclosed in an envelope addressed to the member at his address last of record with the insurer, and deposited postage paid in a depository of the United States post office.

(c) Upon receiving the affirmative vote of two-thirds of all votes cast by members present or represented at the meeting, the agreement shall be deemed to have been approved. Each member of the insurer shall be bound by such vote, without right of dissent other than the right to vote against the proposal at

the meeting. Such a dissenting member shall have no right or equity as to the assets of the insurer except as expressly provided in the member's policy or policies.

§ 4938. Impaired mutuals

If a domestic mutual insurer is then impaired, that is, if the insurer's surplus is less than the amount thereof required under this title for authority to transact the kinds of insurance being transacted by the insurer, the Commissioner may approve the agreement of merger or consolidation without a hearing thereon, and the same may be effectuated without approval of the insurer's members.

§ 4939. Articles of merger; consolidation; mutual insurers

Upon the approval by the Commissioner and members, if required, agreement of merger or consolidation, articles of merger or consolidation, as the case may be, shall be executed under the seal of each insurer and verified by a duly authorized officer of each insurer and shall set forth as applicable:

(1) The name of the surviving or new corporation.

(2) The time and place of the meeting of the directors at which the agreement of merger or consolidation was approved and except where pursuant to section 4938 of this chapter the agreement is not submitted to a vote of the members of the insurer, the time and place of the meeting of the members of each insurer at which the agreement of merger or consolidation, as the case may be, was approved, the kind and period of notice given to the members and the total vote by which the agreement was approved.

(3) In the case of a merger into a surviving insurer, any changes desired to be made in the articles of the surviving insurer or in the case of a consolidation into a new domestic insurer, all of the statements required by law to be set forth in the original articles in the case of the formation of a domestic insurer.

(4) The number, names and addresses of the persons to be the first directors of the surviving or new insurer.

(5) The agreement of merger or consolidation.

(4) Is subject to other reasonable objections.

(b) If the Commissioner disapproves the agreement he shall so notify the insurers in writing specifying his reasons therefor.

(c) No director, officer, agent or employee of any insurer involved, or any other person, shall receive any fee, commission or other valuable consideration whatsoever, other than their usual regular salaries and compensation, for in any manner aiding, promoting, or assisting in such merger or consolidation except as set forth in the agreement approved by the Commissioner. This provision shall not be deemed to prohibit payment of reasonable fees and compensation to attorneys at law, accountants, and actuaries for services performed in the independent practice of their professions, even though also directors of the insurer.

§ 4937. Approval by members

(a) After the Commissioner has approved the proposed agreement of merger or consolidation, and if the insurer is then unimpaired, the agreement shall be submitted to the domestic insurer's members for approval at a regular or special meeting of members. If a life insurer, right to vote shall be limited to members whose policies are other than term policies for terms of less than 20 years, and other than group policies, and have been in force for at least one year.

(b) Not less than 15 days before such meeting written notice of the meeting and of the proposed merger or consolidation shall be given to each member of the insurer. The notice shall state the day, hour, place, and purposes of the meeting, and be accompanied by a copy or summary of agreement of merger or consolidation, as the case may be. Notice and accompanying copy or summary shall be deemed given when enclosed in an envelope addressed to the member at his address last of record with the insurer, and deposited postage paid in a depository of the United States post office.

(c) Upon receiving the affirmative vote of two-thirds of all votes cast by members present or represented at the meeting, the agreement shall be deemed to have been approved. Each member of the insurer shall be bound by such vote, without right of dissent other than the right to vote against the proposal at

the meeting. Such a dissenting member shall have no right or equity as to the assets of the insurer except as expressly provided in the member's policy or policies.

§ 4938. Impaired mutuals

If a domestic mutual insurer is then impaired, that is, if the insurer's surplus is less than the amount thereof required under this title for authority to transact the kinds of insurance being transacted by the insurer, the Commissioner may approve the agreement of merger or consolidation without a hearing thereon, and the same may be effectuated without approval of the insurer's members.

§ 4939. Articles of merger; consolidation; mutual insurers

Upon the approval by the Commissioner and members, if required, agreement of merger or consolidation, articles of merger or consolidation, as the case may be, shall be executed under the seal of each insurer and verified by a duly authorized officer of each insurer and shall set forth as applicable:

(1) The name of the surviving or new corporation.

(2) The time and place of the meeting of the directors at which the agreement of merger or consolidation was approved and except where pursuant to section 4938 of this chapter the agreement is not submitted to a vote of the members of the insurer, the time and place of the meeting of the members of each insurer at which the agreement of merger or consolidation, as the case may be, was approved, the kind and period of notice given to the members and the total vote by which the agreement was approved.

(3) In the case of a merger into a surviving insurer, any changes desired to be made in the articles of the surviving insurer or in the case of a consolidation into a new domestic insurer, all of the statements required by law to be set forth in the original articles in the case of the formation of a domestic insurer.

(4) The number, names and addresses of the persons to be the first directors of the surviving or new insurer.

(5) The agreement of merger or consolidation.

§ 4940. Filing of articles of merger or consolidation; payment of fees; approval by Secretary of State

(a) The articles of merger or consolidation, as the case may be, referred to in section 4939 of this chapter, together with a certificate or certificates from the proper department or departments evidencing payment of all applicable taxes and charges required by law, shall be delivered to the Secretary of State.

(b) The Secretary of State shall examine the articles and the certificate or certificates to determine whether they contain all necessary information and satisfy all requirements as to form. If the Secretary of State finds that the articles and certificates contain all necessary information and satisfy all requirements as to form, he shall endorse his approval upon the articles. If the Secretary of State does not so find, he shall forthwith give notice thereof to the parties stating in detail his reasons for so doing and stating how the non-conformance can be remedied. Upon remedying the defects, the party may in the same manner file the same or amended articles, whichever the particular case may require, and the Secretary of State shall endorse his approval thereon.

§ 4941. Issuance of certificate of merger or consolidation; effective date

(a) Immediately upon his approval of the articles of merger or consolidation as provided in section 4940 of this chapter, the Secretary of State shall file the articles and issue to the surviving or new corporation or its representative a certificate of merger or consolidation, and shall deliver a copy of the articles so approved to the Commissioner.

(b) The merger or consolidation shall be effective upon the issuance of the certificate by the Secretary of State as above provided.

(c) The certificate shall be conclusive evidence of the performance of all conditions precedent to such consolidation or merger, and of the continuation or creation of the surviving or new corporation, to the extent that the same is governed by the laws of this State.

§ 4942. Effect of merger or consolidation

(a) Upon the merger or consolidation becoming effective the several corporations, parties to the agreement of merger or consolidation, shall be a single corporation, which in the case of a merger, shall be that corporation designated in the agreement as the surviving corporation; and in the case of a consolidation, shall be the new corporation provided for in the agreement of consolidation. The separate existence of all the constituent corporations parties to said agreement, except the surviving corporations, in the case of a merger, or the new corporation, in the case of a consolidation, shall thereupon cease.

(b) All the property, real, personal and mixed, of each of the corporations parties to the agreement of merger or consolidation, and all debts or obligations due to any of them, shall be taken and be deemed to be transferred to and vested in the surviving or new corporation, as the case may be, without further act or deed.

(c) The surviving or new corporation shall, upon effectuation of the merger or consolidation, thenceforth be responsible for all the liabilities and obligations of each of the corporations so merged or consolidated; but the liabilities of the merging or consolidating corporations or of their directors or officers shall not be affected, and the rights of creditors thereof or of any person dealing with such corporations or any liens upon the property of such corporations shall not be impaired by the merger or consolidation; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted to judgment as if the merger or consolidation had not taken place, or the surviving or new corporation may be proceeded against or substituted in its place.

(d) In the case of a merger, the certificate of incorporation of the surviving corporation, if such corporation is a domestic insurer, shall be deemed to be amended to the extent, if any, that changes in its certificate are stated in the articles of merger; and in the case of a consolidation, the statements set forth in the articles of consolidation, in case the new corporation is one formed under the laws of this State, which are required or permitted to be set forth in the certificate of incorporation of such insurer formed under the general corporation laws of this State,

shall be deemed to be the certificate of incorporation of the new corporation.

§ 4943. Bulk reinsurance

(a) A domestic insurer may reinsure all or substantially all of its business in force, or all or substantially all of a major class thereof, with another insurer, stock or mutual, by an agreement of bulk reinsurance after compliance with this section. No such agreement shall become effective unless filed with the Commissioner, or if disapproved by him.

(b) The Commissioner shall disapprove such agreement within a reasonable time after filing if he finds:

(1) That the plan and agreement are unfair and inequitable to any insurer or to policyholders involved;

(2) That the reinsurance, if effectuated, would substantially reduce the protection or service to the policyholders of any domestic insurer involved;

(3) That the agreement does not embody adequate provisions by which the reinsuring insurer becomes liable to the original insureds for any loss or damage occurring under the policies reinsured in accordance with the original terms of such policies, or does not require the reinsuring insurer to furnish each such insured with a certificate evidencing such assumption of liability;

(4) That the assuming reinsurer is not authorized to transact such insurance in this State, or is not qualified as for such authorization or will not appoint the Commissioner and his successors as its irrevocable attorney for service of process, so long as any policy so reinsured or claim thereunder remains in force or outstanding;

(5) That such reinsurance would materially tend to lessen competition in the insurance business in this State or elsewhere as to the kinds of insurance involved, or would materially tend to create a monopoly as to such business;

(6) That the proposed bulk reinsurance is not free of other reasonable objections.

(c) If the Commissioner disapproves the agreement he shall forthwith notify in writing each insurer involved specifying his reasons therefor.

(d) If for reinsurance of all or substantially all of the business in force of an insurer at a time when the insurer's capital (if a stock insurer) or surplus (if a mutual insurer) is not impaired, the plan and agreement of such reinsurance must be approved by a vote of not less than two-thirds of the insurer's outstanding stock having voting rights (if a stock insurer), or of members (if a mutual insurer), voting thereon, at a meeting of stockholders or members called for the purpose, pursuant to such reasonable notice and procedure as is provided for in the agreement. If a mutual life insurer, right to vote may be limited to members whose policies are other than term policies for terms of less than 20 years, or group policies, and have been in effect for more than one year.

(e) No director, officer, agent or employee of any insurer party to such reinsurance, nor any other person, shall receive any special compensation for arranging or with respect to, any such reinsurance except as is set forth in the reinsurance agreement filed with the Commissioner.

§ 4944. Mutual member's share of assets on liquidation

(a) Upon any liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness, policy obligations, repayment of contributed or borrowed surplus, if any, and expenses of administration, shall be distributed to currently existing persons who had been members of the insurer for at least one year and who were its members at any time within 36 months next preceding the date such liquidation was authorized or ordered, or date of last termination of the insurer's certificate of authority whichever date is the earlier; except, that if the Commissioner has reason to believe that those in charge of the management of the insurer have caused or encouraged the reduction of the number of members of the insurer in anticipation of liquidation and for the purpose of reducing thereby the number of persons who may be entitled to share in distribution of the insurer's assets, he may enlarge the 36 month qualification period as he may deem to be reasonable.

(b) The insurer shall make a reasonable classification of its policies so held by such members, and a formula based upon such classification for determining the equitable distributive share of each such member. Such classification and formula shall be subject to the approval of the Commissioner.

CHAPTER 51. INSIDER TRADING IN DOMESTIC INSURER SECURITIES

§ 5101. Scope of chapter

This chapter shall apply only with respect to securities issued by domestic stock insurers.

§ 5102. "Equity security" defined

The term "equity security" when used in this chapter means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the Commissioner deems to be of similar nature and considers necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security.

§ 5103. Statement of ownership

Every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security of a domestic stock insurer, or who is a director or an officer of such insurer, shall file with the Commissioner within 10 days after he becomes such beneficial owner, director or officer a statement, in such form as the Commissioner may prescribe, of the amount of all equity securities of such insurer of which he is the beneficial owner, and within 10 days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file with the Commissioner a statement, in such form as the Commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

§ 5104. Recovery of profits

(a) For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of his relationship to such insurer, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such insurer within any period of less than 6 months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the insurer, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding 6 months.

(b) Suit to recover such profit may be instituted in any court of competent jurisdiction by the insurer, or by the owner of any security of the insurer in the name and in behalf of the insurer if the insurer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized.

(c) This section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the Commissioner by rules and regulations may exempt as not comprehended within the purpose of this section.

§ 5105. Unlawful sale of securities

No such beneficial owner, director or officer, directly or indirectly, shall sell any equity security of such insurer if the person selling the security or his principal (1) does not own the security sold or (2) if owning the security, does not deliver it against such sale within 20 days thereafter, or does not within 5 days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this section if he proves that notwithstanding the exercise of good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

§ 5106. Excepted securities; dealers

(a) Section 5104 of this title shall not apply to any purchase and sale, or sale and purchase, and section 5105 of this title shall not apply to any sale, of an equity security of a domestic stock insurer not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary market (otherwise than on an exchange as defined in the Securities Exchange Act of 1934) for such security.

(b) The Commissioner may, by such rules and regulations as he deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

§ 5107. Arbitrage transactions

Sections 5103, 5104, and 5105 of this title shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the Commissioner may adopt in order to carry out the purposes of this chapter.

§ 5108. Registered or closely held securities

Sections 5103, 5104 and 5105 of this title shall not apply to equity securities of a domestic stock insurer if (1) such securities shall be registered, or shall be required to be registered, pursuant to Section 12 of the Securities Exchange Act of 1934, as amended, or if (2) such domestic stock insurer shall not have any class of its equity securities held of record by 100 or more persons on the last business day of the year next preceding the year in which equity securities of the insurer would be subject to the provisions of sections 5103, 5104 and 5105 of this title, except for the provisions of this clause.

§ 5109. Rules and regulations

The Commissioner may make such rules and regulations as may be necessary for the execution of the functions vested in him by this chapter, and may for such purpose classify domestic stock insurers, securities, and other persons or matters

within his jurisdiction. No provision of sections 5103, 5104 and 5105 of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the Commissioner, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

CHAPTER 53.

MUTUAL ASSESSMENT PROPERTY INSURERS

§ 5301. Scope of chapter; definition

(a) This chapter shall apply only as to domestic mutual fire insurers heretofore and now doing business on the assessment premium plan.

(b) For the purposes of this chapter an insurer "doing business on the assessment premium plan" is one which depends in whole or substantial part upon special or regular assessments levied upon its members, either prior to or after a loss, for the payment of losses and expenses. This provision shall not be deemed to prevent any such insurer from collecting from each member such initial amount as it may deem proper prior to or at the time of the effectuation of the member's insurance; and shall not be deemed to prohibit the acquisition, accumulation and maintenance of surplus or unallocated funds.

§ 5302. Continuation of existing insurers

(a) All such insurers holding subsisting certificates of authority from the Commissioner immediately prior to the effective date of this Act may continue to be so authorized so long as qualified therefor under this title.

(b) No new such insurers shall be formed or be newly authorized after the effective date of this Act.

§ 5303. Insuring powers

(a) Such insurers shall have power to insure only real property and personal property incidental to such real property, against the perils of fire, lightning, and windstorm, together with perils customarily included under extended coverages.

(b) The maximum amount of insurance which the insurer shall retain on any one subject of insurance, after deduction of applicable reinsurance, shall not exceed 10% of its admitted assets, or \$5,000, whichever is the larger amount. For the purposes of this subsection a "subject of insurance" shall have the meaning ascribed in section 909 (limits of risk) of this title.

§ 5304. Reinsurance

Such an insurer may cede reinsurance to any insurer authorized to transact property insurance in this State, other than on the assessment premium plan. An insurer doing business on the assessment premium plan shall not accept reinsurance from other insurers.

§ 5305. Records

Every such insurer, through its president and secretary, shall keep or cause to be kept accurate records and accounts of its transactions. The books, files and records of the insurer shall be located at its principal place of business in this State, or at such place in this State as may be expressly authorized by the insurer's board of directors with notice thereof in writing to the Commissioner. The books, files and records of the insurer shall be available for inspection by the insurer's directors and officers, and by the Commissioner, at all reasonable times.

§ 5306. Subject to other provisions

(a) Such insurers shall be subject to all reasonably applicable provisions of this title, except provisions requiring the possession, maintenance, or deposit of surplus.

(b) Such insurers shall expressly be subject to the following provisions of chapter 49 of this title (organization and corporate powers, procedures of domestic stock and mutual insurers):

(1) Section 4903 (general corporation statutes, applicability);

(2) Section 4904 (insurance business exclusive);

(3) Section 4911 (membership in mutual);

(4) Section 4912 (bylaws of mutual);

- (5) Section 4913 (minutes of corporate meetings);
- (6) Section 4919 (change of directors, officers—notice);
- (7) Section 4920 (prohibited pecuniary interest of officials);
- (8) Section 4921 (management and exclusive agency contracts);
- (9) Section 4926 (payment of taxes; exoneration);
- (10) Sections 4934 through 4942 (merger, consolidation of mutual insurers);
- (11) Section 4943 (bulk reinsurance); and
- (12) Section 4944 (mutual member's share of assets on liquidation).

CHAPTER 55. MUTUAL BENEFIT ASSOCIATIONS

§ 5501. Scope of chapter; provisions exclusive

(a) This chapter applies only to domestic mutual benefit associations as defined in section 5502 of this chapter.

(b) No provision of this title shall apply as to such associations unless contained or referred to in this chapter.

§ 5502. "Mutual benefit association," "association" defined

As used in this chapter

(1) "Mutual benefit association" means a corporation, society, order or association, which has no capital stock, which issues certificates of membership providing for payment of benefits in case of sickness, disability or death of its members and which accumulate funds by the collection of fees or dues from its members, at either stated or irregular intervals, with which to discharge its liabilities on its membership certificates and with which to pay the administrative expenses; but fraternal benefit societies as defined in chapter 61 of this title shall not be deemed to be mutual benefit associations.

(2) "Association" means a mutual benefit association as defined in this section.

§ 5503. Exempt associations

A mutual benefit association whose membership is confined to employees or former employees of common carriers engaged in interstate commerce, or any association which administers 2 or more such associations, is not subject to the provisions of this chapter.

§ 5504. Incorporation; prerequisites

The Secretary of State shall not file a certificate of incorporation for any mutual benefit association unless accompanied by a certificate duly signed by the Commissioner setting forth that a deposit of \$25,000 has been made with him in cash or approved securities, that conformity has been made with all of the requirements of this chapter, and that the certificate of incorporation so presented for filing is in substantial compliance with the provisions of the insurance laws of this State. The deposit shall constitute a guaranty fund, hereinafter mentioned.

§ 5505. Certificate of authority required; foreign operations

(a) No association shall directly or indirectly issue any certificate of membership without being so authorized by a valid and subsisting certificate of authority issued to it by the Commissioner.

(b) No association shall issue any certificate of membership in any other state or foreign country unless it holds a valid and subsisting certificate of authority issued to it by the Commissioner.

§ 5506. Certificate of authority—application for

(a) No certificate of authority shall be issued to any association unless it files with the Commissioner:

(1) A certified copy of its certificate of incorporation or charter;

(2) A copy of its constitution and bylaws;

(3) A copy of all forms of certificates of membership which it proposes to issue;

(4) A certified statement that it has a membership of at least 500 persons or that it has at least 500 bona fide applications for membership, accompanied by the initial payments;

(5) Such other information respecting its business or affairs as may be required by the Commissioner.

(b) At the time of application for certificate of authority the association shall deposit with the Commissioner a guaranty fund as required under section 5509 of this chapter.

§ 5507. Certificate of authority—issuance, renewal

(a) The Commissioner shall issue a certificate of authority to every mutual benefit association complying with the provisions of this chapter, upon payment of the fee therefor in the amount specified in section 5520 of this chapter.

(b) The certificate of authority shall be valid until the March 1st next following its issuance. So long as the association is qualified therefor the Commissioner shall, upon payment of the fee for renewal specified in section 5520 of this chapter, annually on March 1st renew the certificate of authority for the ensuing year.

§ 5508. Certificate of authority—revocation

The Commissioner shall forthwith revoke the certificate of authority of an association if from an examination of the affairs of the association or for other cause, and after notice to the association and a hearing before the Commissioner, the Commissioner finds that as to the association any one or more of the following grounds exist:

(1) It is insolvent, or its assets are not sufficient for carrying on its business;

(2) Its condition is such as to render its further proceeding hazardous to its certificate holders or to the public notwithstanding any special provision granted in its charter or certificate of incorporation;

(3) It is fraudulently conducted; or

(4) It has violated or failed to comply with any provision of this chapter.

§ 5509. Guaranty fund; deposit; purpose; substitutions

(a) Each mutual benefit association before receiving a certificate of authority shall deposit with the Commissioner \$25,000 in cash and/or securities approved by him.

(b) The deposit shall constitute a guaranty fund, and shall remain in trust with the Commissioner to answer any default of the association.

(c) While not in default, the association may collect the interest, dividends and profits upon the deposited securities, and from time to time substitute therefor other securities of equally good character and value, subject to the approval of the Commissioner.

(d) The deposit shall not be withdrawn by the association except as hereinafter provided. The Commissioner may make withdrawals from the fund upon the order of any court of record of this State issued upon a final judgment, to pay any claim reduced to final judgment by such court in an action by any member or beneficiary based upon a certificate of membership. In the event of such withdrawal, the association shall replace the amount withdrawn within 6 months thereafter.

(e) If the association determines to discontinue its business, it shall make written application to the Commissioner for withdrawal of its guaranty fund. Within 3 months after receipt of the application, the Commissioner shall determine the financial affairs and condition of the association; and if he finds that its books and records are in proper order and that it has no liabilities outstanding he shall cancel the association's certificate of authority and deliver to the association or its assigns all moneys and/or securities then held in the deposited guaranty fund to the association's credit.

§ 5510. Benefit fund

(a) Every association shall deposit in a bank of trust company approved by the Commissioner, a sum not less than 50% of all dues collected by the association or by any agent thereof on all certificates of membership. This shall constitute a benefit fund for the sole purpose of payment of claims arising under certificates of membership, for the payments to the guaranty

fund maintained with the Commissioner, and for the payment of legal expenses incurred in adjusting and defending claims.

(b) If after an examination of the financial affairs of the association the Commissioner determines that 50% of all dues collected is insufficient to properly maintain the benefit fund, he may require the association to deposit a larger percentage of its dues to the credit of the benefit fund.

§ 5511. Investments

An association may invest its funds in such investments as are eligible for investment of the funds of domestic life insurers under chapter 13 (investments) of this title.

§ 5512. Annual statement

(a) Each association shall annually on or before March 1st file with the Commissioner its financial statement, on forms furnished by the Commissioner and subscribed and sworn to by its president and secretary, or in their absence by 2 of its principal officers. The statement shall show the association's financial condition and total membership at the close of business on the December 31st next preceding.

(b) The Commissioner shall annually, in December, furnish to each association then holding a certificate of authority, 2 or more blanks in the form adopted for such annual statements.

§ 5513. Examination of association

(a) The Commissioner shall examine the affairs of each association as to its financial condition at least once in 3 years. He shall also make an examination of any such association whenever he deems it prudent or advisable to do so.

(b) The examination shall be made by the Commissioner personally or by his deputy or other accredited representative, and all proper charges incurred in making such examination, inclusive of expert assistance, shall be paid by the association examined; except, that the expenses of such examination shall not exceed \$25 per day, plus traveling expenses incurred.

§ 5514. Examination—access to books and records—witnesses

For the purpose of the examination under section 5513 of this chapter, the person making the examination shall have free access to all the books and papers of the association relating to its business, and to the books and papers of any of its agents, and may summon and qualify as witnesses under oath and examine the directors, officers, agents and employees of the association, and any other persons in relation to its affairs, transactions and conditions.

§ 5515. Examination—refusal to permit; revocation of certificate of authority

The refusal of any association to submit to and provide for the examination under section 5513 of this chapter, or to exhibit its books and records for inspection, shall be presumptive evidence that it has violated the provisions of this chapter, and its certificate of authority shall forthwith be revoked by the Commissioner, and it shall be subject to the penalties prescribed and imposed by this chapter.

§ 5516. Domestic associations; situs of business; reports and fees

Any mutual benefit association organized under the general corporation law of this State, with its principal office situated in this State, shall be regarded as doing business in this State regardless of whether or not its membership is acquired from residents of this State, other states, District of Columbia or territories of the United States, and shall make the reports required to the Commissioner and pay all of the fees prescribed in this chapter.

§ 5517. Certificate of membership; approval; terms

(a) No certificate of membership providing for sick, accident and/or death benefits to members or their beneficiaries, as hereinafter provided, shall be issued by any association unless the form of the same shall first be filed with and approved by the Commissioner.

(b) A certificate of membership, among other conditions not contrary to the provisions of this chapter, may specify the

diseases for which limited benefits may be paid in sickness or death, and may also specify the causes of personal injuries, or death therefrom, for which no benefit will be paid.

(c) A certificate of membership may also restrict the payment of any benefit for sickness, accident and/or death that occurs within a specified time after the issuance of such certificate to the refund of all dues paid by the members or their beneficiaries, less the expense of carrying the same on the books of the association, and the payment of such refund shall fully liquidate all claims of a member against the association by reason of such certificate of membership.

(d) A certificate of membership may also limit the time which shall elapse before any benefits are payable and may be paid, within reasonable limitations approved by the Commissioner.

§ 5518. Certificate of membership—limitations on benefits

No certificate of membership issued by any association shall provide for death benefits in excess of \$7,500, or sickness or accident disability benefits in excess of \$100 per week. No association shall issue more than one of each of the above types of certificates of membership to any one person.

§ 5519. Agreement between association and members; binding effect

The certificate of membership, the certificate of incorporation, and any amendments thereto, the bylaws of the association and the provisions of this chapter shall constitute an agreement between the association as a whole or the membership thereof, and the members, and binding on their respective beneficiaries.

§ 5520. Fees, costs; in lieu provision

(a) Each association shall pay to the Commissioner fees and costs as follows:

- | | |
|---|------|
| (1) For issuance of original certificate of authority | \$25 |
| For each annual renewal thereof | 25 |
| (2) For filing of annual statement | 25 |

(3) For filing, reviewing, and approval of the form of certificates of membership, the actual expenses incurred by the department in connection therewith, as determined by the Commissioner.

(b) The fees and costs hereinabove provided shall be for the use of the State, and shall be in lieu of all other taxes, levies, assessments or contributions, except taxes on real property.

§ 5521. Merger, reinsurance, transfers with other associations

Every association may merge, insure, reinsure, or accept the transfer of membership or funds with any other like association under such reasonable rules and regulations for the protection of members as the Commissioner prescribes.

§ 5522. Dissolution

Upon the withdrawal of its guaranty fund deposit as provided in section 5509 (e) of this chapter, the directors or governing body of the association shall forthwith cause the association to be dissolved in accordance with the applicable laws of this State, and shall file proper evidence of such dissolution with the Commissioner.

§ 5523. Violations; penalties

(a) Any corporation, society, order or association which shall organize and/or transact the business of a mutual benefit association in this State, contrary to the provisions of this chapter, or any mutual benefit association which shall directly or indirectly transact such business in this State without having a valid and unrevoked certificate of authority therefor, agreeable to the provisions of this chapter, shall be fined not more than \$1,000. Any officer, manager or agent of such corporation, society, order or association, or mutual benefit association, willfully violating or failing to observe or comply with the provisions of this chapter shall be punishable under this section.

(b) Any mutual benefit association, or any officer, manager or agent thereof, neglecting or refusing to comply with, or violating, any of the provisions of this chapter, the penalty for which neglect, refusal or violation is not otherwise specified, shall be fined not more than \$200.

§ 5524. Other provisions applicable

The following additional chapters of this title shall also apply as to mutual benefit associations to the extent so applicable and not inconsistent with the express provisions of this chapter and the reasonable implications of such express provision:

- (1) Chapter 1 (general definition and provisions);
- (2) Chapter 3 (the Insurance Commissioner);
- (3) Chapter 13 (investments);
- (4) Chapter 15 (administration of deposits);
- (5) Chapter 23 (trade practices and frauds);
- (6) Chapter 59 (rehabilitations and liquidations); and
- (7) Chapter 67 (transitory provisions).

CHAPTER 57. RECIPROCAL INSURERS**§ 5701. "Reciprocal" insurance defined**

"Reciprocal" insurance is that resulting from an interchange among persons, known as "subscribers," of reciprocal agreements of indemnity, the interchange being effectuated through an "attorney-in-fact" common to all such persons.

§ 5702. Scope of chapter—existing insurers

(a) All authorized reciprocal insurers shall be governed by those sections of this chapter not expressly made applicable to domestic reciprocals.

(b) Existing authorized reciprocal insurers shall after the effective date of this Act comply with the provisions of this chapter, and shall make such amendments to their subscribers' agreement, power of attorney, policies and other documents and accounts and perform such other acts as may be required for such compliance.

§ 5703. Insuring powers of reciprocals

(a) A reciprocal insurer may, upon qualifying therefor as provided for by this title, transact any kind or kinds of insurance defined by this title, other than life or title insurances.

(b) Such an insurer may purchase reinsurance upon the risk of any subscriber, and may grant reinsurance as to any kind of insurance it is authorized to transact direct.

§ 5704. Name; suits

A reciprocal insurer shall:

(1) Have and use a business name. The name shall include the word "reciprocal," or "interinsurer," or "interinsurance," or "exchange," or "underwriters," or "underwritings," or "association."

(2) Sue and be sued in its own name.

§ 5705. Attorney

(a) "Attorney," as used in this chapter, refers to the attorney-in-fact of a reciprocal insurer. The attorney may be an individual, firm or corporation.

(b) The attorney of a foreign reciprocal insurer, which insurer is duly authorized to transact insurance in this State, shall not, by virtue of discharge of its duties as such attorney with respect to the insurer's transactions in this State, be thereby deemed to be doing business in this State within the meaning of any laws of this State applying to foreign persons, firms or corporations.

(c) The subscribers and the attorney-in-fact comprise a reciprocal insurer and a single entity for the purposes of chapter 7 of this title as to all operations under the insurer's certificate of authority.

§ 5706. Organization of reciprocal insurer

(a) Twenty-five or more persons domiciled in this State may organize a domestic reciprocal insurer and make application to the Commissioner for a certificate of authority to transact insurance.

(b) The proposed attorney shall fulfill the requirements of and shall execute and file with the Commissioner when applying for a certificate of authority, a declaration setting forth:

(1) The name of the insurer;

(2) The location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this State;

(3) The kinds of insurance proposed to be transacted;

(4) The names and addresses of the original subscribers;

(5) The designation and appointment of the proposed attorney and a copy of the power of attorney;

(6) The names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

(7) The powers of the subscribers' advisory committee; and the names and terms of office of the members thereof;

(8) That all monies paid to the reciprocal shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(9) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than 6 months at an adequate rate theretofore filed with and approved by the Commissioner;

(10) A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by section 511 of this title is on hand; and

(11) A copy of each policy, endorsement and application form it then proposes to issue or use.

The declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds.

§ 5707. Certificate of authority

(a) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(b) The Commissioner may refuse, suspend or revoke the certificate of authority, in addition to other grounds therefor, for

failure of the attorney to comply with any applicable provisions of this title.

§ 5708. Power of attorney

(a) The rights and powers of the attorney of a reciprocal insurer shall be as provided in the power of attorney given it by the subscribers.

(b) The power of attorney must set forth:

(1) The powers of the attorney;

(2) The general services to be performed by the attorney;

(3) The maximum amount to be deducted from advance premiums or deposits to be paid to the attorney and the general items of expense in addition to losses, to be paid by the insurer; and

(4) Except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount which amount shall be not less than one nor more than 10 times the premium or premium deposit stated in the policy.

(c) The power of attorney may:

(1) Provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;

(2) Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;

(3) Provide for the exercise of any right reserved to the subscribers directly or through their advisory committee; and

(4) Contain other lawful provisions deemed advisable.

(d) The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable, and no such power or agreement shall be used or be effective in this State until approved by the Commissioner.

§ 5709. Modifications

Modifications of the terms of the subscribers' agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by the attorney and the subscribers' advisory

result of breach by the attorney of the conditions of his bond as

committee. No such modification shall be effective retroactively, nor as to any insurance contract issued prior thereto.

§ 5710. Attorney's bond

the attorney and by an authorized corporate surety, and shall be

(a) Concurrently with the filing of the declaration provided for in section 5706 of this chapter, the attorney of a domestic favor of this State for the benefit of all persons damaged as a reciprocal insurer shall file with the Commissioner a bond in set forth in subsection (b) hereof. The bond shall be executed by subject to the Commissioner's approval.

(b) The bond shall be in the penal sum of \$25,000, aggregate in form, conditioned that the attorney will faithfully account for all monies and other property of the insurer coming into his hands, and that he will not withdraw or appropriate to his own use from the funds of the insurer, any monies or property to which he is not entitled under the power of attorney.

(c) The bond shall provide that it is not subject to cancellation unless 30 days' advance notice in writing of cancellation is given both the attorney and the Commissioner.

§ 5711. Deposit in lieu of bond

In lieu of the bond required under section 5710 of this chapter, the attorney may maintain on deposit—
through the office of the Commissioner, a like amount in cash or in value of securities qualified under this title as insurers' investments, and subject to the same conditions as the bond.

§ 5712. Action on bond

Action on the attorney's bond or to recover against any such deposit made in lieu thereof may be brought at any time by one or more subscribers suffering loss through a violation of its conditions, or by a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in and become part of the insurer's funds. The total aggregate liability of the surety shall be limited to the amount of the penalty of such bond.

§ 5713. Services of process—judgment

(a) Legal process shall be served upon a domestic reciprocal insurer by serving the insurer's attorney at his principal offices or by serving the Commissioner as the insurer's process agent under sections 524 and 525 of this title.

(b) Any judgment based upon legal process so served shall be binding upon each of the insurer's subscribers as their respective interests may appear, but in an amount not exceeding their respective contingent liabilities, if any, the same as though personal service of process was had upon each such subscriber.

§ 5714. Contributions to insurer

The attorney or other parties may advance to a domestic reciprocal insurer upon reasonable terms such funds as it may require from time to time in its operations. Sums so advanced shall not be treated as a liability of the insurer, and, except upon liquidation of the insurer, shall not be withdrawn or repaid except out of the insurer's realized earned surplus in excess of its minimum required surplus. No such withdrawal or repayment shall be made without the advance approval of the Commissioner. This section does not apply to bank loans, or to other loans made upon security.

§ 5715. Financial condition—method of determining

In determining the financial condition of a reciprocal insurer the Commissioner shall apply the following rules:

(1) He shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(2) The surplus deposits of subscribers shall be allowed as assets, except that any premium deposit delinquent for 90 days shall first be charged against such surplus deposit.

(3) The surplus deposits of subscribers shall not be charged as a liability.

(4) All premium deposits delinquent less than 90 days shall be allowed as assets.

(5) An assessment levied upon subscribers, and not collected, shall not be allowed as an asset.

(6) The contingent liability of subscribers shall not be allowed as an asset.

(7) The computation of reserves shall be based upon premium deposits other than membership fees and without any deduction for expenses and the compensation of the attorney.

§ 5716. Who may be subscribers

Individuals, partnerships, and corporations of this State may make application, enter into agreement for and hold policies or contracts in or with and be a subscriber of any domestic, foreign, or alien reciprocal insurer. Any corporation now or hereafter organized under the laws of this State shall, in addition to the rights, powers, and franchises specified in its articles of incorporation, have full power and authority as a subscriber to exchange insurance contracts through such reciprocal insurer. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and to be as fully granted as the rights and powers expressly conferred upon such corporations. Government or governmental agencies, state or political subdivisions thereof, boards, associations, estates, trustees or fiduciaries are authorized to exchange nonassessable reciprocal interinsurance contracts with each other and with individuals, partnerships and corporations to the same extent that individuals, partnerships and corporations are herein authorized to exchange reciprocal intersurance contracts. Any officer, representative, trustee, receiver, or legal representative of any such subscriber shall be recognized as acting for or on its behalf for the purpose of such contract but shall not be personally liable upon such contract by reason of acting in such representative capacity.

§ 5717. Subscribers' advisory committee

(a) The advisory committee of a domestic reciprocal insurer exercising the subscribers' rights shall be selected under such rules as the subscriber adopt.

(b) Not less than 2/3 of such committee shall be subscribers other than the attorney, or any person employed by, representing, or having a financial interest in the attorney.

(c) The committee shall:

- (1) Supervise the finances of the insurer;
- (2) Supervise the insurer's operations to such extent as to assure conformity with the subscribers' agreement and power of attorney;
- (3) Procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer; and
- (4) Have such additional powers and functions as may be conferred by the subscribers' agreement.

§ 5718. Subscribers' liability

(a) The liability of each subscriber, other than as to a nonassessable policy, for the obligations of the reciprocal insurer shall be an individual, several and proportionate liability, and not joint.

(b) Except as to a nonassessable policy, each subscriber shall have a contingent assessment liability, in the amount provided for in the power of attorney or in the subscribers' agreement, for payment of actual losses and expenses incurred while his policy was in force. Such contingent liability may be at the rate of not less than one nor more than 10 times the premium or premium deposit stated in the policy, and the maximum aggregate thereof shall be computed in the manner set forth in section 5722 of this chapter.

(c) Each assessable policy issued by the insurer shall contain a statement of the contingent liability, set in type of the same prominence as the insuring clause.

§ 5719. Subscribers' liability on judgment

(a) No action shall lie against any subscriber upon any obligation claimed against the insurer until a final judgment has been obtained against the insurer and remains unsatisfied for 30 days.

(b) Any such judgment shall be binding upon each subscriber only in such proportion as his interests may appear and in amount not exceeding his contingent liability, if any.

§ 5720. Assessments

(a) Assessments may from time to time be levied upon subscribers of a domestic reciprocal insurer liable therefor un-

der the terms of their policies by the attorney upon approval in advance by the subscribers' advisory committee and the Commissioner; or by the Commissioner in liquidation of the insurer.

(b) Each subscriber's share of a deficiency for which an assessment is made, but not exceeding in any event his aggregate contingent liability as computed in accordance with section 5722 of this chapter, shall be computed by applying to the premium earned on the subscriber's policy or policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment.

(c) In computing the earned premiums for the purposes of this section, the gross premium received by the insurer for the policy shall be used as a base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy.

(d) No subscriber shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or losses payable.

§ 5721. Time limit for assessments

Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for, and shall pay his share of any assessment, as computed and limited in accordance with this chapter, if:

(1) While his policy is in force or within 1 year after its termination, he is notified by either the attorney or the Commissioner of his intentions to levy such assessment; or

(2) If an order to show cause why a receiver, conservator, rehabilitator or liquidator of the insurer should not be appointed is issued while his policy is in force or within 1 year after its termination.

§ 5722. Aggregate liability

No one policy or subscriber as to such policy, shall be assessed or charged with an aggregate of contingent liability as to obligations incurred by a domestic reciprocal insurer in any one calendar year, in excess of the amount provided for in the power of attorney or in the subscribers' agreement, computed solely upon premium earned on such policy during that year.

§ 5723. Nonassessable policies

(a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital stock and surplus required to be maintained by a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee the Commissioner shall issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this State, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this State for so long as all such surplus remains unimpaired.

(b) Upon impairment of such surplus, the Commissioner shall forthwith revoke the certificate. Such revocation shall not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after such revocation no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

(c) The Commissioner shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualified to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state.

§ 5724. Subscribers' share in assets

Upon the liquidation of a domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy obligations, the return of any contributions of the attorney or other persons to its surplus, and the return of any unused premium, savings, or credits then standing on subscribers' account, shall be distributed to its subscribers who were such within the 12 months prior to the last termination of its certifi-

cate of authority, according to such reasonable formula as the Commissioner may approve.

§ 5725. Merger or conversion

(a) A domestic reciprocal insurer upon affirmative vote of not less than $\frac{2}{3}$ of its subscribers who vote on such merger pursuant to due notice and the approval of the Commissioner of the terms therefor, may emerge with another reciprocal insurer or be converted to a stock or mutual insurer.

(b) Such a stock or mutual insurer shall be subject to the same capital or surplus requirements and shall have the same rights as a like domestic insurer transacting like kinds of insurance.

(c) The Commissioner shall not approve any plan for such merger or conversion which is inequitable to subscribers, or which, if for conversion to a stock insurer, does not give each subscriber preferential right to acquire stock of the proposed insurer proportionate to his interest in the reciprocal insurer as determined in accordance with section 5724 of this chapter and a reasonable length of time within which to exercise such right.

§ 5726. Impaired reciprocals

(a) If the assets of a domestic reciprocal insurer are at any time insufficient to discharge its liabilities, other than any liability on account of funds contributed by the attorney or others, and to maintain the required surplus, its attorney shall forthwith make up the deficiency or levy an assessment upon the subscribers for the amount needed to make up the deficiency; but subject to the limitation set forth in the power of attorney or policy.

(b) If the attorney fails to make up such deficiency or to make the assessment within 30 days after the Commissioner orders him to do so, or if the deficiency is not fully made up within 60 days after the date the assessment was made, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this title.

(c) If liquidation of such an insurer is ordered, an assessment shall be levied upon the subscribers for such an amount,

subject to limits as provided by this chapter, as the Commissioner determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds contributed by the attorney or other persons, but including the reasonable cost of the liquidation.

CHAPTER 59. REHABILITATION AND LIQUIDATION

§ 5901. Definitions

For the purpose of this chapter:

(1) "Impairment" or "insolvency." The capital of a stock insurer or the surplus of a mutual or reciprocal insurer, shall be deemed to be impaired and the insurer shall be deemed to be insolvent, when such insurer is not possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock if a stock insurer, or the minimum surplus if a mutual or reciprocal insurer, required by this title to be maintained for the kind or kinds of insurance it is then authorized to transact.

(2) "Insurer" means any person, firm, corporation, association or aggregation of persons doing an insurance business and subject to the insurance supervisory authority or, or to liquidation, rehabilitation, reorganization or conservation by the Commissioner or the equivalent insurance supervisory official of another state.

(3) "Delinquency proceeding" means any proceeding commenced against an insurer pursuant to this chapter for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer.

(4) "State" means any state of the United States, and also the District of Columbia, and the Commonwealth of Puerto Rico.

(5) "Foreign country" means territory not in any state.

(6) "Domiciliary state" means the state in which an insurer is incorporated or organized, or in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has at the commencement of delinquency proceedings the

largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholder or policyholders and creditors in the United States, and any such insurer is deemed to be domiciled in such state.

(7) "Ancillary state" means any state other than a domiciliary state.

(8) "Reciprocal state" means any state other than this State in which in substance and effect the provisions of the uniform insurers liquidation act, as defined in section 5920 of this chapter, are in force, including the provisions requiring that the Commissioner of Insurance or equivalent insurance supervisory official be the receiver of a delinquent insurer.

(9) "General assets" means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of person, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

(10) "Preferred claim" means any claim with respect to which the law of the state or of the United States accords priority of payments from the general assets of the insurer.

(11) "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

(12) "Secured claim" mean any claim secured by mortgage, trust deed, pledge, deposit as security, escrow or otherwise, but not including special deposit claim or claims against general assets. The term also includes claims which more than four months prior to the commencement of delinquency proceedings in the state of the insurer's domicile have become liens upon specific assets by reason of judicial process.

(13) "Receiver" means receiver, liquidator, rehabilitator or conservator, as the context may require.

§ 5902. Jurisdiction of delinquency proceedings; venue; change of venue; exclusiveness of remedy; appeal

(a) The Court of Chancery shall have original jurisdiction of delinquency proceedings under this chapter and any court with jurisdiction is authorized to make all necessary or proper orders to carry out the purposes of this chapter.

(b) The venue of delinquency proceedings against a domestic insurer shall be in the county of the insurer's principal place of business. The venue of such proceedings against foreign and alien insurers shall be in any county in this State selected by the Commissioner for the purpose.

(c) At any time after the commencement of a proceeding under this chapter the Commissioner may apply to the court for an order changing the venue of, and removing the proceeding to any other county of this State in which he deems that such proceeding may be most economically and efficiently conducted.

(d) Delinquency proceedings pursuant to this chapter shall constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing or conserving an insurer, and no court shall entertain a petition for the commencement of such proceedings unless the same has been filed in the name of the State on the relation of the Commissioner.

(e) An appeal shall lie to the supreme court from an order granting or refusing rehabilitation, liquidation, or conservation, and from every order in delinquency proceedings having the character of a final order as to the particular portion of the proceedings embraced therein.

§ 5903. Commencement of delinquency proceedings

The Commissioner shall commence any such proceedings by application to the court for an order directing the insurer to show cause why the Commissioner should not have the relief prayed for. On the return of such order to show cause, and after a full hearing, the courts shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of the policyholders, creditors, stockholders, members, subscribers or the public may require.

§ 5904. Injunctions

(a) Upon application by the Commissioner for such an order to show cause, or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

(b) The court may at any time during a proceeding under this chapter issue such other injunctions or orders as may be deemed necessary to prevent interference with the Commissioner or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer or against its assets or any part thereof.

(c) Notwithstanding any other provision of law, no bond shall be required of the Commissioner as a prerequisite for the issuance of any injunction or restraining order pursuant to this section.

§ 5905. Grounds for rehabilitation—domestic insurers

The Commissioner may apply to the court for an order appointing him as receiver of and directing him to rehabilitate a domestic insurer upon one or more of the following grounds. That the insurer:

(1) Is impaired or insolvent; or is in unsound condition, or in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance presently or prospectively hazardous to its policyholders;

(2) Has refused to submit any of its books, records, accounts or affairs to reasonable examination by the Commissioner;

(3) Has concealed or removed records or assets;

(4) Has failed to comply with an order of the Commissioner to make good an impairment of capital or surplus or both;

(5) Has transferred or attempted to transfer substantially its entire property or business, or has entered into any transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without having first obtained the written approval of the Commissioner;

(6) Has wilfully violated its charter or certificate of incorporation or any law of this State;

(7) Has an officer, director or manager who has refused to be examined under oath concerning its affairs, for which purposes the Commissioner is hereby authorized to conduct and to enforce by all appropriate and available means any such examination under oath in any other state or territory of the United States, in which any such officer, director or manager may then presently be, to the full extent permitted by the laws of such other state or territory, this special authorization considered;

(8) Has been or is the subject of an application for the appointment of a receiver, trustee, custodian or sequestrator of the insurer or its property otherwise than pursuant to the provisions of this title, but only if such appointment has been made or is imminent and its effect is or would be to oust the courts of this State of jurisdiction hereunder;

(9) Has consented to such an order through a majority of the directors, stockholders, members or subscribers; and

(10) Has failed to pay a final judgment rendered against it in this State upon any insurance contract issued or assumed by it, within 30 days after the judgment became final or within 30 days after the time for taking an appeal has expired, or within 30 days after dismissal of an appeal before final termination, whichever date is the later.

§ 5906. Grounds for liquidation

The Commissioner may apply to the court for an order appointing him as receiver (if his appointment as receiver shall not be then in effect) and directing him to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this State regardless of whether or not there has been a prior order directing him to rehabilitate such insurer, upon any of the grounds specified in section 5905 of this chapter, or if such insurer:

(1) Has ceased transacting business for a period of one year; or

(2) Is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian or sequestrator under any law except this title.

§ 5907. Grounds for conservation—foreign insurers

The Commissioner may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this State, of a foreign insurer upon any of the following grounds:

(1) Upon any of the grounds specified in sections 5905 or 5906 of this chapter; or

(2) Upon the ground that its property has been sequestered in its domiciliary sovereignty or in any other sovereignty.

§ 5908. Grounds for conservation—alien insurers

The Commissioner may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this State, of any alien insurer upon any of the following grounds:

(1) Upon any of the grounds specified in sections 5905 or 5906 of this chapter.

(2) Upon the ground that the insurer has failed to comply, within the time designated by the Commissioner, with an order made by him to make good an impairment of its trusted funds, or

(3) Upon the ground that the property of the insurer has been sequestered in its domiciliary sovereignty or elsewhere.

§ 5909. Grounds for ancillary liquidation—foreign insurers

The Commissioner may apply to the court for an order appointing him as ancillary receiver of and directing him to liquidate the business of a foreign insurer having assets, business

or claims in this State upon the appointment in the domiciliary state of such insurer of a receiver, liquidator, conservator, rehabilitator or other officer by whatever name called for the purpose of liquidating the business of such insurer.

§ 5910. Order of rehabilitation—termination

(a) An order to rehabilitate a domestic insurer shall direct the Commissioner forthwith to take possession of the property of the insurer and to conduct the business thereof, and to take such steps toward removal of the causes and conditions which have made rehabilitation necessary as the court may direct.

(b) If at any time the Commissioner deems that further efforts to rehabilitate the insurer would be useless, he may apply to the court for an order of liquidation.

(c) The Commissioner, or any interested person upon due notice to the Commissioner, at any time may apply to the court for an order terminating the rehabilitation proceedings and permitting the insurer to resume possession of its property and the conduct of its business, but no such order shall be made or entered except when, after a hearing, the court has determined that the purposes of the proceeding have been fully accomplished.

§ 5911. Order of liquidation—domestic insurers

(a) An order to liquidate the business of a domestic insurer shall direct the Commissioner forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as Insurance Commissioner or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present such claims.

(b) The Commissioner may apply for and secure an order dissolving the corporate existence of a domestic insurer upon his application for an order of liquidation of such insurer or at any time after such order has been granted.

§ 5912. Order of conservation or ancillary liquidation of foreign or alien insurers

(a) An order to conserve the assets of a foreign or alien insurer shall require the Commissioner forthwith to take pos-

session of the property of the insurer within this State and to conserve it, subject to the further direction of the court.

(b) An order to liquidate the assets in this State of a foreign insurer shall require the Commissioner forthwith to take possession of the property of the insurer within this State and to liquidate it subject to the orders of the court and with due regard to the rights and powers of the domiciliary receiver, as provided in this chapter.

§ 5913. Conduct of delinquent proceedings against domestic and alien insurers

(a) Whenever under this chapter a receiver is to be appointed in delinquency proceedings for an insurer, the court shall appoint the Commissioner as such receiver. The court shall order the Commissioner forthwith to take possession of the assets of the insurer and to administer the same under the order of the court.

(b) As a domiciliary receiver, the Commissioner shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer, wherever located, as of the date of entry of the order directing him to rehabilitate or liquidate a domestic insurer or to liquidate the United States branch of an alien insurer domiciled in this State, and he shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are herein prescribed for ancillary receivers appointed in this State as to assets located in this State.

(c) The filing or recording of the order directing possession to be taken, or a certified copy thereof, in any office where instruments affecting title to property are required to be filed or recorded shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded.

(d) The Commissioner as domiciliary receiver shall be responsible for the proper administration of all assets coming into his possession or control. The court may at any time require a bond from him or his deputies if deemed desirable for the protection of such assets.

(e) Upon taking possession of the assets of an insurer, the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by this chapter for the purpose of rehabilitating, liquidating or conserving the affairs or assets of the insurer.

(f) In connection with delinquency proceedings, the Commissioner may appoint one or more special Deputy Commissioners to act for him and he may employ such counsel, clerks and assistants as he deems necessary. The compensation of the special deputies, counsel, clerks or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of duties imposed upon them, special deputies shall possess all the powers given to and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceedings.

§ 5914. Conduct of delinquency proceedings against foreign insurers

(a) Whenever under this chapter an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this State, the court shall appoint the Commissioner as ancillary receiver. The Commissioner shall file a petition requesting the appointment on the grounds set forth in section 5909 of this chapter:

(1) If he finds that there are sufficient assets of the insurer located in this State to justify the appointment of an ancillary receiver; or

(2) If 10 or more persons resident in this State having claims against such insurer file a petition with the Commissioner requesting the appointment of such ancillary receiver.

(b) The domiciliary receiver for the purpose of liquidating an insurer domiciled in a reciprocal state shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer located in this State, and he shall have the immediate right to recover balances due from local agents and to obtain

possession of any books and records of the insurer found in this State. He shall also be entitled to recover the other assets of the insurer located in this State, except that upon the appointment of an ancillary receiver in this State, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this State, and shall pay the necessary expenses of the proceedings. All remaining assets he shall promptly transfer to the domiciliary receiver. Subject to the foregoing provisions, the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of such assets as a receiver of an insurer domiciled in this State.

(c) The domiciliary receiver of an insurer domiciled in a reciprocal state may sue in this State to recover any assets of such insurer to which he may be entitled under the laws of this State.

§ 5915. Claims of nonresidents against domestic insurers

(a) In a delinquency proceeding begun in this State against a domestic insurer, claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in reciprocal states may either:

(1) Be proved in this State; or

(2) If ancillary proceedings have been commenced in such reciprocal states, may be proved in those proceedings. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appear and be heard is afforded the domiciliary receiver of this State, as provided in section 5916 of this chapter with respect to ancillary proceedings in this State, the final allowance of such claim by the courts in the ancillary state shall be accepted in this State as conclusive as to its amount and shall also be accepted as conclusive as to its

priority, if any, against special deposits or other security located within the ancillary state.

§ 5916. Claims against foreign insurers

(a) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against such insurer who reside within this State may file claims either with the ancillary receiver, if any, appointed in this State, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in this State may either:

(1) Be proved in the domiciliary state as provided by the law of that state; or

(2) If ancillary proceedings have been commenced in this State, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this State, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered or certified mail or by personal service at least 40 days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver within 30 days after the giving of such notice shall give notice in writing to the ancillary receiver and to the claimant, either by registered or certified mail or by personal service, of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceeding in this State involving adjudication of the claim. The final allowance of the claim by the courts of this State shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this State.

§ 5917. Form of claim—notice—hearing

(a) All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable

detail the amount of the claim, or the basis upon which such amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims shall be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and shall be supported by such documents as may be material thereto.

(b) All claims filed in this State shall be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter.

(c) Within 10 days of the receipt of any claim, or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court shall determine to such persons as shall appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.

(d) At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order shall be deemed to be an appealable order.

§ 5918. Priority of certain claims

(a) In a delinquency proceeding against an insurer domiciled in this State, claims owing to residents of ancillary states shall be preferred claims if like claims are preferred under the laws of this State. All such claims owing to residents or nonresidents shall be given equal priority of payment from general assets regardless of where such assets are located.

(b) In a delinquency proceeding against an insurer domiciled in a reciprocal state, claims owing to residents of this State shall be preferred if like claims are preferred by the laws of that state.

(c) The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other state shall

be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such sharing shall be deferred until general creditor, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

(d) The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this chapter, or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amounts shall be conclusive; otherwise the amount shall be determined in the delinquency proceeding in the domiciliary state.

§ 5919. Attachment and garnishment of assets

During the pendency of delinquency proceedings in this or any reciprocal state, no action or proceeding in the nature of an attachment, garnishment or execution shall be commenced or maintained in the courts of this State against the delinquent insurer or its assets. Any lien obtained by any such action or proceeding within four months prior to the commencement of any such delinquency proceeding or at any time thereafter shall be void as against any rights arising in such delinquency proceeding.

§ 5920. Uniform insurers liquidation act

(a) Paragraphs (2) to (13) inclusive, of section 5901, together with sections 5902, 5903, and 5913 through 5920 of this chapter constitute and may be referred to as the uniform insurers liquidation act.

(b) The uniform insurers liquidation act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it. To the extent that its provisions when applicable conflict with other provisions of this chapter, the provisions of such act shall control.

§ 5921. Deposit of monies collected

The monies collected by the Commissioner in a proceeding under this chapter shall be from time to time deposited in one or more state or national banks, savings banks or trust companies, and in the case of the insolvency or voluntary or involuntary liquidation of any such depository which is an institution organized and supervised under the laws of this State, such deposits shall be entitled to priority of payment on an equality with any other priority given by the banking laws of this State. The Commissioner may in his discretion deposit such monies or any part thereof in a national bank or trust company as a trust fund.

§ 5922. Exemption from fees

The Commissioner shall not be required to pay any fee to any public officer in this State for filing, recording, issuing a transcript or certificate of authenticating any paper or instrument pertaining to the exercise by the Commissioner of any of the powers or duties conferred upon him under this chapter, whether or not such paper or instrument be executed by the Commissioner or his deputies, employees or attorneys of record and whether or not it is connected with the commencement of any action or proceeding by or against the Commissioner, or with the subsequent conduct of such action or proceeding.

§ 5923. Borrowing on pledge of assets

For the purpose of facilitating the rehabilitation, liquidations, conservation or dissolution of an insurer pursuant to this chapter, the Commissioner may, subject to the approval of the court, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness therefor and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property, whether real, personal or mixed, of such insurer, and the Commissioner subject to the approval of the court shall have power to take any

and all other action necessary and proper to consummate any such loan and to provide for the repayment thereof. The Commissioner shall be under no obligation personally or in his official capacity to repay any loan made pursuant to this section.

§ 5924. Date rights fixed on liquidation

The rights and liabilities of the insurer and of its creditors, policyholders, stockholders, members, subscribers and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date on which the order directing the liquidation of the insurer is filed in the office of the clerk of the court which made the order, subject to the provisions of this chapter with respect to the rights of claimants holding contingent claims.

§ 5925. Voidable transfers

(a) Any transfer of, or lien upon, the property of an insurer which is made or created within four months prior to the granting of an order to show cause under this chapter with the intent of giving to any creditor a preference or of enabling him to obtain a greater percentage of his debt than any other creditor of the same class and which is accepted by such creditor having reasonable cause to believe that such preference will occur, shall be voidable.

(b) Every director, officer, employee, stockholder, member, subscriber and any other person acting on behalf of such insurer who shall be concerned in any such act or deed and every person receiving thereby any property of such insurer of the benefit thereof shall be personally liable therefor and shall be bound to account to the Commissioner.

(c) The Commissioner as receiver in any proceeding under this chapter may avoid any transfer of or lien upon the property of an insurer which any creditor, stockholder, subscriber or member of such insurer might have avoided and may recover the property so transferred unless such person was a bona fide holder for value prior to the date of the entering of an order to show cause under this chapter. Such property or its value may be recovered from anyone who has received it except a bona fide holder for value as herein specified.

§ 5926. Priority of claims for compensation

(a) Compensation actually owing to employees other than officers of an insurer, for services rendered within 3 months prior to the commencement of a proceeding against the insurer under this chapter, but not exceeding \$500 for each employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the Commissioner may be paid as soon as practicable after the proceeding has been commenced; except that at all times the Commissioner shall reserve such funds as will in his opinion be sufficient for the expenses of administration.

(b) Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of such employees.

§ 5927. Offsets

(a) In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this chapter, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in subsection (b) below.

(b) No offset shall be allowed in favor of any such person where:

(1) The obligation of the insurer to such person would not at the date of the entry of any liquidation order or otherwise, as provided in section 5924 of this chapter, entitle him to share as a claimant in the assets of the insurer; or

(2) The obligation of the insurer to such person was purchased by or transferred to such person with a view of its being used as an offset; or

(3) The obligation of such person is to pay an assessment levied against the members of a mutual insurer, or against the subscribers of a reciprocal insurer, or is to pay a balance upon the subscription to the capital stock of a stock insurer.

§ 5928. Allowance of certain claims

(a) No contingent and unliquidated claim shall share in a distribution of the assets of an insurer which has been adjudi-

cated to be insolvent by an order made pursuant to this chapter, except that such claim shall be considered, if properly presented, and may be allowed to share where:

(1) Such claim becomes absolute against the insurer on or before the last day for filing claims against the assets of such insurer; or

(2) There is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent.

(b) Where an insurer has been so adjudicated to be insolvent any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be allowed:

(1) If it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured;

(2) If such person shall furnish suitable proof, unless the court for good cause shown shall otherwise direct, that no further valid claim against such insurer arising out of his cause of action other than those already presented can be made; and

(3) If the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than its maximum liability would be were it not in liquidation.

(c) No judgment against such an insured taken after the date of entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default, or by collusion prior to the entry of the liquidation order shall be considered as conclusive evidence in the liquidation proceedings, either of the liability of such insured to such person upon such cause of action or of the amount of damages to which such person is therein entitled.

(d) No claim of any secured claimant shall be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation of such other date set by

the court for determining rights and liabilities as provided in sections 5924 of this chapter unless the claimant surrenders his security to the Commissioner, in which event the claim shall be allowed in the full amount for which it is valued.

§ 5929. Time to file claims

(a) If upon the entry of an order of liquidation under this chapter or at any time thereafter during liquidation proceedings the insurer is not clearly solvent, the court shall, upon hearing after such notice it deems proper, make and enter an order adjudging the insurer to be insolvent.

(b) After the entry of the order of insolvency, regardless of any prior notice that may have been given to creditors, the Commissioner shall notify all persons who may have claims against the insurer to file such claims with him, at a place and within the time specified in the notice, or that such claims shall be forever barred. The time specified in the notice shall be as fixed by the court for filing of claims and which shall be not less than 6 months after the entry of the order of insolvency. The notice shall be given in such manner and for such reasonable period of time as may be ordered by the court.

§ 5930. Report and petition for assessment

Within 3 years after the date of the entry of an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer, the Commissioner may make and file his report and petition to the court setting forth:

- (1) The reasonable value of the assets of the insurer;
- (2) The liabilities of the insurer to the extent thus far ascertained by the Commissioner;
- (3) The aggregate amount of the assessment, if any, which the Commissioner deems reasonably necessary to pay all claims, the costs and expenses of the collection of the assessments and the costs and expenses of the delinquency proceeding in full;
- (4) Any other information relative to the affairs or property of the insurer that the Commissioner deems material.

§ 5931. Order and levy of assessment

(a) Upon the filing and reading of the report and petition provided for in section 5930 of this chapter, the court, *ex parte*,

may order the Commissioner to assess all members or subscribers of the insurer who may be subject to such an assessment, in such an aggregate amount as the court finds reasonably necessary to pay all valid claims as may be timely filed and proved in the delinquency proceedings, together with the costs and expenses of levying and collecting assessments and the costs and expenses of the delinquency proceedings in full. Any such order shall require the Commissioner to assess each such member or subscriber for his proportion of the aggregate assessment, according to such reasonable classification of such members or subscribers and formula as may be made by the Commissioner and approved by the court.

(b) The court may order additional assessments upon the filing and reading of any amendment or supplement to the report and petition referred to in (a) above, if such amendment or supplement is filed within 3 years after the date of the entry of the order of rehabilitation or liquidation.

(c) After the entry of the order to levy and assess members or subscribers of an insurer referred to in (a) or (b) above, the Commissioner shall levy and assess members or subscribers in accordance with the order.

(d) The total of all assessments against any member or subscriber with respect to any policy, whether levied pursuant to this chapter or pursuant to any other provision of this title, shall be for no greater amount than that specified in the policy or policies of the member or subscriber and as limited under this title, except as to any policy which was issued at a rate of premium below the minimum rate lawfully permitted for the risk insured, in which event the assessment against any such policyholder shall be upon the basis of the minimum rate for such risk.

(e) No assessment shall be levied against any member or subscriber with respect to any nonassessable policy issued in accordance with this title.

§ 5932. Assessment prima facie correct—notice—payment—proceedings to collect

(a) Any assessment of a subscriber or member of an insurer made by the Commissioner pursuant to the order of court fixing the aggregate amount of the assessment against all mem-

bers or subscribers and approving the classification and formula made by the Commissioner under section 5931(a) of this chapter shall be prima facie correct.

(b) Each member or subscriber shall be notified of the amount of assessment to be paid by him by written notice mailed to the address of the member or subscriber last of record with the insurer. Failure of the member or subscriber to receive the notice so mailed, within the time specified therein or at all, shall be no defense in any proceeding to collect the assessment.

(c) If any such member or subscriber fails to pay the assessment within the period specified in the notice, which period shall not be less than 20 days after mailing, the Commissioner may obtain an order in the delinquency proceedings requiring the member or subscriber to show cause at a time and place fixed by the court why judgment should not be entered against such member or subscriber for the amount of the assessment together with all costs, and a copy of the order and a copy of the petition therefor shall be served upon the member or subscriber within the time and in the manner designated in the order.

(d) If the subscriber or member after due service of a copy of the order and petition referred to in (c) above is made upon him:

(1) Fails to appear at the time and place specified in the order, judgment shall be entered against him as prayed for in the petition; or

(2) Appears in the manner and form required by law in response to the order, the court shall hear and determine the matter and enter a judgment in accordance with its decision.

(e) The Commissioner may collect any such assessment through any other lawful means.

CHAPTER 61. FRATERNAL BENEFIT SOCIETIES

§ 6101. Fraternal benefit societies defined

(a) Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of section 6142 of this chapter, whether incorporated or not, con-

ducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society.

(b) When used in this chapter the word "society," unless otherwise indicated, shall mean fraternal benefit society.

§ 6102. Lodge system defined

A society having a supreme legislative or governing body and subordinate lodges or branches by whatever name known, into which members are elected, initiated or admitted in accordance with its constitution, laws, ritual and rules, which subordinate lodges or branches shall be required by the laws of the society to hold regular meetings at least once in each month, shall be deemed to be operating on the lodge system.

§ 6103. Representative form of government defined

A society shall be deemed to have a representative form of government when:

(1) It provides in its constitution or laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members of such body as may be prescribed by the society's constitution and laws;

(2) The representatives elected constitute a majority in number and have not less than $\frac{2}{3}$ of the votes nor less than the votes required to amend its constitution and laws;

(3) The meetings of the supreme legislative or governing body and the election of officers, representatives or delegates are held as often as once in 4 calendar years;

(4) The society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by such body and having powers and duties delegated to it in the constitution or laws of the society;

(5) Such board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of such body;

(6) The officers are elected either by the supreme legislative governing body or by the board of directors; and

(7) The members, officers, representatives or delegates shall not vote by proxy.

§ 6104. Organization

The organization of a society shall be governed as follows:

(1) Seven or more citizens of the United States, a majority of whom are citizens of this State, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

(i) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

(ii) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this chapter, provided that any lawful, social, intellectual, educational, charitable, benevolent, moral, fraternal or religious advantages may be set forth among the purposes of the society; and

(iii) The names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than 1 year from the date of the issuance of the permanent certificate.

(2) Such articles of incorporation, duly certified copies of the constitution, laws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within 1 year shall be filed with the Commissioner, who may re-

quire such further information as he deems necessary. The bond with sureties approved by the Commissioner shall be in such amount, not less than \$5,000 nor more than \$25,000, as required by the Commissioner. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the Commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as hereinafter provided.

(3) No preliminary certificate granted under the provisions of this section shall be valid after 1 year from its date or after such further period, not exceeding 1 year, as may be authorized by the Commissioner upon cause shown, unless the 500 applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in 1 year from the date of the preliminary certificate, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as hereinafter provided.

(4) Upon receipt of a preliminary certificate from the Commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than 1 regular monthly premium in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

(i) Actual bona fide applications for death benefits have been secured aggregating at least \$500,000 on not less than 500 lives;

(ii) All such applicants for death benefits shall have furnished evidence of insurability satisfactory to the society;

(iii) Certificates of examinations or acceptable declarations of insurability have been duly filed and approved by the chief medical examiner of the society;

(iv) Ten subordinate lodges or branches have been established into which the 500 applicants have been admitted;

(v) There has been submitted to the Commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and member of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

(vi) It shall have been shown to the Commissioner by sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have each paid in cash at least 1 regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least \$2,500, all of which shall be credited to the fund or funds from which benefits are to be paid and no part of which may be used for expenses. The advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within 1 year, as herein provided, such premiums shall be returned to the applicants.

(5) The Commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to the society a certificate to that effect and that the society is authorized to transact business pursuant to the provisions of this chapter. The certificate shall be prima facie evidence of the existence of the society at the date of such certificate. The Commissioner shall cause a record of such certificate to be made. A certified copy of such record may be given in evidence with like effect as the original certificate.

(6) Every society shall have the power to adopt a constitution and laws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of its members from time to time. It shall have the power to change, alter, add to or amend such constitution and laws and shall have such powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

§ 6105. Corporate powers retained

Any incorporated society authorized to transact business in this State at the time this chapter becomes effective may thereafter exercise all the rights, powers and privileges prescribed in this chapter and in its charter or articles of incorporation as far as consistent with this chapter. A domestic society shall not be required to reincorporate.

§ 6106. Voluntary associations

No unincorporated or voluntary association shall be permitted to transact business in this State as a fraternal benefit society.

§ 6107. Location of office—place of meeting

The principal office of any domestic society shall be located in this State. The meetings of its supreme legislative or governing body may be held in any state, district, province or territory wherein such society has at least 5 subordinate branches and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this State.

§ 6108. Consolidations and mergers

A domestic society may consolidate or merge with any other society by complying with the provisions of this section.

It shall file with the Commissioner:

(1) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

(2) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the Commissioner but not earlier than December 31, next preceding the date of the contract;

(3) A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a 2/3 vote of the supreme legislative or governing body of each society; and

(4) Evidence that at least 60 days prior to the action of the supreme legislative or governing body of each society, the text of the contract has been furnished to all members of each

society either by mail or by publication in full in the official organ of each society.

If the Commissioner finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval filed with the Commissioner or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the Commissioner of such state or territory and a certificate of such approval filed with the Commissioner of this State.

Upon the consolidation or merger becoming effective as herein provided, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this State in any of the societies consolidated or merger, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressees.

§ 6109. Conversion of fraternal benefit society into mutual life insurance company

Any domestic fraternal benefit society may be converted and

licensed as a mutual life insurance company by compliance with all the requirements of section 4905 of this title if such plan of conversion has been approved by the Commissioner. Such plan shall be prepared in writing setting forth in full the terms and conditions thereof. The board of directors shall submit such plan to the supreme legislative or governing body of such society at any regular or special meeting thereof by giving a full, true and complete copy of such plan with the notice of such meeting. Such notice shall be given as provided in the laws of the society for the convocation of a regular or special meeting of such body, as the case may be. The affirmative vote of 2/3 of all members of such body shall be necessary for the approval of such agreement. No such conversion shall take effect unless and until approved by the Commissioner who may give such approval if he finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

§ 6110. Qualifications for membership

A society may admit to benefit membership any person not less than 15 years of age, nearest birthday, who has furnished evidence of insurability acceptable to the society. Any such member who shall apply for additional benefits more than 6 months after becoming a benefit member shall furnish additional evidence of insurability acceptable to the society unless such additional benefits are issued pursuant to an existing contract under the terms of which such member is entitled to purchase such additional benefits without furnishing evidence of insurability.

Any person admitted prior to attaining the full age of 21 years shall be bound by the terms of the application and certificate and by all the laws and rules of the society and shall be entitled to all the rights and privileges of membership therein to the same extent as though the age of majority had been attained at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs.

§ 6111. Articles of incorporation, constitution and laws—amendments

A domestic society may amend its articles of incorporation, constitution or laws in accordance with the provisions thereof

by action of its supreme legislative or governing body at any regular or special meeting thereof or, if its articles of incorporation, constitution or laws so provide, by referendum. Such referendum may be held in accordance with the provisions of its articles of incorporation, constitution or laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges or branches. No amendment submitted for adoption by referendum shall be adopted unless, within 6 months from the date of submission thereof, a majority of all the voting members of the society shall have signified their consent to such amendment by one of the methods herein specified.

No amendment to the articles of incorporation, constitution or laws of any domestic society shall take effect unless approved by the Commissioner, who shall approve such amendment if he finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this State or with the character, objects and purposes of the society. Unless the Commissioner shall disapprove any such amendment within 60 days after the filing of same, such amendment shall be considered approved. The approval or disapproval of the Commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case he disapproves such amendment, the reasons therefor shall be stated in such written notice.

Within 90 days from the approval thereof by the Commissioner, all such amendments, or a synopsis thereof, shall be furnished to all members of the society either by mail or by publication in full in the official organ of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which show that same have been duly addressed and mailed, shall be prima facie evidence that such amendments or synopsis thereof, have been furnished the addressee.

Every foreign or alien society authorized to do business in this State shall file with the Commissioner a duly certified copy of all amendments of, or additions to, its articles of incorporation, constitution or laws within 90 days after the enactment of same.

Printed copies of the constitution or laws as amended, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

§ 6112. Institutions

It shall be lawful for a society to create, maintain and operate charitable, benevolent or educational institutions for the benefit of its members and their families and dependents and for the benefit of children insured by the society. For such purpose it may own, hold or lease personal property or real property located within or without this State, with necessary buildings thereon. Such property shall be reported in every annual statement but shall not be allowed as an admitted asset of such society.

Maintenance, treatment and proper attendance in any such institution may be furnished free or a reasonable charge may be made therefor, but no such institution shall be operated for profit. The society shall maintain a separate accounting of any income and disbursements under this section and report them in its annual statement. No society shall own or operate funeral homes or undertaking establishments.

§ 6113. No personal liability

The officers and members of the supreme, grand or any subordinate body of a society shall not be personally liable for payment of any benefits provided by a society.

§ 6114. Benefits

(a) A society authorized to do business in this State may provide for the payment of:

- (1) death benefits in any form;
- (2) endowment benefits;
- (3) annuity benefits;
- (4) temporary or permanent disability benefits as a result of disease or accident;
- (5) hospital, medical or nursing benefits due to sickness or bodily infirmity or accident; and

(6) monument or tombstone benefits to the memory of deceased members not exceeding in any case the sum of \$300.

(b) Such benefits may be provided on the lives of members or, upon application of a member, on the lives of the member's family, including the member, the member's spouse and minor children, in the same or separate certificates.

§ 6115. Benefits on lives of children

A society may provide for benefits on the lives of children under the minimum age for adult membership but not greater than 21 years of age at time of application therefor, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with the provisions of section 6114(a) of this chapter. A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.

A society shall have power to provide for the designation and changing of designation of beneficiaries in the certificates providing for such benefits and to provide in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith.

§ 6116. Nonforfeiture benefits, cash surrender values, certificate loans and other options

A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans and such other options as its laws may permit. As to certificates issued on and after the effective date of this Act, a society shall grant at least one paid-up nonforfeiture benefit, except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts or contracts of term insurance of uniform amount of 15 years or less expiring before age 66.

In the case of certificates other than those for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Table or the Commissioners 1958 Standard Ordinary Mortality Table, the value of every paid-up nonforfeiture benefit and

the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, of (1) over (2) as follows:

(1) The reserve under the certificate determined on the basis specified in the certificate; and

(2) The sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to $2\frac{1}{2}\%$ of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

However, in the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American Men Ultimate Table of Mortality, the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than 130% of those shown by the mortality table specified in the certificate for the computation of the reserve.

In the case of certificates for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Table or the Commissioners 1958 Standard Ordinary Mortality Table, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this State applicable to life insurers issuing policies containing like insurance benefits based upon such tables.

§ 6117. Beneficiaries

The member shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, laws or rules of the society. Every society by its constitution, laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract.

A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion so paid shall not exceed the sum of \$500.

If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits shall be payable, the amount of such benefits, except to the extent that funeral benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased member.

§ 6118. Benefits not attachable

No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

§ 6119. The contract

Every society authorized to do business in this State shall issue to each benefit member a certificate specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this provision shall be void.

Any changes, additions or amendments to the charter or articles of incorporation, constitution or laws duly made or

enacted subsequent to the issuance of the certificate, shall bind the member and the beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership, except that no change, addition or amendment shall destroy or diminish benefits which the society contracted to give the member as of the date of issuance.

Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

A society shall provide in its constitution or laws that if its reserves as to all or any class of certificates become impaired its board of directors or corresponding body may require that there shall be paid by the member to the society the amount of the member's equitable proportion of such deficiency as ascertained by its board, and that if the payment be not made it shall stand as an indebtedness against the certificate and draw interest not to exceed 5% per annum compounded annually.

§ 6120. Life benefit certificate provisions, standard and prohibited

No life benefit certificate shall be delivered or issued for delivery in this State unless a copy of the form shall have been filed with the Commissioner and approved by him as conforming to the requirements of this section and not inconsistent with any other provisions of law applicable thereto. A certificate shall be deemed approved unless disapproved by the Commissioner within 60 days from the date of such filing.

(1) The certificate shall contain in substance the following standard provisions or, in lieu thereof, provisions which are more favorable to the member:

(i) Title on the face and filing page of the certificate clearly and correctly describing its form;

(ii) A provision stating the amount of rates, premiums or other required contributions, by whatever name known, which are payable by the insured under the certificate;

(iii) A provision that the member is entitled to a grace period of not less than a full month (or 30 days at the option of

the society) in which the payment of any premium after the first, may be made. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of such overdue payment or payments may be deducted in any settlement under the certificate;

(iv) A provision that the member shall be entitled to have the certificate reinstated at any time within 3 years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding 6% per annum compounded annually;

(v) Except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of 15 years or less expiring before age 66, a provision that, in the event of default in payment of any premium after 3 full years' premiums have been paid or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this chapter. The certificate may provide, if the society's laws so specify or if the member shall so elect prior to the expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate.

(vi) A provision that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than 60 days after the due date of the premium in default;

(vii) A statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and

cash surrender options available under the certificate, and a brief general statement of the method used in calculating such benefits;

(viii) A table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first 20 certificate years or during the term of the certificate whichever is shorter;

(ix) A provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of 2 years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization and provisions which grant additional insurance specifically against death by accident or accidental means, may also be excepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the member for a period of 2 years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society shall have the right to contest a reinstated certificate within a period of 2 years from date of reinstatement with the same exceptions as herein provided;

(x) A provision that in case the age or sex of the member or of any other person is considered in determining the premium and it is found at any time before final settlement under the certificate that the age or sex has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age and sex; but if the correct age or sex was not an insurable age or sex under the society's charter or laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age and sex according to the society's

promulgated rates and any extension thereof based on actuarial principles;

(xi) A provision or provisions which recite fully, or which set forth the substance of, all sections of the charter, constitution, laws, rules or regulations of the society, in force at the time of issuance of the certificate, the violation of which will result in the termination of, or in the reduction of, the benefit or benefits payable under the certificate; and

(xii) If the constitution or laws of the society provide for expulsion or suspension of a member, any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentations in such member's application for membership shall have the privilege of maintaining his insurance in force by continuing payment of the required premium.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may to the extent inapplicable, be omitted from the certificate.

(2) No life benefit certificate shall be delivered or issued for delivery in this State containing in substance any of the following provisions:

(i) Any provision limiting the time within which any action at law or in equity may be commenced to less than 2 years after the cause of action shall accrue;

(ii) Any provision by which the certificate shall purport to be issued or to take effect more than 6 months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made; or

(iii) Any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan while the total indebtedness, including interest, is less than the loan value of the certificate.

(3) The word "premiums" as used in this chapter means premiums, rates, or other required contributions by whatever name known.

§ 6121. Accident and health insurance and total and permanent disability insurance certificates

No society shall issue or deliver in this State any certificate or other evidence of any contract or accident insurance or health insurance or of any total and permanent disability insurance contract unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the Commissioner and approved by him as conforming to reasonable rules and regulations from time to time made by him and as not inconsistent with any other provisions of law applicable thereto. The Commissioner shall, within a reasonable time after the filing of any such form, notify the society filing the same either of his approval or of his disapproval of such form. The Commissioner may approve any such form which in his opinion contains provisions on any one or more of the several requirements made by him which are more favorable to the members than the one or ones so required. The Commissioner shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to the provisions of chapter 33 of this title. Where the Commissioner deems inapplicable, either in part or in their entirety, the provisions of the foregoing sections, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member. Any filing made hereunder shall be deemed approved unless disapproved within 60 days from the date of such filing.

§ 6122. Waiver

The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

§ 6123. Reinsurance

A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer (other than another fraternal benefit society) having the power to make such reinsurance and authorized to do business in this State, or if not so authorized, one which is approved by the Commissioner, but no such society may reinsure substantially all of its insurance in force without the written permission of the Commissioner. It may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after the effective date of this article, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

§ 6124. Annual license

Societies which are now authorized to transact business in this State may continue such business until the first day of April next succeeding the effective date of this title. The authority of such societies and all societies hereafter licensed, may thereafter be renewed annually but in all cases to terminate on the first day of the succeeding April. However, a license so issued shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the society shall pay the Commissioner \$25. A duly certified copy of duplicate of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

§ 6125. Foreign or alien society—admission

No foreign or alien society shall transact business in this State without a license issued by the Commissioner. Any such society may be licensed to transact business in this State upon filing with the Commissioner:

- (1) A duly certified copy of its charter or articles of incorporation;

(2) A copy of its constitution and laws, certified by its secretary or corresponding officer;

(3) A power of attorney to the Commissioner as prescribed in section 6129 of this chapter;

(4) A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the Commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the Commissioner of this State;

(5) A certificate from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein;

(6) Copies of its certificate forms; and

(7) Such other information as he may deem necessary; and upon a showing that its assets are invested in accordance with the provisions of this chapter.

Any foreign or alien society desiring admission to this State shall have the qualifications required of domestic societies organized under this chapter.

§ 6126. Injunction—liquidation—receivership of domestic society

(a) When the Commissioner upon investigation finds that a domestic society:

(1) Has exceeded its powers;

(2) Has failed to comply with any provision of this Article;

(3) Is not fulfilling its contracts in good faith;

(4) Has a membership of less than 400 after an existence of 1 year or more; or

(5) Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business; he shall notify the society of such deficiency or deficiencies and state in writing the reasons for his dissatisfaction. He shall at once issue a written notice to the society requiring that the de-

iciency or deficiencies which exist are corrected. After such notice the society shall have a 30-day period in which to comply with the Commissioner's request for correction, and if the society fails to comply the Commissioner shall notify the society of his findings of noncompliance and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in quo warranto should not be commenced against the society.

If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the Commissioner may present the facts relating thereto to the Attorney General who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto.

The court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order.

(b) No society so enjoined shall have the authority to do business until:

(1) The Commissioner finds that the violation complained of has been corrected;

(2) The costs of such action shall have been paid by the society if the court finds that the society was in default as charged;

(3) The court has dissolved its injunction; and

(4) The Commissioner has reinstated the certificate of authority.

(c) If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money and other assets of the society and, under the direction of the court, proceed forthwith to close the affairs of the society and to distribute its funds to those entitled thereto.

(d) No action under this section shall be recognized in any court of this State unless brought by the Attorney General upon

request of the Commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the Commissioner as such receiver.

(e) The provisions of this section relating to hearing by the Commissioner, action by the Attorney General at the request of the Commissioner, hearing by the court, injunction and receivership shall be applicable to a society which shall voluntarily determine to discontinue business.

§ 6127. Suspension; revocation or refusal of license of foreign or alien society

(a) When the Commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this State:

- (1) Has exceeded its powers;
- (2) Has failed to comply with any of the provisions of this chapter;
- (3) Is not fulfilling its contracts in good faith;

(4) Is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public; he shall notify the society of such deficiency or deficiencies and state in writing the reasons for his dissatisfaction. He shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist are corrected. After such notice the society shall have a 30-day period in which to comply with the Commissioner's request for correction, and if the society fails to comply the Commissioner shall notify the society of his findings of noncompliance and require the society to show cause on a date named why its license should not be suspended, revoked or refused. If on such date the society does not present good and sufficient reason why its authority to do business in this State should not be suspended, revoked or refused, he may suspend or refuse the license of the society to do business in this State until satisfactory evidence is furnished to him that such suspension or refusal should be withdrawn or he may revoke the authority of the society to do business in this State.

(b) Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good

faith all contracts made in this State during the time such society was legally authorized to transact business herein.

§ 6128. Licensing of agents

(a) Agents of societies shall be licensed in accordance with the provisions of this section.

(b) Insurance agent defined—The term “insurance agent” as used in this section means any authorized or acknowledged agent of a society who acts as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that the term “insurance agent” shall not include:

(1) Any regular salaried officer or employee of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(2) Any agent or representative of a society who devotes, or intends to devote, less than 50% of his time to solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of \$50,000, or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than 25 individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, 50% of his time to the solicitation or procurement of insurance contracts for such society.

(c) License required—Any persons who in this State acts as insurance agent for a society without having authority so to do by virtue of a license issued and in force pursuant to the provisions of this section shall, except as provided in subsection (b), be guilty of a misdemeanor.

(d) Payment of commissions forbidden—No society doing business in this State shall pay any commission or other compensation to any person for any services in obtaining in this

State any new contract of life, accident or health insurance, or any new annuity contract, except to a licensed insurance agent of such society and except an agent exempted under subsection (b) (ii) of this section.

(e) Prerequisites, issuance and renewal of insurance agents' licenses—

(1) The Commissioner may issue a license to any person who has paid an annual license fee of \$2 and who has complied with the requirements of this section, authorizing such licensee to act as an insurance agent on behalf of any society named in such license which is authorized to do business in this State.

(2) Before any insurance agent's license shall be issued there shall be on file in the office of the Commissioner of insurance the following documents:

(i) A written application by the prospective licensee in such form or forms and supplements thereto, and containing such information, as the Commissioner may prescribe; and

(ii) A certificate by the society which is to be named in such license, stating that such society has satisfied itself that the named applicant is trustworthy and competent to act as such insurance agent and that the society will appoint such applicant to act as its agent if the license applied for is issued by the Commissioner. Such certificates shall be executed and acknowledged by an officer or managing agent of such society.

(3) No written or other examination shall be required of any individual seeking to be named as licensee to represent a fraternal benefit society as its agent.

(4) The Commissioner may refuse to issue or renew any insurance agent's license if in his judgment the proposed licensee is not trustworthy and competent to act as such agent, or has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance or renewal, as the case may be, of such license.

(5) License years shall be from March 1st of each calendar year to the last day of February of the next calendar year. Every license issued pursuant to this section, and every renewal thereof, shall expire on March 1st of the license year for which issued.

(6) If the application for a renewal license shall have been filed with the Commissioner on or before the last day of February of the year in which the existing license was issued, the applicant named in such existing license may continue to act as insurance agent under such existing license, unless same shall be revoked or suspended, until the issuance by the Commissioner of the renewal license or until the expiration of 5 days after he shall have refused to renew such license and shall have served written notice of such refusal on the applicant. If the applicant shall, within 30 days after such notice is given, notify the Commissioner in writing of his request for a hearing on such refusal, the Commissioner shall, within a reasonable time after receipt of such notice, grant such hearing, and he may, in his discretion, reinstate such license.

(7) Any such renewal license of an insurance agent may be issued upon the application of the society named in the existing license. Such application shall be in the form or forms prescribed by the Commissioner and shall contain such information as he may require. Such application shall contain a certificate executed by the president, or by a vice president, a secretary, an assistant secretary, or corresponding officer by whatever name known, or by an employee expressly designated and authorized to execute such certificate of a domestic or foreign society or by the United States manager of an alien society, stating that the addresses therein given of the agents of such society for whom renewal licenses are requested therein have been verified in each instance immediately preceding the preparation of the application. Notwithstanding the filing of such application, the Commissioner may, after reasonable notice to any such society, require that any or all agents of such society to be named as licensees in renewal licenses shall execute and file separate applications for the renewal of such licenses, as hereinbefore specified, and he may also require that each such application shall be accompanied by the certificate specified in subsection (e) (2) (ii) of this section.

(f) Notice of termination of appointment of agent. Every society doing business in this State shall, upon the termination of the appointment of any agent licensed to represent it in this State, forthwith file with the Commissioner a statement, in such form as he may prescribe, of the facts relative to such termina-

tion and the cause thereof. Every statement made pursuant to this section shall be deemed a privileged communication.

(g) Revocation or suspension of agent's license—

(1) The Commissioner may revoke, or may suspend for such period as he may determine, any insurance agent's license if, after notice and hearing as specified in this section, he determines that the licensee has:

(i) violated any provision of, or any obligation imposed by, this section, or has violated any law in the course of his dealings as agent;

(ii) made a material misstatement in the application for such license;

(iii) been guilty of fraudulent or dishonest practices;

(iv) demonstrated his incompetency or untrustworthiness to act as an insurance agent; or

(v) been guilty of rebating as defined by the laws of this State applicable to life insurance companies.

(2) The revocation or suspension of any insurance agent's license shall terminate forthwith the license of such agent. No individual whose license has been revoked shall be entitled to obtain any insurance agent's license under the provisions of this section for a period of one year after such revocation or, if such revocation be judicially reviewed, for 1 year after the final determination thereof affirming the action of the Commissioner in revoking such license.

§ 6129. Service of process

Every society authorized to do business in this State shall appoint in writing the Commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this State. Copies of such appointment, certified by the Commissioner, shall be deemed sufficient evidence thereof and shall be

admitted in evidence with the same force and effect as the original thereof might be admitted.

Service shall only be made upon the Commissioner, or if absent, upon the person in charge of his office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the Commissioner, he shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than 30 days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein provided. At the time of serving any process upon the Commissioner, the plaintiff or complainant in the action shall pay to the Commissioner a fee of \$2.

§ 6130. Injunction

No application or petition for injunction against any domestic, foreign or alien society, or branch thereof, shall be recognized in any court of this State unless made by the Attorney General upon request of the Commissioner.

§ 6131. Review

All decisions and findings of the Commissioner made under the provisions of this chapter shall be subject to review by proper proceedings in any court of competent jurisdiction in this State.

§ 6132. Funds

All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in the contract.

A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certifi-

cates when valued according to standards required for certificates issued after 1 year from the effective date of this chapter, shall, in every provision of the laws of the society for payments by members of such society, in whatever form made, distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions thereto shall be used for expenses.

§ 6133. Investments

A society shall invest its funds only in such investments as are authorized by the laws of this State for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this State which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds.

§ 6134. Reports and valuations

Reports shall be filed and synopsis of annual statements shall be published in accordance with the provisions of this section.

(1) Every society transacting business in this State shall annually, on or before the 1st day of March, unless for cause shown such time has been extended by the Commissioner, file with the Commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee of \$25 for filing same. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the Commissioner.

(2) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than June 1 of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

(3) As a part of the annual statement herein required, each society shall, on or before the 1st day of March, file with the Commissioner a valuation of its certificates in force on December 31 last preceding, provided the Commissioner may, in his discretion for cause shown, extend the time for filing such valuation for not more than 2 calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present midyear value of the promised benefits provided in the certificates of such society in force and the present midyear value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present midyear value of future net premiums exceeds the present midyear value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to 1 year after the effective date of this chapter shall be determined in accordance with the provisions of law applicable prior to the effective date of this chapter and as to certificates issued on or after 1 year from the effective date of this chapter shall not be less than the reserves determined according to the Commissioner's reserve valuation method as hereinafter defined. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in such premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the midyear or tabular values are not appropriate.

(4) Reserves according to the Commissioner's reserve valuation method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such certificates, over the then present value of any future modified net premiums therefor. The modified net premiums for any such certificate shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the certificate and the excess of (i) over (ii), as follows:

(i) A net level premium equal to the present value, at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such certificate on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at issue of such certificate; and

(ii) A net 1-year term premium for such benefits provided for in the first certificate year. Reserves according to the Commissioner's reserve valuation method for (A) life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums, (B) annuity and pure endowment benefits, (C) disability and accidental death benefits in all certificates and contracts, and (D) all other benefits except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of this subsection.

(5) The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in the following subsection.

(6) Such valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

The minimum standards of valuation for certificates issued prior to the effective date of this chapter shall be those provided by the law applicable immediately prior to the effective date of this chapter but not lower than the standards used in the calculating of rates for such certificates.

The minimum standard of valuation for certificates issued after the effective date of this chapter shall be $3\frac{1}{2}\%$ interest and the following tables:

(i) For certificates of life insurance—American Men Ultimate Table of Mortality, with Bowerman's or Davis' extension thereof or with the consent of the Commissioner, the Commissioners 1941 Standard Ordinary Mortality Table, the Com-

missioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, using actual age of the insured for male risks and an age not more than 3 years younger than the actual age of the insured for female risks;

(ii) For annuity and pure endowment certificates, excluding any disability and accidental death benefits in such certificates—the 1937 Standard Annuity Mortality Table or the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the Commissioner;

(iii) For total and permanent disability benefits in or supplementary to life insurance certificates—Hunter's Disability Table, or the class III disability table (1926) modified to conform to the contractual waiting period, or the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries with due regard to the type of benefit. Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance certificates;

(iv) For accidental death benefits in or supplementary to life insurance certificates—the Inter-company Double Indemnity Mortality Tables or the 1959 Accidental Death Benefits Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance certificates; and

(v) For noncancellable accident and health benefits—the class III disability table (1926) with conference modifications or, with the consent of the Commissioner, tables based upon the society's own experience.

The Commissioner may, in his discretion, accept other standards for violation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The Commissioner may, in his discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this State. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of 3 consecutive years, the Commis-

sioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

Any society, with the consent of the Commissioner of the state of domicile of the society and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

(7) A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit \$100 for each day during which such neglect continues, and, upon notice by the Commissioner to that effect, its authority to do business in this State shall cease while such default continues.

§ 6135. Examination of domestic societies

The Commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic society and he shall make such examination at least once in every 3 years. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. The minutes of the proceedings of the supreme legislative or governing body and of the board of directors or corresponding body of a society shall be in the English language. In making any such examination the Commissioner may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and condition of the society. A summary of the report of the Commissioner and such recommendations or statements of the Commissioner as may accompany such report, shall be read at the first meeting of the board of directors or corresponding body of the society following the receipt thereof, and if directed so to do by the Commissioner, shall also be read at the first meeting of the supreme legislative or governing body of the society following the receipt thereof. A copy of the report, recommendations and statements of the Commissioner shall be furnished by the society to each member of such board of directors or other governing body. The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the so-

ciety examined or whose certificates are valued, upon statements furnished by the Commissioner.

§ 6136. Examination of foreign and alien societies

The Commissioner, or any person whom he may appoint, may examine any foreign or alien society transacting or applying for admission to transact business in this State. He may employ assistants and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. He may in his discretion accept, in lieu of such examination, the examination of the insurance department of the state, territory, district, province or country where such society is organized. The compensation and actual expenses of the examiners making any examination or general or special valuation shall be paid by the society examined or by the society whose certificate obligations have been valued, upon statements furnished by the Commissioner.

§ 6137. No adverse publications

Pending, during or after an examination or investigation of a society, either domestic, foreign or alien, the Commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any society, until a copy thereof shall have been served upon the society at its principal office and the society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding and to make such showing in connection therewith as it may desire.

§ 6138. Misrepresentation

(a) No person shall cause or permit to be made, issued or circulated in any form:

(1) Any misrepresentation or false or misleading statement concerning the terms, benefits or advantages of any fraternal insurance contract now issued or to be issued in this State, or the financial condition of any society;

(2) Any false or misleading estimate or statement con-

cerning the dividends or shares of surplus paid or to be paid by any society on any insurance contract; or

(3) Any incomplete comparison of an insurance contract of one society with an insurance contract of another society or insurer for the purpose of inducing the lapse, forfeiture or surrender of any insurance contract. A comparison of insurance contracts is incomplete if it does not compare in detail:

(i) The gross rates, and the gross rates less any dividend or other reduction allowed at the date of the comparison; and

(ii) Any increase in cash values, and all the benefits provided by each contract for the possible duration thereof as determined by the life expectancy of the insured; or if it omits from consideration;

(iii) Any benefit or value provided in the contract;

(iv) Any differences as to amount or period of rates; or

(v) Any difference in limitations or conditions or provisions which directly or indirectly affect the benefits. In any determination of the incompleteness or misleading character of any comparison or statement, it shall be presumed that the insured had no knowledge of any of the contents of the contract involved.

Any person who violates any provision of this section or knowingly receives any compensation or commission by or in consequence of such violation, shall upon conviction be punished by a fine not less than \$100 nor more than \$500, or by imprisonment in the county jail not less than 30 days nor more than 1 year, or both fine and imprisonment and shall in addition, be liable for a civil penalty in the amount of 3 times the sum received by such violator as compensation or commission, which penalty may be sued for and recovered by any person or society aggrieved for his or its own use and benefit in accordance with the provisions of civil practice.

§ 6139. Discrimination and rebates

No society doing business in this State shall make or permit any unfair discrimination between insured members of the same class and equal expectation of life in the premiums charged for certificates of insurance, in the dividends or other benefits payable thereon or in any other of the terms and conditions of the

contracts it makes.

No society, by itself, or any other party, and no agent or solicitor, personally, or by any other party, shall offer, promise, allow, give, set off, or pay directly or indirectly any valuable consideration or inducement to or for insurance on any risk authorized to be taken by such society, which is not specified in the certificate. No member shall receive or accept, directly or indirectly, any rebate or premium, or part thereof, or agent's or solicitor's commission thereon, payable on any certificate or receive or accept any favor or advantage or share in the dividends or other benefits to accrue on, or any valuable consideration or inducement not specified in the contract of insurance.

§ 6140. Taxation

Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax other than taxes on real estate and office equipment.

§ 6141. Exemptions

Except as herein provided, societies shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this State, not only in governmental relations with the state, but for every other purpose. No law hereafter enacted shall apply to them, unless they be expressly designated therein.

§ 6142. Exemption of certain societies

(a) Nothing contained in this chapter shall be so construed as to affect or apply to:

(1) Grand or subordinate lodges of societies, orders or associations now doing business in this State which provide benefits exclusively through local or subordinate lodges;

(2) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies'

societies or ladies' auxiliaries to such orders, societies or associations;

(3) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than \$400 or disability benefits of not more than \$350 to any person in any 1 year, or both; or

(4) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than \$400 or for disability benefits of not more than \$350 to any one person in any 1 year, or both.

Any such society or association described in clauses (3) or (4) *supra* which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in paragraph (4) which has more than 1,000 members, shall not be exempted from the provisions of this chapter but shall comply with all requirements thereof.

No society which, by the provisions of this section, is exempt from the requirements of this chapter, except any society described in paragraph (2), *supra*, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this chapter except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

The Commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this chapter.

Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this State.

§ 6143. Penalties

Any person who willfully makes a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any society, shall upon conviction be fined not less than \$100 nor more than \$500 or imprisonment in the county jail not less than 30 days nor more than 1 year, or both.

Any person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by this chapter, or of any material fact or thing contained in a sworn statement concerning the death or disability of a member for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this State shall upon conviction be fined not less than \$50 nor more than \$200.

Any person guilty of a willful violation of, or neglect or refusal to comply with, the provisions of this chapter for which a penalty is not otherwise prescribed, shall upon conviction, be subject to the penalties provided by section 113 (general penalty) of this title.

CHAPTER 63. HEALTH SERVICE CORPORATIONS**§ 6301. Provisions exclusive**

Health service corporations now or hereafter incorporated in this State shall be governed by this chapter, shall be exempt from all other provisions of this title, except as herein expressly provided, and no insurance law hereafter enacted shall be deemed to apply to such corporations unless they be specifically referred to therein.

§ 6302. Health service corporation defined

"Health service corporation" means a non-profit corporation, without capital stock, organized under the laws of this State for

the purpose of establishing, maintaining and operating plans to provide hospital, physicians' or related health services, or indemnity therefor, for such persons as become members or subscribers of any plan of such corporation.

§ 6303. Limited application

This chapter, other than section 6301 of this chapter, shall not apply to any corporation operating or maintaining a hospital service plan or medical service plan, participation in which is limited to its employees and the employees of other persons or corporations with which such corporation may have contracted to provide such services. As used in this section, the term "employees" may include members of the families of employees and retired employees.

§ 6304. Certificate of authority; when required; application

(a) No corporation shall engage in the business of a health service corporation without first obtaining a certificate of authority therefor from the Commissioner, except that this provision shall not apply to corporations which are engaged in such business in this State on the effective date of this Act.

(b) Application for a certificate of authority as a health service corporation shall be made on forms supplied by the Commissioner and containing such information as he shall reasonably deem necessary. The application shall be accompanied by a filing fee of \$25 and copies of the following documents:

(1) Certificate of incorporation;

(2) Bylaws;

(3) Forms of all proposed contracts between the applicant and participating hospitals, physicians and other providers of health services, showing the terms under which services are to be furnished to subscribers or members;

(4) Forms of all proposed contracts and optional riders to be offered for subscribers or members;

(5) Tables of rates to be charged for each such contract or rider, or a statement of the rating formulas to be used in lieu of fixed rates;

(6) Financial statement of the corporation, including the amounts of contributions paid or agreed to be paid to the corporation for working capital and the name or names of each contributor and the terms of each contribution;

(7) A statement of the areas in which the corporation proposes to operate; and

(8) A list of the names and addresses of the members of the board of directors or other governing body of the corporation and its principal officers.

(c) Every corporation engaging in the business of a health service corporation pursuant to the exception stated in subsection (a) above, shall, within 30 days after the effective date of this Act, file with the Commissioner copies of all the documents referred to in (1) through (8) of subsection (b), above, and pay therewith a filing fee of \$25.

§ 6305. Issuance of certificate of authority

The Commissioner shall issue a certificate of authority to the applicant when it is shown to his satisfaction that:

(1) The applicant is established as a bona fide nonprofit health service corporation;

(2) Arrangements have been made by the applicant reasonably to assure provision of the services covered by its contracts and riders;

(3) The amounts provided as working capital of the corporation are repayable, without interest, only out of operating revenues;

(4) The amount of money actually available for working capital is sufficient to carry on the plan for a period of 2 months from the date of issuance of the certificate of authority.

§ 6306. Filing required for contract or rate changes

No new or changed contract or rider shall be offered to the public, and no new or changed rate or rating formula shall be charged or employed, unless documentation with respect thereto as specified in section 6304 (b) of this chapter is first filed with the Commissioner.

§ 6307. Annual report; examination

(a) Not later than the first day of June of each year every such corporation shall file with the Commissioner a statement sworn to by at least two of its principal officers, showing its financial condition on the last day of the next preceding calendar year.

(b) The Commissioner may appoint an examiner to examine into the affairs of the corporation. Such person shall have the power of visitation and examination, shall have free access to all the books, papers and documents relating to the business of the corporation, and may require the officers, agents or employees thereof, or any other persons, to testify under oath concerning the affairs, transactions and conditions at least every three years. Except, that the confidentiality of information relating to the diagnosis and treatment of the members of such corporation shall be strictly maintained by the examiner. The reasonable cost of the examination shall be paid by the corporation upon completion of the examination.

§ 6308. Suspension or revocation of authority to do business

The Commissioner may, after hearing, suspend or revoke the right to do business or the certificate of authority for any of the following causes:

(1) If the corporation is no longer qualified therefor under this chapter;

(2) For a violation by the corporation of a provision of this chapter; or

(3) Upon any applicable ground under this chapter or any of the chapters specified in section 6309 of this chapter for which the certificate of authority of an insurer may be suspended or revoked.

§ 6309. Other provisions applicable

Such corporations shall be subject to the provisions of this chapter, and to the following chapters and provisions of this title, to the extent applicable and not in conflict with the express provisions of this chapter:

- (1) Chapter 1 (general definitions and provisions).
- (2) Chapter 3 (the Insurance Commissioner).
- (3) Chapter 23 (trade practices and frauds).
- (4) Chapter 59 (rehabilitation and liquidation).

CHAPTER 65. INSURANCE FOR THE PROTECTION OF THE STATE OF DELAWARE

§ 6501. Insurance for the protection of the State and the Public

(1) Determination of coverage. The Governor, the State Auditor, and the Insurance Commissioner shall from time to time determine the method, the amount of insurance, and the class of coverage covering any type of risk, including but not limited to property, fidelity and surety, life, accident and health, workmen's compensation, marine, to be effected and carried by the State or any subdivision thereof, including all school districts, but excepting however municipal corporations, counties, and the authorities relating to the crossings of the Delaware River and the Delaware Bay.

(2) Form of coverage. The Governor, the State Auditor, and the Insurance Commissioner shall:

- (a) Protect the State from loss to state owned property;
- (b) Protect the public from wrongful actions of State officials and employees and failure or malfunction of state owned property;
- (c) Secure the economic advantage of blanket policies and deductible or excess loss insurance;
- (d) Determine such insurance protection by no insurance on small losses, commercial insurance, self-insurance, or a combination of methods.

(3) Payment of premiums. The Insurance Commissioner shall establish necessary rules and regulations, demand and receive all bills for premiums to be paid, and after approval by himself, the Governor, and the State Auditor, shall present the same for payment to the State Treasurer, who shall pay the same.

§ 6502. Establishment of Insurance Purchasing and Administrative Office

There is hereby established under the direction of the Insurance Commissioner an Insurance Purchasing and Administrative Office, the executive head of which shall be the Director of Insurance Purchasing, who shall be appointed by and serve at the pleasure of the Insurance Commissioner.

§ 6503. Qualifications of Director of Insurance Purchasing

The Director of Insurance Purchasing shall be so qualified by virtue of his education and experience, and shall not during his tenure of office be associated directly or indirectly with any insurance agency, firm, or corporation, and shall before entering upon the duties of his office file with the Secretary of State a bond in the penal sum of Fifty Thousand Dollars (\$50,000.00) with corporate surety approved by the Insurance Commissioner. The Director shall be charged with and responsible for the administration of the Insurance Purchasing and Administrative Office as herein provided.

§ 6504. Salary of Director of Insurance Purchasing

The salary of the Director of Insurance Purchasing shall be not less than Ten Thousand Dollars (\$10,000.00) per year. The Director shall be in the classified service of the State by virtue of said employment.

§ 6505. Duties of the Insurance Purchasing and Administrative Office

The Insurance Purchasing and Administrative Office shall provide:

(a) The placement of all insurance as has been determined necessary by the Governor, the State Auditor, and the Insurance Commissioner.

(b) Centralized responsibility vested in a single agency with an adequate staff of legal, actuarial and administrative personnel.

(c) The establishment of an Open Bid procedure to be maintained for purchasing new insurance and renewing existing

contracts which permits the free forces of market competition to operate to the benefit of the insurance program.

(d) The keeping of policies and records thereof in some safe and secure place.

(e) The preparation of reports as requested by the Insurance Commissioner. Such reports shall present the basic statistical-actuarial data pertaining to the experience of the program and its component parts, provide sufficient information about bidding procedures as required by the statutes of the State of Delaware so that any qualified insurance firm may have an opportunity to offer its services to the State, and such report shall be a public document.

(f) Periodic comprehensive insurance surveys of program needs, and a continuing review of existing insurance contracts as well as analyses of rates in terms of changing economic conditions, and periodic studies of market conditions and developments.

(g) Special investigations and reports as may be requested by the Insurance Commissioner.

§ 6506. Insurance by other agencies of the State

No agency of the State as herein provided shall be authorized to place any insurance, any provisions of the law to the contrary notwithstanding.

§ 6507. Existing insurance contracts

Existing insurance contracts and any renewals thereof may continue in full force and effect unless and until otherwise provided by the Director of Insurance Purchasing.

§ 6508. Defense of sovereignty prohibited

Every insurance contract where appropriate shall contain a provision agreeing on behalf of the insurer that the defense of sovereignty is waived and cannot and will not be asserted.

Section 2. Every certificate of authority of an insurer in force immediately prior to the effective date of this Act and existing under any law herein repealed shall be valid until midnight of

the last day of February next following such effective date, unless earlier terminated in accordance with this Act. Such certificate of authority upon first renewal under this Act shall be replaced by a certificate of authority in form as consistent with this Act, and shall thereafter be subject to continuance, suspension, revocation or termination as though originally issued under this Act.

Section 3. Every license of an agent or broker in force immediately prior to the effective date of this Act and existing under any law herein repealed shall be valid until midnight of the last day of February next following such effective date, unless earlier suspended, revoked, or terminated in accordance with this Act. The respective such licenses upon first renewal under this Act shall be replaced by a license in form consistent with this Act, and shall thereafter be subject to continuation, suspension, revocation, or termination as though originally issued under this Act.

Section 4. Every form of insurance document and every rate or other filing lawfully in use immediately prior to the effective date of this Act may continue to be so used or be effective until the Commissioner otherwise prescribes pursuant to this Act; except, that before expiration of one year from and after such effective date neither this Act nor the Commissioner shall prohibit the use of any such document, rate, or filing because of any power, prohibition, or requirement contained in this Act which did not exist under laws in force immediately prior to such effective date, unless expressly otherwise provided in this Act.

Section 5. Continuation by this Act of the Insurance Department and the office of Insurance Commissioner, existing under any law repealed herein, preserves such department, the tenure and compensation of the individual holding such office at the effective date of this Act, and the unexpended budgeted funds of the department.

Section 6. Any deposit made in this State under any law repealed herein, with or through the Insurance Department or the Commissioner, or by any insurer in compliance with a condition precedent to or in connection with its certificate of authority to transact insurance in this State, and so on deposit immediately prior to the effective date of this Act, shall be given

full recognition as fulfillment, to the extent of such deposit, of any deposit so required for similar purposes under this Act. The deposit shall hereafter be held for the purpose applicable thereto as specified in this Act, and shall be subject in all respects to the provisions of this Act applicable to similar deposits newly made under this Act.

Section 7. Any laws of Delaware, other than this Act, remaining in force after the effective date of this Act which refer to certain provisions of law repealed under this Act, shall be deemed to refer to those provisions of this Act which are in substance the same or substantially the same as such repealed provisions.

Section 8. This Act shall not impair or affect any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred, prior to the time this Act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this Act had not been passed.

Section 9. If any section, subsection, subdivision, paragraph, sentence, part or provision of this Act shall be found to be invalid or ineffective by any court it shall be conclusively presumed that this Act would have been passed by the General Assembly without such invalid section, subsection, subdivision, paragraph, sentence, part, or provision, and this Act as a whole shall not be declared invalid by reason of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, part or provision may be found invalid.

Section 10. Except as otherwise expressly provided the respective provisions of this Act, and this Act, shall be in full force and effect on the first day of the fourth month next following the month in which this Act is enacted.

Section 11. Any law inconsistent with the provisions herein contained is hereby repealed.

Approved July 3, 1968.

CHAPTER 381

**AN ACT PROPOSING AN AMENDMENT TO ARTICLE II,
SECTION 4 OF THE CONSTITUTION OF THE STATE
OF DELAWARE, RELATING TO THE TIME AND FRE-
QUENCY OF SESSIONS AND PROVIDING TERMINA-
TION DATES.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all members elected to each branch thereof concurring therein):

Section 1. Section 4, Article II, of the Constitution of the State of Delaware is amended by striking said section in its entirety and adding in lieu thereof the following new Section 4:

Section 4. The General Assembly shall convene on the second Tuesday of January of each calendar year unless otherwise convened by the Governor, or by mutual call of the presiding officers of both Houses.

The General Assembly may continue in session each calendar year so long as, in its judgment, the public interest may require; however, each session shall not extend beyond the last day of June unless the session is recalled by the Governor or the mutual call of the presiding officers of both Houses.

CHAPTER 382

**AN ACT TO AMEND TITLE 16, DELAWARE CODE, WITH
RESPECT TO APPROVAL OF CONSTRUCTION AND
RECONSTRUCTION OF BUILDINGS TO BE USED FOR
PUBLIC EATING PLACES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Subchapter II, Chapter 1, Title 16, Delaware Code, is amended by adding a new section to read as follows:

§ 133. Sanitary facilities of public eating places; permits; approval of construction

(a) No person shall operate any public eating place unless the State Board of Health shall approve the sanitary facilities thereof and issue a permit therefor.

(b) Any person who proposes to erect or construct a building to be used as a public eating place or to alter, enlarge, reconstruct or convert an existing building for such purpose shall submit plans and specifications for such work, including a plot of the land detailing the sanitary facilities to be provided to the State Board of Health, and no work shall be undertaken until the said Board shall approve the sanitary arrangements and facilities proposed in such plans and specifications.

Section 2. This Act shall be effective with respect to licenses issued on or after July 1, 1967.

Approved July 5, 1968.

CHAPTER 383

**AN ACT TO AMEND SECTION 122, CHAPTER 1, TITLE 16,
DELAWARE CODE, RELATING TO THE GENERAL
POWERS AND DUTIES OF THE STATE BOARD OF
HEALTH.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 122, Title 16, Delaware Code, is amended by striking therefrom the words "Control the practice of midwifery" appearing in subsection (3) (I) of said section and inserting in lieu thereof the words "Control the practice of midwifery and protect and promote the health of mothers and children."

Approved July 5, 1968.

CHAPTER 384

ON ACT TO AMEND TITLE 11, SUBCHAPTER XVI, DELAWARE CODE, RELATING TO DEADLY WEAPONS AND FIREARMS BY ADDING A NEW SECTION MAKING IT A CRIME FOR CERTAIN PERSONS TO PURCHASE OR POSSESS FIREARMS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 11, Subchapter XVI, Delaware Code, is hereby amended by adding a new section designated "§ 470" as follows:

§ 470. Purchase and possession of firearms by certain persons prohibited

Any person, having been convicted in this State or elsewhere of a felony or a crime of violence involving bodily injury to another, whether or not armed with, or having in his possession any firearm during the commission of such felony, or crime of violence, or any person who has ever been committed for a mental disorder to any hospital, mental institution or sanatorium (unless he possesses a certificate of a medical doctor or psychiatrist licensed in Delaware that he is no longer suffering from a mental disorder which interferes with or handicaps him in the handling of a firearm), or any person who has been convicted for the unlawful use, possession, or sale of a narcotic or non-narcotic drug, who purchases, owns, possesses, or controls any firearm or weapon capable of firing a missile or projectile with sufficient force to cause death or serious bodily injury shall be fined not less than \$500 nor more than \$2,000, or imprisoned not less than 90 days nor more than 5 years, or both.

Section 2. Any person who has ever been committed for a mental disorder to any hospital, mental institution or sanatorium shall be granted 60 days from the enactment of this Act to procure and possess a certificate from the State Board of Trustees of the Mental Health Department stating that he is no longer suffering from a mental disorder which interferes with or handicaps him in the handling of a firearm.

Section 3. Any person having been convicted in this State or elsewhere of a felony or a crime of violence involving bodily injury to another, or having been convicted for the unlawful use, possession, or sale of a narcotic or non-narcotic drug, may apply to the State Board of Pardons for permission to purchase, own, or possess a firearm. The decision of the Board shall be final. The Board may adopt such rules, regulations and procedures as are necessary to effectuate the provisions of this section.

Approved July 5, 1968.

CHAPTER 385

AN ACT TO AMEND SECTION 2330 (d), CHAPTER 23, TITLE 19, DELAWARE CODE, RELATING TO COMPENSATION FOR DEATH UNDER WORKMEN'S COMPENSATION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 2330 (d), Chapter 23, Title 19, Delaware Code, is amended by striking the first sentence and inserting in lieu thereof the following:

Compensation shall be payable under this section to a widow, (1) if she was living with her deceased husband at the time of his death, (2) if she received or had the right to receive support at the time of his death, (3) if she was deserted by him prior to and continuing at the time of his death, otherwise compensation shall be distributed to the persons who would be dependents in case there were no widow.

Approved July 5, 1968.

CHAPTER 386

AN ACT TO AMEND SECTION 5501, TITLE 29, DELAWARE CODE, RELATING TO QUALIFICATION OF BLIND OPERATORS OF CONCESSION STANDS UNDER THE CONTROL OF THE DELAWARE COMMISSION FOR THE BLIND, WITHIN THE STATE EMPLOYEE'S PENSION PLAN.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 5501, Title 29, Delaware Code, is hereby amended by adding the following words after "Teachers of the deaf in the Delaware School for Deaf Children, Inc., during the years 1934 to 1945 inclusive;" and before the words "Librarian of Judges' Library, New Castle County;" to read as follows:

"Blind Operators of Concession Stands under the control of the Delaware Commission for the Blind, from the year 1948 on;"

Approved July 5, 1968.

CHAPTER 387

AN ACT TO AMEND CHAPTER 27, TITLE 21, DELAWARE CODE, BY PROVIDING PENALTIES FOR ANY PERSON DRIVING DURING THE PERIOD OF SUSPENSION OF HIS OPERATOR'S, CHAUFFEUR'S OR TAXI CAB DRIVER'S LICENSE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 27, Title 21, Delaware Code, is amended by striking § 2746 in its entirety and inserting in lieu thereof a new § 2746 to read as follows:

§ 2746. Driving vehicle while license is suspended or revoked; penalty

Any person whose operator's or chauffeur's license has been suspended or revoked, as provided in this chapter, and who drives any motor vehicle upon the highways of this State while such license is suspended or revoked, shall, for the first offense, be imprisoned not less than thirty days nor more than six months, and may, in addition, be fined not more than \$200. For each subsequent like offense, he shall be imprisoned not less than sixty days nor more than six months and may, in addition, be fined not more than \$200.

Section 2. Chapter 27, Title 21, Delaware Code, is amended by striking § 2780 in its entirety and substituting in lieu thereof a new § 2780 to read as follows:

§ 2780. Driving while license is suspended or revoked; penalty

Any person whose taxi cab driver's license has been suspended or revoked, as provided in this chapter, and who drives any motor vehicle upon the highways of this State while such license is suspended or revoked, shall, for the first offense, be imprisoned not less than thirty days nor more than six months and may, in addition, be fined not more than \$200. For each like subsequent offense he shall be imprisoned not less than sixty days nor more than six months, and may, in addition, be fined not more than \$200.

Section 3. No offense committed or penalty incurred prior to the date of this act shall be affected by the passage of this act, but sections 2746 and 2780 of Chapter 27, Title 21, Delaware Code, in effect as of the date of the commission of any offense thereunder or of the imposition of any penalty thereunder, shall continue in full force and effect as to all such offenses and penalties.

Approved July 5, 1968.

CHAPTER 388

AN ACT TO AMEND CHAPTER 11, TITLE 30, DELAWARE CODE, RELATING TO INCOME TAX.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 1101, Title 30, Delaware Code, is amended by adding the following definition to said Section:

“Head of Household” means an individual who is (1) not married or (2) who is married and not living with his spouse at the close of his taxable year, and either:

(1) maintains as his home a household which constitutes for such taxable year the principal place of abode, as a member of such household, of:

(a) a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if such son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a deduction for the taxable year for such person under Section 1117; or

(b) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under Section 1117; or

(2) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such father or mother under Section 1117.

For purposes of this definition:

(1) an individual shall be considered as maintaining a household only if over half of the cost of maintaining the household during the taxable year is furnished by such individual;

(2) a legally adopted child of a personal shall be considered a child of such person by blood;

(3) an individual who is legally separated from his spouse

under a decree of divorce or of separate maintenance shall not be considered as married;

(4) a taxpayer shall be considered as not married at the close of his taxable year if at any time during the taxable year his spouse is a non-resident alien; and

(5) a taxpayer shall be considered as married at the close of his taxable year if his spouse died during the taxable year.

Section 2. § 1117, Title 30, Delaware Code, is amended by adding to subsection (a) thereof a new paragraph number (5) to read as follows:

“(5) An additional exemption of \$300 for the taxable year if he is a head of household.”

Section 3. This Act shall take effect on January 1, 1968.

Approved July 5, 1968.

CHAPTER 389

AN ACT TO AMEND SECTION 122, TITLE 16, DELAWARE CODE, RELATING TO STATE BOARD OF HEALTH BY GRANTING THE POWER TO REGULATE MEDICAL EXAMINAIONS FOR FOOD HANDLERS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 122 (3), Title 16, Delaware Code, is amended by adding the following new subparagraphs:

(L) Provide the mechanism for yearly medical examination of all persons engaged in the preparation and service of food and drink for human consumption in commercial establishments where such persons come in physical contact with the food or drink prepared or served, such examinations to include blood tests and chest x-ray.

(M) Provide the mechanism for medical examinations of all applicants for food handling employment if such employment involves preparation of food and drink for human consumption in commercial establishments where such persons come in physical contact with food or drink prepared or served, such examinations to include blood tests and chest x-ray.

Section 2. The effective date of this Act shall be 6 months subsequent to its approval.

Approved July 5, 1968.

CHAPTER 390

AN ACT TO AMEND CHAPTER 27, TITLE 21, DELAWARE CODE, RELATING TO DRIVER'S LICENSE AND PERMITS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Delaware Code, Title 21, Chapter 27, Subchapter I, Section 2706, is amended by adding to that Section a new subparagraph (8) as follows:

(8) Person who has not reached his 18th birthday and who has not successfully completed a course in Driver Education in a public or private high school in the State of Delaware, such course having been approved by the State Board of Education and meeting the standards for such courses described by that Board.

Section 2. Delaware Code, Title 21, Chapter 27, Subchapter I, is further amended by adding to Section 2708 a new subsection (d) as follows:

(d) No person shall be issued a temporary instruction permit who has not reached his 18th birthday and who is not currently enrolled in or who has not successfully completed a course in Driver Education in a public or private high school in the State of Delaware, such course having been approved by the State Board of Education and meeting the standards for such courses described by that Board.

Section 3. Effective date of this Act shall be September 1, 1969.

Approved July 5, 1968.

CHAPTER 391

AN ACT TO AMEND SECTION 2-316 OF TITLE 5A OF THE DELAWARE CODE RELATING TO THE EXCLUSION OR MODIFICATION OF WARRANTIES AND PROVIDING THAT BLOOD, BLOOD PLASMA AND CERTAIN OTHER HUMAN TISSUE AND ORGANS FROM BLOOD BANKS OR RESERVOIRS OF SUCH TISSUES AND ORGANS SHALL NOT BE CONSIDERED "COMMODITIES" OR "GOODS" AND SUBJECT TO CERTAIN PROVISIONS OF THE UNIFORM COMMERCIAL CODE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2-316 of Title 5A of the Delaware Code, is hereby amended by adding at the end the following subsection:

(5) The implied warranties of merchantability and fitness shall not be applicable to a contract for the sale of human blood, blood plasma or other human tissue or organs from a blood bank or reservoir of such other tissues or organs. Such blood, blood plasma or tissue or organs shall not for the purposes of this Article be considered commodities or goods subject to sale or barter, but shall be considered as medical services.

Approved July 5, 1968.

CHAPTER 392

AN ACT TO AMEND SECTION 2143(c), SUBCHAPTER III, CHAPTER 21, TITLE 21, DELAWARE CODE, RELATING TO INSPECTION OF VEHICLES, BY MAKING AN EXCEPTION FOR SCHOOL BUSES TO THE POWER OF THE MOTOR VEHICLE DEPARTMENT TO WAIVE INSPECTION REQUIREMENTS AS TO A VEHICLE FLEET.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2143(c), Subchapter III, Chapter 21, Title 21, Delaware Code, is hereby amended by adding at the end of said subsection (c) of said Section 2143 the following sentence:

Such fleet account waiver shall not apply to fleets of school buses which transport pupils of any public, parochial or private school of the State.

Approved July 5, 1968.

CHAPTER 393

**AN ACT TO AMEND SUBCHAPTER III, CHAPTER 21,
TITLE 21, DELAWARE CODE, RELATING TO INSPEC-
TION OF VEHICLES BY ADDING A NEW SECTION
PROVIDING A TWICE YEARLY SPECIAL INSPEC-
TION OF SCHOOL BUSES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Subchapter III, Chapter 21, Title 21, Delaware Code, is hereby amended by adding a new "§ 2145" as follows:

§ 2145. School bus inspection

All school buses which transport pupils of any public, parochial or private school of the State shall receive a special inspection twice yearly at such time and place as specified by Department regulations. At such inspection each school bus shall be inspected by the Department to determine if it is safe and fit for operation and properly equipped, and a special check shall be accomplished with respect to specific school bus safety features in accordance with rules and regulations adopted by the Department.

Approved July 5, 1968.

CHAPTER 394

AN ACT TO AMEND TITLE 11, CHAPTER 41, SECTION 4104 OF THE DELAWARE CODE BY ADDING THERETO TWO NEW SUBSECTIONS AUTHORIZING THE STATE TREASURER TO REMIT FINES AND/OR COSTS TO PERSONS WHOSE CONVICTIONS HAS SUBSEQUENTLY BEEN SET ASIDE BY THE JUSTICE OF THE PEACE COURT AND THE COURT OF COMMON PLEAS WHEREIN THE FINE AND/OR COSTS WAS PAID, AND PROVIDING FOR THE NECESSARY PROCEDURE AND CERTIFICATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 4104, Chapter 41, Title 11, of the Delaware Code, is hereby amended by adding thereto two new subsections, designated as subsection (c) and (d), to read as follows:

(c) The State Treasurer shall likewise remit the amount of any fine and/or costs to each person, or the attorney of such person, who has paid a fine upon conviction before a Justice of the Peace, which conviction was later set aside by the same Justice of the Peace Court. The State Treasurer shall pay such refund upon proper voucher drawn by such person, or by the attorney of such person, upon whom the fine was originally imposed when the voucher is accompanied by a certified copy of the docket entries of the case in the Justice of the Peace Court showing the setting aside of the conviction, together with the certificate of the Chief Justice of the Supreme Court of the State of Delaware verifying the final disposition of the case and stating that the remittance of the fine and/or costs to such person is proper.

(d) The State Treasurer shall likewise remit the amount of any fine and/or costs to each person, or the attorney of such person, who has paid a fine upon conviction in the Court of Common Pleas, which conviction was later set aside by the same Court of Common Pleas. The State Treasurer shall pay such refund upon proper voucher drawn by such person, or by the attorney of such person, upon whom the fine was originally im-

posed when the voucher is accompanied by a certified copy of the docket entries of the case in the Court of Common Pleas showing the setting aside of the conviction together with the certificate of the Clerk of the Court of Common Pleas verifying the final disposition of the case and stating that the remittance of the fine and/or costs to such person is proper."

Approved July 5, 1968.

CHAPTER 395

AN ACT TO AMEND SECTION 675, CHAPTER 3, TITLE 11, DELAWARE CODE RELATING TO REVOCATION OF SERVICE CONTRACTS AND EXEMPTION FROM LIABILITY.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 675, Chapter 3, Title 11, of the Delaware Code, is amended by repealing its provisions in their entirety and substituting therefor the following language:

(1) The Attorney General, if he has reasonable cause to believe that any communications service furnished by a public utility is being used or will be used to disseminate information in furtherance of gambling or for gambling purposes, may give notice to the person who has contracted with or is applying to the public utility for such service that he intends to apply for an order of the Superior Court of the State of Delaware or an order of the Public Service Commission of the State of Delaware that the communications service contract be revoked, or the application for such service be denied.

(2) Proceedings to obtain such order may thereafter be instituted against such person by the Attorney General either in the Superior Court or before the Public Service Commission and notice thereof shall be given in accordance with the rules of either the Court or Commission, as the case may be.

(3) If the Court or Commission before which the hearing has been held, determines that there is probable cause to believe that the communications service furnished or to be furnished by the public utility is being used or will be used to disseminate information in furtherance of gambling or for gambling purposes, it shall order that the contract to furnish such service be revoked, or that the application for such service be denied.

(4) The procedure set forth above in subsections (1) through (3) of this section may be invoked by a public utility if it has reasonable cause to believe that any communications service furnished by it is being used or will be used to disseminate

information in furtherance of gambling or for gambling purposes. If it elects to take such action as is permitted in the above subsections it shall so notify the Attorney General promptly.

(5) No public utility shall be held liable at law or in equity for revocation of a contract, or denial of an application, for such communications service when ordered to do so as provided by this section.

Approved July 5, 1968.

CHAPTER 396

AN ACT TO AMEND PART VIII, TITLE 8 OF THE DELAWARE CODE ENTITLED "MEAT AND POULTRY PRODUCTS INSPECTION ACT" TO PROVIDE FOR THE CONFORMITY OF DELAWARE LAW WITH THE FEDERAL MEAT INSPECTION ACT TO BE EFFECTED BY AMENDING AND REPEALING EXISTING LAWS PERTAINING THERETO.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 8703, Subchapter I, Chapter 87, Title 3, Delaware Code, is amended to read as follows:

§ 8703. Definitions

As used in this Chapter—

(a) "Intrastate commerce" means commerce within this State.

(b) "Board" means the State Board of Agriculture of this State, or any person authorized to act in its stead.

(c) "Board of Health" means the State Board of Health.

(d) "Chief Inspector" means the employee of the State Board of Agriculture designated to be the Chief enforcement officer for this Chapter.

(e) "Livestock" means cattle, sheep, swine, goats, horses, mules or other equines.

(f) "Meat" means any edible part of the carcass of any livestock.

(g) "Meat food product" means any article of food, or any article intended for or capable of use as human food, which is derived or prepared, in whole or in part, from any portion of any livestock unless exempted by the Board upon its determination that the article (1) contains only a minimal amount of meat and is not represented as a meat food product or (2) is for medicinal purposes and is advertised only to the medical profession.

(h) "Poultry" means any live or slaughtered domesticated bird.

(i) "Poultry product" means any poultry which has been slaughtered for human food from which the blood, feathers, feet, head, and viscera have been removed in accordance with rules and regulations promulgated by the Board, any edible part of poultry, or any human food product consisting of any edible part of poultry separately or in combination with other ingredients. However, any such human food product may be exempted from this definition by the Board upon its determination that the product (1) contains only a minimal amount of poultry and is not represented as a poultry product or (2) is used for medicinal purposes and is advertised only to the medical profession.

(j) "Wholesome" means sound, healthful, clean and otherwise fit for human food.

(k) "Adulterated" shall apply to any livestock or poultry carcass, part thereof, meat food product or poultry product under one or more of the following circumstances:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but, in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quality of such substance does not ordinarily render it injurious to health;

(2) If it bears or contains any added poisonous or added deleterious substance, unless such substance is permitted in its production or unavoidable under good manufacturing practices as may be determined by rules and regulations prescribed by the Board; Provided, that any quantity of such added substances exceeding the limit so fixed shall also be deemed to constitute adulteration;

(3) If any substance has been substituted, wholly or in part, therefor;

(4) If damage or inferiority has been concealed in any manner;

(5) If any valuable constituent has been in whole or in part omitted or abstracted therefrom;

(6) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce

its quality or strength, or make it appear better or of greater value than it is;

(7) If it is unsound, injurious to health, containing any biological residue not permitted by rules or regulations prescribed by the Board, or otherwise rendered unfit for human food;

(8) If it consists in whole or in part of any filthy, putrid, or decomposed substance;

(9) If it is processed, prepared, packed, or held under unsanitary conditions whereby any livestock or poultry carcass or part thereof or any meat food product or poultry product may have become contaminated with filth or may have been rendered injurious to health;

(10) If it is produced in whole or in part from livestock or poultry which has died otherwise than by slaughter; or

(11) If it is packaged in a container composed of any poisonous or deleterious substance which may render the contents injurious to health.

Section 2. § 8707, Subchapter II, Chapter 87, Title 3, Delaware Code, is amended to read as follows:

§ 8707. Inspection required

(a) For the purpose of preventing the entry into or movement in intrastate commerce of any livestock or poultry carcass, part thereof, meat food product or poultry product which is unwholesome or adulterated and is intended for or capable of use as human food, the Chief Inspector shall cause to be made by inspectors ante-mortem inspection of livestock and poultry in any official establishment where livestock or poultry are slaughtered for such commerce.

(b) For the purpose stated in subsection (a), the Chief Inspector whenever slaughtering or other processing operations are being conducted, shall cause to be made by inspectors post-mortem and processing inspection of the carcasses and parts thereof of each animal and bird slaughtered in any such official establishment and shall cause to be made by inspectors an inspection of all meat food products and poultry products pro-

cessed in any official establishment in which meat food products or poultry products are processed for intrastate commerce.

Section 3. § 8709 (c), Subchapter II, Chapter 87, Title 3, Delaware Code, is hereby amended to read as follows:

"(c) Each carcass or part thereof which is found on antemortem, post-mortem or process inspection to be unsound, unhealthful, unwholesome, or otherwise unfit for human food, shall be marked conspicuously by the inspector at the time of inspection with the words, "Delaware inspected and condemned, and shall be destroyed for food purposes by the official establishment in the presence of an inspector."

Section 4. Subchapter II, Chapter 87, Title 3, Delaware Code, is hereby amended by adding a new section designated § 8710 to read as follows:

§ 8710. Meat inedible by humans; identification

Inspection shall not be required under this chapter at any establishment for the slaughter of cattle, sheep, swine, goats, horses, mules, or other equines, or the preparation of any carcasses or parts or products of such animals, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by the regulations of the Board to deter their use for human food. No person, firm, or corporation shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses, parts thereof, meat or meat food products of any such animals, which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Board or are naturally inedible by the humans.

Section 5. § 8711, Subchapter III, Chapter 87, Title 3, Delaware Code, is hereby amended to read as follows:

License for operating official establishments, etc.

No person, firm or corporation shall engage in business, in or for intrastate commerce, as a meat broker, renderer, or

animal food manufacturer, or engage in business in intrastate commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any cattle, sheep, swine, goats, horses, mules, or other equines, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such article in or for intrastate commerce, or engage in the business of buying, selling, or transporting in intrastate commerce any dead, dying, disabled, or diseased animals of the specified kinds, or parts of the carcasses of any such animals that died otherwise than by slaughter, or operate and maintain an official establishment within this State without first having received a license from the Board.

Section 6. § 8721 (a), Subchapter IV, Chapter 87, Title 3, Delaware Code, is hereby amended by striking Paragraphs (3), (4), and (5).

Section 7. § 8725, Subchapter V, Chapter 87, Title 3, Delaware Code, is hereby amended by adding after the word "received" and before the word "shall" the following:

"or engaged in business as renderers, or engaged in the business of buying, selling, or transporting in intra-state commerce any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules, or other equines or part of the carcasses of any such animals that died otherwise than by slaughter,"

Section 8. § 8726, Subchapter V, Chapter 87, Title 3, Delaware Code, is hereby amended by striking Paragraphs "(b)" and "(1)" and adding thereto a new subparagraph designated "(o)".

"(o) The buying, selling, transporting, offering for sale or transport, or receiving for transporting in intrastate commerce by a person, firm or corporation engaged in the business of buying, selling or transporting in intrastate commerce dead, dying, disabled or diseased animals, or any parts of the carcasses of any animal that died otherwise than by slaughter, unless such transportation, transaction, or importation is made in accordance with such regulation as the Board may prescribe to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes."

Section 9. § 8727, Subchapter V, Chapter 87, Title 3, Delaware Code, is hereby amended by adding thereto two new paragraphs designated "d" and "e".

§ 8927. (d) Any person, firm, or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the State of Delaware authorized to perform any of the duties prescribed by this Chapter or by the rules and regulations of the State Board of Agriculture any money or other thing of value, with intent to influence said inspector, deputy inspector, chief inspector, or other officer or employee of the State of Delaware in the discharge of any duty provided for in said Chapter, shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by a fine of not less than \$5,000 nor more than \$10,000 and by imprisonment not less than one year nor more than three years; and any inspector, deputy inspector, chief inspector, or other officer or employee of the State of Delaware authorized to perform any of the duties prescribed by said Chapter who shall accept any money, gift or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with the intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in intrastate, interstate or foreign commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever, shall be deemed guilty of a felony and shall, upon conviction thereof, be summarily discharged from office and shall be punished by a fine not less than \$1,000 nor more than \$10,000 and by imprisonment not less than one year nor more than three years.

§ 8727. (e) Any person who forceably assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Chapter shall be fined not more than \$5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

Section 11. § 8729, Subchapter V, Chapter 87, Title 3, Delaware Code, is hereby amended by striking the period and adding thereafter the following:

“, or if the Board determines that such applicant or recipient is unfit to engage in any business requiring inspection because the applicant or recipient, or any one responsibly connected with the applicant or recipient, has been convicted, in any State or Federal court of (1) any felony, or (2) more than one violation of any law, other than a felony, based upon the acquiring, handling or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock or an employee in a managerial or executive capacity.”

Section 12. Chapter 87, Title 3, Delaware Code, is hereby amended by adding thereto a new Subchapter VII to read as follows:

SUBCHAPTER VII. AUXILIARY PROVISIONS

§ 8740. Administrative; detention

Whenever any carcass, part of carcass, meat or meat food product of cattle, sheep, swine, goats, horses, mules, or other equines, or any product exempted from the definition of meat food product, or any dead, dying, disabled, or diseased cattle, sheep, swine, goat, or equine is found by any authorized representative of the Board upon any premises where it is held for the purpose of, or during or after distribution in intrastate commerce, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this Chapter or of any other State or Federal law, or that such article or animal has been or is intended to be, distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending

action under Section 8741 of this Chapter or notification of any State, Federal, or other governmental authorities having jurisdiction over such article or animal, and shall not be moved by any person, firm, or corporation from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to be to the satisfaction of the Board that the article or animal is eligible to retain such marks.

§ 8141. Seizure or condemnation

(a) Any carcass, part of a carcass, meat or meat food product of cattle, sheep, swine, goats, horses, mules or other equines, or any dead, dying, disable, or diseased cattle, sheep, swine, goats, or equines, that is being transported in intrastate commerce or otherwise subject to this Chapter or is held for sale in the State of Delaware after such transportation, and that (1) is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this Chapter or (2) is capable of use as human food and is adulterated or misbranded, or (3) in any way is in violation of this Chapter, shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any Superior Court of the State of Delaware within the jurisdiction of which the article or animal is found. If the article or animal is condemned, it shall, after entry of the decree, be disposed of by destruction or sale as the Court may direct and the proceeds, if sold, less the court costs and fees, and the storage or other proper expenses, shall be paid into the Treasury of the State of Delaware, but the article or animal shall not be sold contrary to the provisions of this Chapter; provided, that upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of this Chapter, or the other laws of the State of Delaware, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the Board as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the article or animal and it is released under bond, or destroyed,

court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or animal. Either party may demand a trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the State of Delaware.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Chapter, or other laws.

§ 8742. Jurisdiction

The Superior Court of the State of Delaware shall have jurisdiction specifically to enforce, and to prevent and restrain violations of, this Chapter, and shall have jurisdiction in all other kinds of cases arising under this Chapter.

Approved July 5, 1968.

CHAPTER 397

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE PUBLIC ARCHIVES COMMISSION.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$12,000 is hereby appropriated to the Public Archives Commission to be expended for the repair of the Octagonal School House at Cowgill's Corner, Kent County, Delaware, and for the fencing of the property.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware, not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall revert to the General Fund of the State of Delaware on June 30, 1970.

Approved July 5, 1968.

CHAPTER 398

AN ACT TO AMEND CHAPTER 19, TITLE 15, DELAWARE CODE RELATING TO THE REGISTRATION BY MEMBERS OF THE GOVERNMENT SERVICE OF THE UNITED STATES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 19, Title 15, Delaware Code, by striking the caption to Chapter 19 and inserting in lieu thereof a new caption to read as follows:

**CHAPTER 19. REGISTRATION FOR MEMBERS OF
MILITARY FORCES; GOVERNMENT SERVICE
AND RELATED ORGANIZATIONS**

Section 2. Amend § 1901 (a), Chapter 19, Title 15, Delaware Code by adding after the phrase "United States of America," and before the phrase "or who has received official notice" the following:

"or who is in the Government Service of the United States in a foreign country,"

Section 3. Amend § 1901 (b), Chapter 19, Title 15, Delaware Code by adding after the phrase "such capacity" and before the phrase ", and further" the following:

"or who is in the Government Service of the United States in a foreign country,"

Section 4. Amend § 1901 (b), Chapter 19, Title 15, Delaware Code by adding after the words "Merchant Marine" in subparagraphs (3) and (4) the words "or said foreign service of the United States."

Section 5. Amend § 1907, Chapter 19, Title 15, Delaware Code by adding after the phrase "I am serving with the United Service Organization attached to and serving with the Armed

Services of the United States of America;" a new phrase to read as follows:

"I am serving with the United States Government Service in _____;"

Section 6. Amend § 1921, Chapter 19, Title 15, Delaware Code by striking the existing section and inserting in lieu thereof the following:

§ 1921. Domicile of those in Military Service or Government Service not lost

(a) Every person enlisted in any military organization of this State or the United States who prior to enlistment was a resident of any election district of this State shall not lose his domicile in such election district by reason of such enlistment.

(b) Every person employed in any Government Service of the United States in a foreign country who prior to such employment was a resident of any election district in this State shall not lose his domicile in such election district by reason of such employment.

(c) As used in this Chapter, the term "Government Service" shall include, but shall not be limited to, the Peace Corps.

Section 7. Amend § 1922, Chapter 19, Title 15, Delaware Code by adding after the phrase "engaged in" and before the word "any" the following:

"any Government Service of the United States or"

Approved July 5, 1968.

CHAPTER 399

AN ACT TO AMEND CHAPTER 3, TITLE 24, DELAWARE CODE, RELATING TO THE AUTHORIZING OF THE BOARD OF EXAMINERS IN REGISTRATION OF ARCHITECTS TO ADOPT REGULATIONS ESTABLISHING QUALIFICATIONS FOR ELIGIBILITY TO TAKE EXAMINATIONS, AND ELIMINATING THE AUTHORITY TO GRANT CERTIFICATES OF REGISTRATION BASED ON PRACTICAL EXPERIENCE WITHOUT EXAMINATION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 304, Chapter 3, Title 24, Delaware Code, is hereby amended by adding after the word "examination" and before the phrase ", for registration of applicants" the following:

" , to establish minimum qualifications for eligibility to take examinations"

Section 2. § 313, Chapter 3, Title 24, Delaware Code, is hereby amended by striking Section 313 in its entirety, and substituting in lieu thereof a new § 313 as follows:

§ 313. Certificate of Registration; how to obtain

(a) In order to receive a certificate of registration, an applicant must possess such qualifications as established by the Board to become eligible to take an examination, and shall satisfactorily pass an examination in such academic college, technical and professional subjects as shall be prescribed by the Board.

(b) The Board may, in lieu of examination, accept satisfactory evidence of registration or certification as an architect in another state or country, where the requirements for the registration are equal, in the opinion of the Board to the requirements in this State. In such case, the Board may require applicants to furnish satisfactory evidence of knowledge of professional practice.

Approved July 5, 1968.

CHAPTER 400

AN ACT TO AMEND SECTION 2707, TITLE 21, DELAWARE CODE, TO SUBSTITUTE A NEW SECTION REQUIRING A SPECIAL LICENSE FOR SCHOOL BUS DRIVERS, DESIGNATING QUALIFICATIONS THEREFOR AND PROVIDING A SUPPLEMENTARY APPROPRIATION TO THE STATE BOARD OF EDUCATION TO IMPLEMENT SUCH NEW PROCEDURES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2707, Subchapter I, Chapter 27, Title 21, Delaware Code, is amended by striking said section and substituting a new Section 2707 as follows:

§ 2707. School bus driver's license; qualifications

No person shall drive, nor shall any contractor or public, parochial or private school permit any person to drive, any school bus within the State unless such driver has qualified for a school bus driver's license under this section and the pertinent rules and regulations of the Department. A school bus driver's license shall be issued to each applicant who meets the following qualifications:

1. The applicant shall possess a valid State operator's license or chauffeur's license issued pursuant to the provisions of this chapter;
2. The applicant shall be at least 21 years of age and not over 70 years of age;
3. The applicant shall have passed a thorough physical examination, including vision tests, as prescribed by the State Board of Education. Such examinations shall also be a prerequisite to renewal of a license issued under this section;
4. The applicant shall have completed a course of at least 8 hours duration of special instruction in school bus driving, conducted by the State Board of Education, which shall include at least the following subjects of instruction: school bus accident

problems; defensive driving; physical, mental, and emotional aspects of school bus driving; State traffic laws and Motor Vehicle Department rules and regulations, emergency assistance and first aid; school bus care and maintenance; child behavior and discipline;

5. The applicant shall have passed a school bus road test administered by the Department;

6. After investigation by the Department, the applicant shall prove to have a satisfactory driving record in accordance with standards set by the Department.

Except as modified by this section, application for and renewal of the license for school bus drivers provided herein shall be as required by this chapter for operator's and chauffeur's licenses; provided, however, that a school bus driver's license shall be renewed annually, prior to the start of the school year at a time set by Department regulation.

Section 2. There is hereby appropriated to the State Board of Education the sum of Thirty-five Thousand Dollars (\$35,000) for the purpose of implementing the new procedures as set forth in this Act. The sum hereby appropriated shall be considered a supplementary appropriation in addition to any sums heretofore provided to said agency and shall be paid out of the Genreal Fund of the State Treasury from monies not otherwise appropriated. All monies hereby appropriated shall be used only for the purpose stated, and any of said monies remaining unexpended on June 30, 1969, shall revert to the General Fund of the State Treasury.

Section 3. The funds appropriated to the State Board of Education by Section 2 of this Act shall be available for use immediately upon approval of this Act. For all other purposes the effective date of this Act shall be September 1, 1969.

Approved July 5, 1968.

CHAPTER 401

AN ACT TO AMEND CHAPTER 3, TITLE 11, DELAWARE CODE, BY ADDING A NEW SECTION MAKING IT A MISDEMEANOR TO LOITER ON STATE SUPPORTED SCHOOL, COLLEGE OR UNIVERSITY PROPERTY.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 3, Title 11, Delaware Code, is hereby amended by adding thereto a new § 852 to read as follows:

§ 852. Loitering on property of a State supported school, college or university

Any person who loiters or remains in or about the building or grounds of a school, college or university supported in whole or in part with State funds, not having any reason or relationship involving custody of or responsibility for a pupil or student, or any other specific, legitimate reason for being there, and not having written permission from anyone authorized to grant the same, shall be guilty of a misdemeanor and for each offense shall be fined not less than \$25 nor more than \$200.

Any constable, or other conservator of the peace, State official or employee, the owner or occupier of such lands or property, his agent or employee, or any other person or persons whom he or any of them may call to their or his assistance, may arrest such loiterer, either with or without warrant, either upon the premises or in immediate flight therefrom, and, if with warrant, then at any place.

The proceedings for commitment and trial of the offender shall be as provided by law as in cases of other misdemeanors.

Approved July 5, 1968.

NOTE: This chapter has been codified as § 656, Title 11, Delaware Code.

CHAPTER 402

AN ACT TO AMEND SECTION 704, TITLE 21, DELAWARE CODE, RELATING TO JURISDICTION OF MOTOR VEHICLE OFFENSES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Title 21, Delaware Code, Section 704, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

§ 704. Jurisdiction of offenses

(a) A person arrested without a warrant in the City of Wilmington for a violation of any section of this title shall be taken before a Judge of the Municipal Court for the City of Wilmington, except that persons arrested for a violation occurring on any part of the Interstate Highway System may be taken before the nearest available Justice of the Peace from the place of arrest. A person arrested without a warrant outside of the City of Wilmington for a violation of any section of this title, or arrested for any moving traffic violation of any municipal ordinance regulating traffic within its territorial limits as set forth in Chapter 41 of this title, shall have his case heard and determined by the nearest available justice of the peace, notwithstanding the fact that the court of said justice of the peace is situated in a county other than that in which the violation is alleged to have occurred. It shall be a sufficient defense for a person arrested outside of the City of Wilmington to show by one competent witness that there was, at the time of his arrest an available justice of the peace whose regular office was nearer to the place where such person was arrested than the justice of the peace before whom the case is being tried.

(b) For the purpose of this section, a justice of the peace is available when he is at his office, or court.

(c) Notwithstanding any other provisions of this section to the contrary, in those incorporated municipalities which provide duly constituted alderman's courts, said alderman shall

continue to hear and adjudicate those cases in which a person is arrested without a warrant and where the alderman's court is the court of initial jurisdiction.

This section shall only apply to those alderman's courts which meet the following standards:

I. All convictions in the alderman's court for moving traffic violations and the disposition of those cases, shall become a matter of record to be filed with the State Motor Vehicle Division on forms to be supplied by the Division. Said record is to be forwarded to the Division no later than ten days after the disposition of the case.

II. The alderman shall be paid by salary only. All fees, fines, costs and other revenue collected by the court in the process of the business of the court shall be promptly forwarded to the municipality from which appointed.

III. The alderman's court shall operate under any uniform rules governing court procedures, accounting systems, and those manuals and guides used to administer the state magisterial system.

Approved July 5 1968.

CHAPTER 403

**AN ACT PROPOSING AN AMENDMENT TO SECTION 20,
ARTICLE 3, OF THE DELAWARE CONSTITUTION RE-
LATING TO GUBERNATORIAL DISABILITY.**

Be it enacted by the General Assembly of the State of Delaware (two-thirds of all of the Members elected to each Branch concurring therein):

Section 1. Section 20, Article 3, of the Constitution of the State of Delaware, is hereby amended by adding the following language which shall constitute a new subsections "(b)":

Whenever the Governor transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as Acting Governor.

Whenever the Chief Justice of the Delaware Supreme Court, the President of the Delaware Medical Society and the Commissioner of the Department of Mental Health, acting unanimously, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives, their written declaration that the Governor is unable to discharge the powers and duties of his office because of mental or physical disability, the Lieutenant Governor shall immediately assume the powers and duties of the office as Acting Governor.

Thereafter, when the Governor transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no disability exists, he shall resume the powers and duties of his office unless the Chief Justice of the Supreme Court of Delaware, the President of the Delaware Medical Society and the Commissioner of the Department of Mental Health, acting unanimously, transmit within five days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the Governor is unable to discharge the powers and duties of his office because of mental or physical disability. Thereupon the

General Assembly shall decide the issue, assembling within seventy-two hours for that purpose if not then in session. If the General Assembly within ten days after receipt of the latter written declaration determines by two-thirds vote of all the members elected to each house that the Governor is unable to discharge the powers and duties of his office because of mental or physical disability, the Lieutenant Governor shall continue to discharge same as Acting Governor; otherwise, the Governor shall resume the powers and duties of his office.

Section 2. Section 20, Article 3, of the Constitution of the State of Delaware, is further amended by designating the present language of said section as subsection "(a)" of said Section 20.

Section 3. Section 20, Article 3, of the Constitution of the State of Delaware, is further amended by placing a semi-colon at the end of the heading of said section and adding the following phrase:

"Disability of Governor"

CHAPTER 404

AN ACT TO AMEND SECTION 1703, CHAPTER 17, TITLE 14, DELAWARE CODE, RELATING TO PUPIL UNITS BY PROVIDING A UNIT FOR KINDERGARTENS AND MAKING A SUPPLEMENTARY APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 1703, Chapter 17, Title 14, Delaware Code, is hereby amended by adding a new paragraph at the end of said section as follows:

In the case of kindergartens, "unit" or "unit of pupils" shall mean 50 pupils. Said pupils may be enrolled for one-half school days in groups approximating 25 enrollees each, thus providing that each "unit" represents two instructional groups within the unit of 50. A major fraction shall be considered a unit and shall consist of any fraction greater than one-half of 50. The State Board of Education shall make uniform rules relative to the establishment of kindergartens in the public school districts of the State in accord with the provisions of this chapter and of chapters 1 and 9 of this title and such other statutes as may authorize or define kindergarten programs. No expenditure for the support of children in a kindergarten program shall be authorized unless that unit and the instructional program shall have been approved by the State Board of Education.

Section 2. There is hereby appropriated to the State Board of Education the sum of \$530,000 or so much thereof as may from time to time be deemed necessary to fulfill the purposes of this Act during the fiscal year ending June 30, 1969. This appropriation shall be considered a supplementary appropriation and such funds shall be paid from the General Fund of the State Treasury from funds not otherwise appropriated. Any of such funds remaining unexpended on June 30, 1969, shall revert to the General Fund of the State Treasury.

Became law on June 22, 1968, without approval of the Governor, and in accordance with Section 18, Article 3 of the Constitution of Delaware.

CHAPTER 405

AN ACT TO AMEND PART II, TITLE 30, DELAWARE CODE, BY ADDING A NEW CHAPTER 20 GRANTING A CORPORATION INCOME TAX CREDIT TO CERTAIN BUSINESS FIRMS WHICH CONTRIBUTE TO NEIGHBORHOOD ORGANIZATIONS OR WHICH ENGAGE IN ACTIVITIES TENDING TO UPGRADE NEIGHBORHOOD AREAS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Part II, Title 30, Delaware Code, is hereby amended by adding a new "Chapter 20" as follows:

**CHAPTER 20. NEIGHBORHOOD ASSISTANCE TAX
CREDIT**

§ 2001. Short title

The provisions of this chapter shall be known and may be cited as the "Neighborhood Assistance Act."

§ 2002. Definitions

(1) "Community services" means any type of counselling and advice, emergency assistance or medical care furnished to individuals or groups in an impoverished area.

(2) "Impoverished area" means any area in Delaware which is certified as such by the State Board of Welfare and approved by the State Tax Board. Such certification shall be made on the basis of Federal census studies and current indices of social and economic conditions.

(3) "Neighborhood organization" means any organization performing community services in an impoverished area and holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code.

(4) "Neighborhood assistance" means furnishing financial assistance, labor, material, and technical advice to aid in the physical improvement of any part or all of an impoverished area.

(5) "Business firm" means any business entity authorized to do business in the State of Delaware and subject to Delaware Corporation income tax.

(6) "Job training" means any type of instruction to an individual who resides in an impoverished area that enables him to acquire vocational skills so that he can become employable or be able to seek a higher grade of employment.

(7) "Education" means any type of scholastic instruction to an individual who resides in an impoverished area that enables him to meet educational requirements for known job vacancies.

(8) "Crime prevention" means any activity which aids in the reduction of crime in an impoverished area.

§ 2003. Declaration of policy

It is hereby declared to be public policy of the State of Delaware to encourage the investment by business firms in offering neighborhood assistance and providing job training, education, crime prevention, and community services, both directly and by contributions to neighborhood organizations, to benefit individuals living in impoverished areas.

§ 2004. Qualification for tax credit

Any business firm which contributes to a neighborhood organization or which engages in the activities of providing neighborhood assistance, job training or education for individuals not employed by the business firm, community services, or crime prevention in an impoverished area shall receive a tax credit as provided in section 2005 of this chapter if the State Board of Welfare and the State Tax Board annually approve the proposal of such business firm, setting forth the program to be conducted, the impoverished area selected and the estimated amount to be invested in the program. The State Board of Welfare and State Tax Board are hereby authorized to promulgate rules and regulations for the approval or disapproval of such proposals by business firms.

§ 2005. Corporate income tax credit; amount

The State Tax Commissioner shall grant a tax credit against any Delaware corporation income tax due equal to the amount invested by a business firm in a program the proposal for which was approved under the provisions of section 2004 of this chapter. Such tax credit, however, shall not exceed five per cent of the annual tax paid by the business firm or fifty thousand dollars (\$50,000), whichever is less.

§ 2006. Unused tax credit

Any unused tax credit allowed pursuant to section 2005 of this chapter shall be a carry-over to the succeeding taxable years until the full credit has been allowed.

§ 2007. Discretionary tax credit

Notwithstanding any limitations imposed by section 2005 of this chapter, the State Tax Commissioner may grant a tax credit against any corporate income tax due of up to \$50,000 of the investment by a business firm in a program approved under this chapter.

Section 2. This Act shall take effect July 1, 1968.

Became a law on July 25, 1968, when the over-ride of the Governor's veto became complete.

CHAPTER 406

AN ACT TO AMEND CHAPTER 61, TITLE 10, DELAWARE CODE, ENTITLED "CONDEMNATION" BY PROVIDING FOR THE ADMISSIBILITY OF EVIDENCE OF COSTS IN CONNECTION WITH CHURCH PROPERTY.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend § 6108, Chapter 61, Title 10, Delaware Code, as amended, by adding the following to (e) :

A religious corporation or religious body of the State of Delaware as a party to a condemnation proceeding may present as competent or relevant testimony upon the issue of just compensation the reasonable costs as of the date of the taking of the church property, of erecting a new structure of substantially the same size and of comparable character and quality of construction as the acquired church structure, at some other suitable and comparable location to be provided by such religious corporation or body. The admissibility of such evidence is conditioned upon the religious corporation or religious body being a duly constituted legal corporation or body and using the acquired site as a church or place of religious worship; and upon the further condition that the new structure or building to be erected for religious worship shall be located within the county of the State of Delaware in which the acquired site is located at the time of the taking of possession of said acquired site.

Approved July 26, 1968.

CHAPTER 407

**AN ACT TO AMEND TITLE 7, CHAPTER 47, SUBCHAPTER
I, SUBSECTION 4703 (d), DELAWARE CODE, RELAT-
ING TO HUNTING ON STATE PARKS BY DESIGNAT-
ING AREAS FOR SUCH PURPOSE.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 4703 (d) of Title 7, Delaware Code, is hereby repealed and the following new section 4703 (d) is enacted in lieu thereof:

All State Parks and other areas acquired primarily for recreational use shall, from the date of their establishment as such, come under the jurisdiction of the State Park Commission of Delaware and shall be closed to hunting, except in areas designated by the Commission for such purpose.

Approved July 26, 1968.

CHAPTER 408

AN ACT TO AMEND CHAPTER 83, TITLE 16, DELAWARE CODE, RELATING TO COUNTY BUILDING CODES, PLUMBING CODES, ELECTRICAL CODES AND SIMILAR CODES, AND PROVIDING FOR REASONABLE FEES FOR THE ENFORCEMENT THEREOF.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 83, Title 16, Delaware Code by adding thereto a new section to read:

§ 8329. Promulgation of building, plumbing, electrical and other codes; building permits; fees

The Levy Courts of the several counties and the County Council of New Castle County may adopt and enforce building codes, plumbing codes, electrical codes or other similar codes, as a basis for determining whether or not building permits shall be issued. The said Levy Courts and County Council may charge reasonable fees for the enforcement of said code.

Approved July 26, 1968.

NOTE: This Act has been codified as § 7521, Title 16, Delaware Code.

CHAPTER 409

**AN ACT RELATING TO EDUCATION OF THE CITIZENS
OF DELAWARE BY MAKING AN APPROPRIATION TO
THE "DELAWARE STATE FAIR, INC."**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all of the Members elected to each House concurring therein):

Section 1. The sum of \$20,000 is appropriated to the "Delaware State Fair, Inc.", a corporation of the State of Delaware, to be used for prizes for achievements in agriculture, animal raising and in works of manual training and the domestic arts to be awarded at the annual State Fair.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1969, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State not otherwise appropriated.

Approved July 26, 1968.

CHAPTER 410

AN ACT TO AMEND SUBCHAPTER I, CHAPTER 47, TITLE 7, DELAWARE CODE, RELATING TO THE STATE PARK COMMISSION BY PROVIDING FOR EXPANDED FUNCTIONS IN THE AREA OF FINANCIAL ASSISTANCE TO RECREATION PROJECTS AND PROGRAMS, AND THE CREATION OF A RECREATION ADVISORY COUNCIL.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Subchapter I, Chapter 47, Title 7, Delaware Code, is hereby amended by adding new sections 4706, 4707 and 4708 thereto, as follows:

§ 4706. Recreation assistance fund

(a) There is created and established under the jurisdiction and control of the Commission in order to implement Section 4707 and the purposes of this subchapter, an annual appropriation for grants-in-aid to be known as the Recreation Assistance Fund.

(b) There shall be paid into the Recreation Assistance Fund all monies appropriated by the State to the Commission for financial assistance to projects and programs of general public interest in the area of recreation, together with any other monies from any other source which may be made available to the Commission or the Fund for such purposes.

§ 4707. Financial assistance to approved projects and programs

(a) In the manner and form determined by Commission rules and regulations, any other governmental agency or established and responsible non-profit private organization working in the field of recreation within the State may apply to the Commission for financial assistance from the Recreation Assistance Fund for projects and programs of general public interest and benefit in the area of recreation; provided that applications shall not be made or approved for any capital construction or improvement.

(b) All applications must be specific. The burden shall be upon the applicant to clearly define the existing or proposed project or program and its financial need. No application shall be considered which does not comply in all respects with the pertinent rules of the Commission. The application must set forth all efforts previously undertaken to obtain financing from other sources and any income which the project or program does or will produce. The application must also demonstrate that the project or program complies with the standards of the Federal Civil Rights Act of 1964, Titles VI and VII.

(c) All applications for assistance shall receive initial review by the Advisory Council or a committee thereof, which shall make its recommendation thereon to the Commission. Final decision upon each application shall be by majority vote of the Commission.

(d) The Commission may, in its discretion, hold public hearings on the merits of a proposed project or program or the relative merits of two or more projects or programs.

(e) The decision of the Commission on the merits of an application shall be final and the conscientious exercise of its discretion shall not be subject to review. The Commission alone shall determine the best use of the monies available in the Recreation Assistance Fund, consistent with intents and purposes of this subchapter.

§ 4708. Recreation Advisory Council

(a) To advise and assist the Commission and its staff there shall be established a Recreation Advisory Council composed of interested citizens willing to donate their services to promote improved recreation projects and programs. The Council shall review applications to the Commission for financial assistance and shall counsel and guide the Commission in their use and distribution of monies from the Recreation Assistance Fund. The Council may review and make recommendations with respect to any other matters submitted to it by the Commission.

(b) The Council shall be composed of interested citizens who reflect a broad range of knowledge and skill in the fields of parks, conservation and recreation; its membership may in-

clude professional staff members of other governmental park, conservation and recreation agencies. Council members shall receive no compensation for their advisory services, but may be reimbursed for necessary expenses.

(c) The Council shall consist of 9 members, with one member appointed by each of the 8 following organizations:

- (1) Community Services Council of Delaware, Inc.
- (2) Delaware Recreation and Parks Society
- (3) Association of Greater Wilmington Neighborhood Centers, Inc.
- (4) New Castle County Department of Parks and Recreation
- (5) Wilmington Department of Parks and Recreation.
- (6) Levy Court of Kent County
- (7) Levy Court of Sussex County
- (8) State Department of Public Instruction

The ninth member shall be elected by a majority of the other members of the Council. In order to stagger the terms of members of the Council, the members of the Council appointed by the organizations named in paragraphs (1), (2) and (3) above shall serve an initial term of one year; the members appointed by the organizations named in paragraphs (4), (5) and (6) above shall serve an initial term of two years; and the members appointed by the organizations named in paragraphs (7) and (8) above, together with the member elected by the other members of the Council, shall serve an initial term of three years. As the initial terms terminate, subsequent members of the Council shall be appointed for terms of three years or until their successors shall have been appointed and qualified. If any member of the Council shall cease to serve for any reason prior to the end of his term, the organization that appointed such member shall appoint a successor to serve for the remainder of the unexpired term.

(d) The organizations entitled to appoint members of the Council shall do so by filing a written letter of appointment with the Commission.

(e) A quorum of the Council for the transaction of business shall consist of a majority of the members who have been, from time to time, appointed to serve on the Council, and who have not resigned, died, or otherwise formally terminated their relationship to the Council.

(f) The recommendations and conclusions of the Council shall not be binding upon the Commission, but shall be seriously considered in rendering its decision.

Approved May 31, 1968.

NOTE: This Act has been codified as Sections 4730-4732, Title 7, Delaware Code.

CHAPTER 411

AN ACT TO AMEND TITLE 29, CHAPTER 21, SECTION 2101, DELAWARE CODE, RELATING TO SALARY OF THE GOVERNOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2101, Chapter 21, Title 29, Delaware Code, is hereby amended by striking the figure "\$25,000" therefrom and inserting in lieu thereof the figure "\$35,000".

Section 2. This act shall become effective on the third Tuesday of January, 1969.

Became law on June 1, 1968, without the approval of the Governor, and in accordance with Section 18, Article 3 of the Constitution of Delaware.

CHAPTER 412

AN ACT TO AMEND TITLE 14, DELAWARE CODE, RELATING TO EDUCATION BY PROVIDING FOR THE EDUCATION AND TRAINING OF CHILDREN OF CERTAIN DECEASED MILITARY VETERANS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 14, Delaware Code, is amended by adding thereto a new chapter to read:

CHAPTER 36. CHILDREN OF DECEASED VETERANS**§ 3601. Definitions**

As used in this chapter—

(a) "Child" means a person who is over 16 years of age and under 25 years of age, who has been domiciled in this State for at least 3 years prior to application for aid under this chapter and who attends or will attend an educational institution, or any such person who has received aid under this chapter for a course of no longer than 4 years duration, prior to becoming 25 years old and continues the course until completion.

(b) "Educational Institution" means any educational or training institution in this state or an educational or training institution without this state if the education or training desired by a child is not available within this state.

(c) "Aid" means any expenses in connection with the education and training of a child, not to exceed \$500 for any one child for any one year.

§ 3602. Aid to veteran's child

The General Assembly shall appropriate to the State Board of Vocational Education such sums as the General Assembly deems is necessary to provide aid pursuant to this chapter for a child of a member of the armed forces of the United States of America who was killed while on active duty or who died from disease, wounds, injuries or disabilities arising or resulting

from active duty while a member of the armed forces during any armed conflict of the United States.

§ 3603. Administration of this chapter

The amounts due to any Educational Institution under this chapter shall be paid on vouchers approved by the Budget Director and the Director of the State for Vocational Education. It shall be the duty of the Director of the State Board for Vocational Education to ascertain and pass on the eligibility of the child who makes application for the benefits provided in this chapter; to satisfy himself of the attendance of such child at an Educational Institution, and of the accuracy of the charge submitted by the authorities of any Educational Institution, on account of the attendance of any such child.

Section 2. The provisions of this Act shall become effective on July 1, 1969.

Approved August 1, 1968.

CHAPTER 413

AN ACT TO AMEND CHAPTER 25, TITLE 6, DELAWARE CODE, RELATING TO THE DELIVERY OF UNSOLICITED MERCHANDISE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Subchapter I of Chapter 25, Title 6, Delaware Code, is amended by adding thereto a new § 2505 to read as follows:

§ 2505. Delivery of unsolicited merchandise

Where unsolicited merchandise is delivered to a person for whom it is intended, such person has a right to refuse to accept delivery of this merchandise, or he may deem it to be a gift and use it or dispose of it in any manner without any obligation to the sender.

Approved August 1, 1968.

CHAPTER 414

AN ACT TO AMEND CHAPTER 121, VOLUME 56, LAWS OF DELAWARE, ENTITLED "AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED FOR CAPITAL IMPROVEMENTS AND EXPENDITURES IN THE NATURE OF CAPITAL INVESTMENTS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONEYS TO THE VARIOUS AGENCIES OF THE STATE" BY ADDING A SUPPLEMENTARY APPROPRIATION TO PROVIDE FOR ESCALATING COSTS OF SCHOOL CONSTRUCTION.

WHEREAS, there is a continued and urgent need for school construction in certain school districts within the State of Delaware; and

WHEREAS, construction costs have been escalating at such a rapid rate as to make estimations of school construction costs difficult,

NOW THEREFORE,

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the Members elected to each Branch concurring therein):

Section 1. Chapter 121, Volume 56, Laws of Delaware, is hereby amended by adding at the end of Section 1 thereof the following:

Notwithstanding any other provisions of this Act, an additional sum of \$500,000 is hereby appropriated by the General Assembly and assigned to the State Board of Education for the purpose of administration of Section 8 of said Act.

The purpose of such appropriation shall be for the assignment of funds to certain school districts named in the Act, in addition to such funds as are provided in Section 8 of said Act. Such additional funds are to be used solely for the purpose of meeting escalating construction costs, wherein bids for school construction exceed the maximum sums provided in said Act.

Determination of the amounts of money to be assigned to certain of the school districts named in said Act shall be within the discretion of the State Board of Education, but according to the usual 60% State-40% local basis.

Approved August 1, 1968.

CHAPTER 415

**AN ACT TO AMEND SECTION 181, SUBCHAPTER VI,
TITLE 20, OF THE DELAWARE CODE RELATING TO
THE PAY OF STATE EMPLOYEES WHILE ON STATE
DUTY.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 181, Subchapter VI, Title 20, of the Delaware Code, is hereby amended by adding thereto a new subsection "(c)" to read as follows:

(c) Any employee of the State of Delaware while on State duty on account of an emergency as listed in Section 171 of this title, shall be paid for each day of such State duty an amount equal to his regular pay for such day's employment as an employee of the State of Delaware less any pay and allowances provided for under subsection (a) of this section.

Section 2. This amendment shall be retroactive to January 1, 1968.

Approved August 1, 1968.

CHAPTER 416

AN ACT TO AMEND CHAPTER 80, VOLUME 56, LAWS OF DELAWARE, RELATING TO THE PAYMENT OF BENEFITS TO CHILDREN WHOSE PARENT IS TOTALLY DISABLED FROM DISEASE OR WOUND AS A RESULT OF SERVICE IN VIETNAM OR OTHER ARMED CONFLICT OF THE UNITED STATES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 1, Chapter 80, Volume 56, Laws of Delaware, is hereby amended by striking the period after the words "United States" and adding thereto the following language:

, or if the parent is totally disabled from disease or wounds arising or resulting from service in the Vietnam conflict or any other armed conflict of the United States if such parent is unable to pursue full-time employment.

Approved August 1, 1968.

CHAPTER 417

AN ACT TO AMEND TITLE 21, DELAWARE CODE, RELATING TO MOTOR VEHICLES BY ADDING A NEW CHAPTER 83 ENTITLED "COMMERCIAL DRIVER TRAINING SCHOOL LICENSING".

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 21, Delaware Code, is amended by adding thereto a new chapter to read:

CHAPTER 83. COMMERCIAL DRIVER TRAINING SCHOOL LICENSING

§ 8301. Definitions

As used in this chapter:

(a) "Commercial driver training school" or "school" means a business enterprise conducted by a person for the education and training of persons, either practically or theoretically, or both, to operate motor vehicles or to prepare an applicant for an examination given by the State for an operator's or chauffeur's license or learner's permit, and charging a consideration or tuition for such services.

(b) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for any such school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles or preparing to take an examination for an operator's or chauffeur's license or learner's permit, and any person who supervises the work of any other such instructor.

§ 8302. Enforcement by the Commissioner

(a) The Commissioner shall, adopt and prescribe such regulations concerning the administration and enforcement of this chapter as are necessary to carry out the intent of this chapter and to protect the public. The Commissioner or his authorized

representative shall inspect the school facilities and equipment of applicants and licensees and examine applicants for instructor's license.

(b) The Commissioner shall administer and enforce the provisions of this chapter, and may call upon the State Superintendent of Public Instruction for assistance in developing and formulating appropriate regulations.

§ 8303. License for schools; requirements

(a) No commercial driver training school shall be established nor any such existing school continued after January 1, 1969, unless such school applies for and obtains from the Commissioner a license in the manner and form prescribed by the Commissioner.

(b) Regulations adopted by the Commissioner shall state the requirements for a school license, including requirements concerning location, equipment, courses of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators and instructors, insurance in such sum and with such provisions as the Commissioner deems necessary to protect adequately the interests of the public, and such other matters as the Commissioner may prescribe for the protection of the public.

§ 8304. License for instructors; requirements

(a) No person shall act as an instructor after January 1, 1969, unless such person applies for and obtains from the Commissioner a license in the manner and form prescribed by the Commissioner.

(b) Regulations adopted by the Commissioner shall state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles and practices, previous personnel and employment records, and such other matters as the Commissioner may prescribe for the protection of the public.

§ 8305. License fees

All licenses shall expire on the last day of the calendar year and may be renewed upon application to the Commissioner as prescribed by his regulation. Each application for an original or renewal school license fee shall be accompanied by a fee of \$25 and each application for an original or renewal instructor's license shall be accompanied by a fee of \$5. No license fee shall be refunded in the event that the license is rejected, suspended or revoked.

§ 8306. Issuance; renewal; suspension and revocation of licenses

The Commissioner may cancel, suspend, revoke, or refuse to issue or renew a school or instructor's license in any case where he finds the licensee or applicant has not complied with, or has violated any of the provisions of this chapter or any regulation adopted by the Commissioner. Any cancelled, suspended or revoked license shall be returned to the Commissioner by the licensee, and its holder shall not be eligible to apply for a license under this chapter until 3 months have elapsed since the date of such suspension or revocation.

§ 8307. Exemptions

The provisions of this chapter shall not apply to any person giving driver training lessons without charge, to employers maintaining driver training schools without charge for their employees only, or to schools or classes conducted by colleges, universities and high schools for regularly-enrolled students as a part of the program for such institutions.

§ 8308. Penalties

Violation of any provision of this chapter or any regulation promulgated pursuant thereto, shall constitute a misdemeanor and any person, firm, or corporation upon conviction therefor shall be punished by a fine of not more than \$100 or imprisonment for not more than 30 days or by both fine and imprisonment.

Approved August 1, 1968.

CHAPTER 418

AN ACT TO AMEND TITLE 14, DELAWARE CODE, RELATING TO EDUCATION BY PROVIDING FOR CERTIFICATION AND SALARY FOR SUBSTITUTE TEACHERS AND APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 12, Title 14, Delaware Code, is amended by adding to that chapter a new section, "§ 1205", entitled "Substitute teachers", to read as follows:

§ 1205. Substitute teachers

The State Board of Education shall make rules and regulations relative to the certification of substitute teachers and such rules and regulations shall include at least three classifications for substitutes as follows:

Class A—A Class A certificate may be issued to an applicant who holds a valid Delaware teacher's certificate or such a certificate that has expired. In the case of a certificate that has expired, the applicant for the substitute certificate shall not be required to present refresher courses for issuance of the substitute's certificate.

Class B—A Class B certificate may be issued to an applicant with or without a Bachelor's degree who meets at least the requirements for a temporary emergency certificate as set forth in section 1313 and section 1315 of this Title.

Class C—A Class C certificate may be issued to an applicant who is not eligible for either Class A or Class B certification but who is recommended to the State Superintendent of Public Instruction by the chief school officer of a Delaware school district.

Section 2. Chapter 13, Title 14, Delaware Code, is amended by adding a new section, "§ 1326", entitled "Salary schedule for substitute teachers", as follows:

§ 1326. Salary schedule for substitute teachers

Each substitute teacher who holds a certificate issued in accordance with Chapter 12 of this Title shall be paid in accordance with the following schedule:

Class A—Twenty-five Dollars (\$25) per day.

Class B—Twenty Dollars (\$20) per day.

Class C—Fifteen Dollars (\$15) per day.

Section 3. In order to carry out the provisions of this Act there is hereby appropriated to the State Board of Education an amount of One Hundred Thirty-five Thousand Dollars (\$135,000) for the period beginning July 1, 1968 and ending June 30, 1969; thereafter the appropriate amounts for the carrying out of this Act shall be included in the budgets of the school districts or in the budget of the State Board of Education as may from time to time be required.

Section 4. This Act is a supplementary appropriation Act and money hereby appropriated shall be paid out of any monies in the General Fund of the State of Delaware not otherwise appropriated. All funds hereby encumbered and appropriated remaining unexpended upon July 1, 1969, shall revert to the General Fund of the State Treasury.

Approved August 1, 1968.

CHAPTER 419

AN ACT TO AMEND CHAPTER 81, PART V, TITLE 14, DELAWARE CODE, RELATING TO HIGHER EDUCATION ADVISORY COMMISSION, MEMBERSHIP, QUORUM AND PUBLIC HEARINGS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 8104, Chapter 81, Part V, Title 14, Delaware Code, is hereby amended by striking said section and substituting in lieu thereof a new Section 8104 as follows:

§ 8104. Public members

(a) Five members shall represent the general public, and shall not be State employees or employees, officers or members of the governing board of any educational institution or school.

(b) Two of the public members shall be residents of New Castle County outside the City of Wilmington; one shall be a resident of the City of Wilmington; one shall be a resident of Kent County; and one shall be a resident of Sussex County.

(c) No more than three of the members appointed pursuant to this section shall be members of the same political party.

Section 2. Section 8105, Chapter 81, Part V, Title 14, Delaware Code, is hereby amended by adding a new subsection (d) to said section, as follows:

(d) One member shall be appointed who shall be an officer, employee or member of the governing body of the Delaware Institute of Technology.

Section 3. Section 8109, Chapter 81, Part V, Title 14, Delaware Code, is hereby amended by striking subpart (2) of subsection (b) and substituting a new subpart (2) as follows:

(2) provide that the funds allotted (or reallotted) to the State for any year under Section 103 of the Federal Higher Education Facilities Act of 1963, (or any amendment thereof)

will be available only for use for the construction of academic facilities for public community colleges and public technical institutes and that funds allotted (or reallotted) for any year to this State under Section 104 of the Federal Higher Education Facilities Act of 1963, (or any amendment thereof) will be available only for use for the construction of academic facilities for institutions of higher education other than public community colleges and public technical institutes, except that any funds which are allotted (or reallotted) to the State for any fiscal year under Section 103 of the Federal Higher Education Facilities Act of 1963 (or any amendment thereof) and for which applications have not been received by January 1 of such fiscal year may be made available by the Commission for payment of the federal share of the cost of projects under Section 104 of the aforementioned Act, and except that any funds which are allotted (or reallotted) to the State for any fiscal year under Section 104 of the Federal Higher Education Facilities Act of 1963 (or any amendment thereof) and for which applications have not been received by January 1 of such fiscal year may be made available by the Commission for payment of the federal share of the cost of projects under Section 103 of the aforementioned Act.

Section 4. Section 8111, Chapter 81, Part V, Title 14, Delaware Code, is hereby amended by striking said section and substituting in lieu thereof a new Section 8111 as follows:

§ 8111. Review of determinations

(a) The Commission shall afford to every applicant which has filed with the Commission a written application for project approval an opportunity for a fair hearing before the Commission as to the priority assigned to such project or as to any other determinations of the Commission adversely affecting such applicant. An applicant so affected shall request such a review by filing with the Commission a written protest requesting a hearing before the Commission, stating the determination to which objection is made, stating the nature of the protest, and setting forth a statement of facts in support of the protest.

(b) An applicant must file its written protest within fifteen days of the date of the letter notifying the applicant of the determination of the Commission.

(c) The hearing before the Commission for the review of its determination shall be public, and the Commission shall at least ten days prior to the hearing notify the applicant who has requested the hearing and all other applicants who have projects pending before the Commission of the time, date and place of the hearing.

(d) At the hearing any applicant who has a project pending before the Commission may be represented by counsel. Any applicant which has filed its notice of protest pursuant to (a) and (b) of this section may present evidence to substantiate its protest and may be cross-examined by any other applicant.

Section 5. Section 8113, Chapter 81, Part V, Title 14, Delaware Code, is hereby amended by striking said section and substituting in lieu thereof a new Section 8113 as follows:

§ 8113. Quorum

No decision of the Commission shall be binding unless a majority of the membership is present, including not less than fifty percent of the institutional membership and not less than fifty percent of the non-institutional membership.

Approved August 1, 1968.

CHAPTER 420

AN ACT MAKING AN APPROPRIATION TO THE HISTORICAL SOCIETY OF DELAWARE.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the Members elected to each Branch thereof concurring therein):

Section 1. There is appropriated to The Historical Society of Delaware for the fiscal year ending June 30, 1969, the sum of \$15,000.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Approved August 1, 1968.

CHAPTER 421

AN ACT TO AMEND SUBCHAPTER IV, CHAPTER 19, TITLE 10, DELAWARE CODE, RELATING TO JUDICIAL REPORTS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Subchapter IV, Chapter 19, title 10, Delaware Code, is amended to read:

SUBCHAPTER IV. JUDICIAL REPORTS**§ 1961. Preparation of judicial reports**

The Committee on Publications of Opinions, appointed by the Chief Justice of the Delaware Supreme Court in accordance with a Rule of that Court, shall report such opinions of the Supreme Court, the Chancery Court, the Superior Court, and the Orphans' Court as in its judgment are deemed proper to be reported; and the Committee shall have such reported opinions, together with any court rules and proceedings as it may select, printed and published in bound volumes in such manner and under such terms as it shall determine. The Committee shall deposit such number of copies as are deemed needed for public use with the Secretary of State, to be distributed in accordance with law.

§ 1962. Distribution of judicial reports

(a) The Secretary of State, upon the receipt of published legal reports, shall retain one copy in his office; shall send one copy to each judge of each state, county or municipal court, and to each justice of the peace; and shall distribute copies to such agencies and public officials of this state as show a need for them. He shall also transmit one copy to each of the following: The Library of Congress, The University of Delaware Library, The Delaware State College Library, The Historical Society of Delaware, the Wilmington Institute Free Library and to each public law library within the State, two copies each.

(b) The copies delivered to the judges and justices of the peace and state offices shall belong to their respective offices and shall be delivered to their successors in office.

§ 1963. Payment for publication of judicial reports

Upon receipt by the Budget Director of the certificate of the Secretary of State that copies of a new volume of reports published by the Committee have been deposited in the office of the Secretary of State as required by law, the Budget Director shall draw his warrant upon the State Treasurer to pay for printing and other expenses incurred in connection with the publication of such new volume, in the amounts and in favor of the payees certified by the Chief Justice. The provisions of Chapter 69, title 29, shall not apply to the preparation and publication of the law reports authorized by this Subchapter.

Section 2. The provisions of § 1965 of this Subchapter, as heretofore existing, shall remain in full force and effect as to any publications contracted for by the Associate Judge resident in Kent County or by the Chancellor prior to the effective date of this Act.

Section 3. The provisions of this Act shall become effective on January 1, 1969.

Approved August 1, 1968.

CHAPTER 422

AN ACT TO AMEND SUBCHAPTER I, CHAPTER 23, TITLE 11, DELAWARE CODE, TO BROADEN, CLARIFY AND MODERNIZE THE STATE SEARCH AND SEIZURE LAW.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2301, Title 11, Delaware Code, is hereby amended by striking said section and substituting a new Section 2301 as follows:

§ 2301. Necessity of compliance with statute

No person shall search any person, house, building, conveyance, place or other thing without the consent of the owner (or occupant, if any) unless such search is authorized by and made pursuant to statute or the Constitution of the United States.

Section 2. Section 2302, Title 11, Delaware Code, is amended by striking said section and substituting a new Section 2302 as follows:

§ 2302. Search without warrant in hot pursuit

A search of a person, house, building, conveyance, place or other thing may be made without a warrant if the search is made for a person hotly pursued provided the pursuer has probable cause to believe that such person has committed a felony or a misdemeanor.

Section 3. Section 2303, Title 11, Delaware Code, is amended by striking said section and substituting a new Section 2303 as follows:

§ 2303. Search without warrant incident to arrest

A search of a person, house, building, conveyance, place or other thing may be made without a warrant if:

(1) The search is made incidental to and contemporaneous with a lawful arrest;

(2) The search is made in order to find and seize:

(a) the fruits of a crime; (b) the means by which the crime was committed; (c) weapons and other things to effect an escape from arrest or custody; and (d) evidentiary matter pertaining to the commission of a crime.

Section 4. Section 2304, Title 11, Delaware Code, is hereby amended by striking the phrase "any house, place, conveyance, or person" from said section and substituting in lieu thereof the phrase "any person, house, building, conveyance, place or other thing."

Section 5. Section 2305, Title 11, Delaware Code, is amended by striking said section and substituting a new Section 2305 as follows:

§ 2305. Objects of search warrant

A warrant may authorize the search of any person, house, building, conveyance, place or other things for any of the following:

(1) Papers, articles, or things of any kind which were instruments of or were used in a criminal offense, the escape therefrom or the concealment of said offense or offenses;

(2) Property obtained in the commission of a crime, whether the crime was committed by the owner or occupant of the house, building, place or conveyance to be searched or by another;

(3) Papers, articles, or things designed to be used for the commission of a crime and not reasonably calculated to be used for any other purpose;

(4) Papers, articles, or things the possession of which is unlawful;

(5) Papers, articles, or things which are of an evidentiary nature pertaining to the commission of a crime or crimes;

(6) Persons for whom a warrant of arrest has been issued.

Section 6. Any action, case, prosecution, trial or any other legal proceeding in progress under or pursuant to the previous

wording of the sections amended by this Act, no matter what the stage of the proceeding, shall be preserved and shall not become illegal or terminated upon the effective date of this Act. For purposes of such proceedings in progress the prior law shall remain in full force and effect.

Section 7. If any section, subsection, phrase, sentence, words or word shall be declared unconstitutional by the Superior Court or the Supreme Court of the State of Delaware or any Court of the United States, any other sections, subsections, phrases, sentences or words shall remain in full force and effect.

Approved August 1, 1968.

CHAPTER 423

AN ACT TO AMEND SECTION 2502, CHAPTER 25, TITLE 29 OF THE DELAWARE CODE OF 1953, TO INCREASE THE NUMBER OF ASSISTANT DEPUTY ATTORNEYS GENERAL SERVING AT LARGE FROM THREE TO SIX, AND PROVIDING A SUPPLEMENTARY APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 2502. Chapter 25, Title 29, of the Delaware Code of 1953, is amended by striking paragraph 8 from subsection (a) thereof and substituting therefor a new paragraph 8 to read as follows:

8. Six Assistant Deputy Attorneys General to serve at large and who shall receive an annual salary of \$7,000.

Section 2. The sum of \$10,500 is hereby appropriated to the Attorney General for salaries and wages for that portion of the fiscal year beginning July 1, 1968, and ending December 31, 1968.

Section 3. This Act is a supplementary appropriation and the money hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund of The State of Delaware not otherwise appropriated.

Approved August 1, 1968.

CHAPTER 424

AN ACT TO AMEND SECTION 8701, CHAPTER 87, TITLE 11 OF THE DELAWARE CODE OF 1953, BY INCREASING THE SALARY OF THE PRESENT STATE DETECTIVES, AUTHORIZING THE APPOINTMENT OF A STATE DETECTIVE AT LARGE, AND PROVIDING A SUPPLEMENTARY APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 8701, Chapter 87, Title 11 of the Delaware Code of 1953, is hereby repealed and a new Section 8701 is hereby enacted in lieu thereof to read as follows:

(a) The Attorney General may appoint four suitable persons to be detectives for the State of Delaware and to hold office at the pleasure of the Attorney General. One detective shall be assigned to New Castle County, one detective shall be assigned to Kent County, one detective shall be assigned to Sussex County and one detective shall be assigned as a detective at large.

(b) Each of the State detectives shall receive a salary of \$6,000 per annum. The salaries of all State Detectives shall be payable in equal monthly installments upon the certificate of the Attorney General that they have faithfully performed the duties of their offices during the preceding month.

Section 2. The sum of \$6,750 is hereby appropriated to the Attorney General for the salaries increased and created hereby for that portion of the fiscal year beginning July 1, 1968, and ending December 31, 1968.

Section 3. This Act is a supplementary appropriation and the money hereby appropriated shall be paid by the State Treasurer out of funds in the General Fund of The State of Delaware not otherwise appropriated.

Approved August 1, 1968.

CHAPTER 425

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE DEPARTMENT OF TRANSPORTATION.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$98,000 is appropriated to the Department of Transportation for the fiscal year ending June 30, 1969.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall revert to the General Fund of the State of Delaware on June 30, 1969.

Approved August 1, 1968.

CHAPTER 426

AN ACT TO AMEND CHAPTER 64, TITLE 7, DELAWARE CODE, BY ADDING THERETO A NEW SUBCHAPTER DESIGNATED SUBCHAPTER IV AND BY ADDING THERETO A NEW SECTION DESIGNATED § 6462 WHICH SECTION GRANTS THE WATER AND AIR RESOURCES COMMISSION THE POWER TO SEEK AN INJUNCTION IN THE NAME OF THE STATE TO PREVENT CONTINUED VIOLATIONS OF ANY FINAL ORDER OF THE WATER AND AIR RESOURCES COMMISSION REGARDING THE REGULATION OF UNDER WATER LANDS.

Be it enacted by the General Assembly of the State of Delaware;

Section 1. Chapter 64, Title 7, Delaware Code, is amended by adding the following new subchapter and section to read as follows:

SUBCHAPTER IV. INJUNCTION

§ 6462. If measures are not taken in accordance with any final order issued by the commission pursuant to its jurisdiction over under water lands, then the commission may, in addition to seeking fines under § 6013 hereof, bring in the name of the State an action for an injunction to prevent further or continued violations.

Approved August 1, 1968.

CHAPTER 427

AN ACT TO AMEND CHAPTER 60, TITLE 7, DELAWARE CODE, BY ADDING THERETO A NEW SUBCHAPTER DESIGNATED SUBCHAPTER III AND BY ADDING FOUR NEW SECTIONS TO BE DESIGNATED AS SECTIONS 6017, 6018, 6019, AND 6020 WHICH SECTIONS PROVIDE FOR THE LICENSING OF WATER WELL CONTRACTORS BY THE WATER AND AIR RESOURCES COMMISSION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 60, Title 7, Delaware Code, is amended by adding the following new Subchapter and four new sections to read as follows:

SUBCHAPTER III. LICENSING POWERS

§6017. As used in the subchapter "water well contractor" means an individual firm or corporation with whom contract is made for the purpose of constructing or repairing a water well or a water test well or installing pumping equipment in a water well or water test well. The owner or chief executive officer of a firm or corporation is for the purposes of this Subchapter considered to represent that firm or corporation.

§6018. No water well contractor shall contract for or engage in the construction, repair, or installation of water wells, water test wells or pumping equipment in a water well or a water test well in this State after the effective date of this act until he shall have applied for and received a license from the commission as a water well contractor. Any operation on the drilling, boring, coring, driving, digging, construction, installation or repair of water wells or pumping equipment shall be under the supervision of a licensed water well contractor.

§6019. The grant or denial of a license under this subchapter shall be based upon an examination of the applicant designed to ascertain whether he possesses sufficient knowledge

of (1) the proper method of constructing water wells and (2) the rules and regulations of the commission pertaining to water wells.

§6020. The commission shall enact rules and regulations as may be proper to effectuate the provisions and purpose of this subchapter.

Approved August 1, 1968.

NOTE: This Act has been codified as Sections 6021-6024, Title 7, Delaware Code.

CHAPTER 428

AN ACT TO AMEND CHAPTER 61, TITLE 7, DELAWARE CODE, BY GRANTING THE WATER AND AIR RESOURCES COMMISSION THE POWER TO SEEK AN INJUNCTION IN THE NAME OF THE STATE TO PREVENT CONTINUED VIOLATIONS OF ANY FINAL ORDER OF THE WATER AND AIR RESOURCES COMMISSION REGARDING THE REGULATION OF WATER RESOURCES BY ADDING A NEW SECTION TO BE KNOWN AS SECTION 6106.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 61, Title 7, Delaware Code, is amended by adding the following new section to read as follows:

§ 6106. If measures are not taken in regard to Water use in accordance with the final order of the commission, then the commission may, in addition to seeking fines under § 6013 hereof, bring in the name of the State an action for an injunction to prevent further or continued violations.

Approved August 1, 1968.

CHAPTER 429

AN ACT RELATING TO DISPOSAL OF DEAD BODIES.

Be it enacted by the General Assembly of the State of Delaware:

SUBCHAPTER VII. DISPOSITION OF BODIES FOR
MEDICAL SCIENCE

Section 1. Chapter 17, Title 24, Delaware Code, is amended by adding thereto a new subchapter to read:

§ 1780. Disposing of body to aid medical science; compensation

(a) Any person who is 21 years of age or older and of sound mind shall have the right to direct the disposition to be made of his body or any part or parts thereof after his death, and also the disposition to be made of any part of his body which becomes or which is to become separated therefrom during his lifetime, in order that his body or such part or parts thereof may be used solely for the advancement of medical science or the replacement or rehabilitation of diseased or worn-out organs or parts of similar character of another living person, but for no other purpose.

(b) A person who so directs the manner in which his body shall be disposed of after his death shall receive no remuneration or other thing of value for such disposition.

§ 1781. Written instrument required; witnesses

In order to be effective, the disposition of the body of a person, or any part thereof, pursuant to this subchapter, shall be by written instrument executed by the person making the disposition in the presence of 2 witnesses who shall also sign the instrument as witnesses, and the signature of the person making the disposition shall be acknowledged before a person duly authorized by law to administer oaths.

§ 1782. Contents of instrument; donee

Each instrument executed pursuant to this subchapter may designate the donee of the body or any part or parts thereof, but

such designation shall not be necessary to its validity. A donee may be an individual, or a licensed hospital, institution or agency engaged in the advancement of medical science or the restoration of diseased, worn-out or injured parts of living human beings, or a bank maintained for the storage, preservation and use of parts of the body. If no specific donee is named in such instrument, then the Medical Council of Delaware shall be forthwith notified by any person having custody of the body or any part thereof, and the Medical Council shall designate an approved institution to receive such body or part thereof pursuant to section 1773 of this title and for the purposes set forth therein.

§ 1783. Carrying out intent of donor; revocation

(a) The person or persons otherwise entitled to control the disposition of the remains of any person who has executed such a written instrument as provided in this subchapter shall permit the proper carrying out of such disposition made by a deceased, and no testamentary or other disposition whatever made by such person, except by written instrument as provided in § 1781 of this title, shall be effective to revoke or change the power given under such instrument. Neither the appointment of an administrator or an executor, nor a court order shall be necessary before the delivery of said body or removal of said parts therefrom.

(b) Any such disposition of his own body or parts thereof may be revoked by the donor at any time prior to his death or to the actual delivery or removal of any part by a written instrument executed in the same manner as provided for disposition.

§ 1784. Autopsy; permission of Medical Examiner

An autopsy or post-mortem examination of the remains of a decedent shall not delay or prevent the carrying out of any of said directions unless the remains or such part or parts of the remains are required for the purposes of criminal investigation or prosecution, but in the event that the person shall die while incarcerated or by violent or sudden means, or under any other circumstances that would require an inspection of the remains by the Medical Examiner, the written consent of the Medical Examiner shall first be obtained before the provisions of the said instrument are carried out.

§ 1785. Disposition of remaining parts of body

When the requisite parts of the body have been removed in cases where the disposition of the entire body has not been directed, the remains of such person not so removed, shall be the responsibility of and shall be under the control of the person having by law the right to disposition thereof.

§ 1786. Removal by physician; liability

The provisions of an instrument directing the removal of parts of a body shall be carried out by a duly licensed doctor of medicine and/or osteopathy to whom such instrument is delivered, or who may be named in such instrument to carry out the same, and neither the person acting in accordance with this subchapter in delivering the body for the removal of such part or parts, nor the licensed doctor of medicine and/or osteopathy actually making such removal, shall be liable in damages for any action taken in making or carrying out the direction of such instrument, unless he shall have actual knowledge of the existence of an instrument revoking the power contained therein, or except for wilful negligence or intentional wrong-doing.

§ 1787. Refusal to accept remains

Any donee of a body or any part or parts thereof designated by written instrument as provided herein may refuse to accept the same by immediate written notice to the next of kin of the deceased person whenever such donee determines that it has no use for the body or part or parts thereof. In such event, burial of the body shall be accomplished by the persons legally responsible therefor in the same manner as if no attempted disposition for scientific or restorative purposes had been made.

§ 1788. Burial of remains

Where no other provision for the same exists, a body, or the remains thereof, after it is no longer needed for the purpose indicated by the donor, may be buried at public expense, on order of the Medical Council of Delaware, but in no case shall the expense of the burial exceed \$100.

Section 2. Chapter 17, title 24, Delaware Code, is amended by adding thereto a new section to read:

§ 1777. Post-mortem examination only by physicians; liability; consent

(a) No post-mortem examination of the body of a deceased person shall be conducted by any person other than a duly licensed doctor of medicine and/or osteopathy. Written or telegraphic consent for a doctor of medicine and/or osteopathy to conduct a post-mortem examination of the body of a deceased person shall be deemed sufficient when given by whichever one of the following assumes custody of the body for the purpose of burial: father, mother, husband, wife, child, guardian, next of kin, or in absence of any of the foregoing, a person who assumes the duty of legal disposal of the body. If 2 or more of such persons assume custody of the body, consent of one of them who is legally considered as the next of kin shall be deemed sufficient.

(b) The licensed physician conducting the post-mortem examination shall not be liable in damages for any action taken in making such post-mortem examination.

Approved August 1, 1968.

CHAPTER 430

AN ACT TO AMEND CHAPTER 166, VOLUME 55, LAWS OF DELAWARE, ENTITLED "AN ACT RELATING TO CAPITAL IMPROVEMENTS FOR THE STATE BY AUTHORIZING CERTAIN CAPITAL IMPROVEMENTS AND APPROPRIATING THE MONEYS THEREFOR TO CERTAIN AGENCIES OF THE STATE" BY CHANGING THE ALLOCATION OF APPROPRIATIONS THEREIN TO THE PUBLIC ARCHIVES COMMISSION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Subsection 1(e) of Chapter 166, Volume 55, Laws of Delaware, is amended to read:

(e) Public Archives Commission, for construction or improvement of the following facilities:

(i) Reconstruction of Sign of Buck Tavern	\$33,000
(ii) Rehabilitation of Allee House	\$12,000
Subtotal	<u>\$45,000</u>

Approved August 1, 1968.

CHAPTER 431

AN ACT TO AMEND TITLE 6, DELAWARE CODE, BY ADDING A CHAPTER 38 THERETO PROVIDING FOR BROADCASTING CERTAIN PUBLIC NOTICES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 6, Delaware Code, is amended by adding thereto a new Chapter 38 to read as follows:

CHAPTER 38. BROADCASTING SUPPLEMENTARY PUBLIC NOTICES

§ 3801. Definitions

As used in this Chapter unless the context requires a different meaning:

(a) "Broadcast" means the transmission of information by means of radio or television facilities.

(b) "Notice" means any notice that is required by law to be published.

(c) "Station" means any radio or television station licensed for commercial or educational operation by the Federal Communications Commission.

§ 3802. Supplemental publication

(a) Any state or other public officer who is required by law to publish any notice may supplement publication thereof by causing such notice or a concise summary or description thereof to be broadcast at such times and with such frequency as he determines suitable when, in his judgment, the public interest is served thereby.

(b) Notices by political subdivisions of this State, cities, municipal and quasi municipal corporation, special districts and other public agencies shall be made only by stations whose primary broadcast coverage encompasses the county or counties in which the notice is required to be given.

§ 3803. Broadcast requirements

(a) In the broadcast of the notice or material under this Chapter, no reference by name to any person who is a candidate for elective public office at the time of the broadcast shall be made.

(b) Each station that broadcasts any notice or material under this Chapter shall retain at its office a copy or transcription of the text of the notice or material as broadcast for a period six months after the broadcast. The copy or transcript shall be available for public inspection at reasonable times.

§ 3804. Affidavit

Proof of publication of the notice or other material under this Chapter shall be by affidavit of the owner, manager, assistant manager or program director of the station, in substantially the following form:

AFFIDAVIT OF BROADCAST

State of Delaware,
County of.....
ss.

I,,
being first duly sworn, depose and say that I am the owner,
manager, assistant manager or program director of station
....., a radio (television) station broadcasting
from.....in the aforesaid county and
state; that the notice (or other material) described as
.....was broadcast on the following
days: (here set forth dates and times when the same was broad-
cast).

Subscribed and sworn to before me....., 19....
Month Day

.....
Notary Public for Delaware

My commission expires:.....

§ 3805. Selection of stations

All public officials performing functions under this Chapter shall select stations that best assure effective publicity for the notice or material being broadcast, based on the nature of the material being broadcast.

§ 3806. Payment on behalf of State

The cost of such broadcast shall be paid out of the funds of the agency in whose behalf the broadcast is made.

Approved August 1, 1968.

CHAPTER 432

**AN ACT RELATING TO EDUCATION OF THE CITIZENS
OF DELAWARE BY MAKING AN APPROPRIATION TO
WHYY, INC. ENGAGED IN EDUCATING THE PEOPLE
OF THIS STATE.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. The sum of \$100,000 is appropriated to WHYY, Inc. to be used to aid and support the operation of WHYY-TV as an educational, non-profit, non-commercial, instructional and cultural television serving the State.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1969, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State not otherwise appropriated.

Approved August 1, 1968.

CHAPTER 433

**AN ACT TO AMEND CHAPTER 33, TITLE 15, DELAWARE
CODE, RELATING TO NOMINATIONS OF CANDI-
DATES BY PARTIES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 33, Title 15, Delaware Code, is amended to read:

§ 3303. Time of filing certificates

Certificates of nominations to be filed with the Secretary of State, or the Clerks of the Peace, as the case may be, shall be filed before six o'clock P.M. (Eastern Standard Time) on or before the first day of September of the year of any general election, and if the first day of September is a Sunday or a legal holiday, then on the next day; and if the next day shall be a holiday, then on the succeeding day.

Approved August 5, 1968.

CHAPTER 434

AN ACT TO AMEND SECTION 1321, TITLE 14, DELAWARE CODE, RELATING TO SCHOOL EMPLOYEES BY PROVIDING UNDER CERTAIN CIRCUMSTANCES FOR SUPERVISORS OF TRANSPORTATION, AND MAKING A SUPPLEMENTARY APPROPRIATION TO THE STATE BOARD OF EDUCATION TO EFFECTUATE THE PURPOSES OF THIS ACT.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 1321, Title 14, Delaware Code, is hereby amended by adding a new subparagraph 9 to subsection (e) of said section as follows:

9. Supervisors of Transportation for a period of twelve months per year at the rate of one such Supervisor per 7,000 or more transported pupils, such pupils being those in the area supervised eligible for school transportation.

Section 2. Section 1321, Title 14, Delaware Code, is further amended by striking subsection (f) thereof and substituting a new subsection (f) as follows:

(f) For districts that do not qualify for Psychologists, Speech and Hearing Teachers, Visiting Teachers, and Transportation Supervisors, the State Board of Education may combine districts to provide for such personnel under the provisions of subsection (e) of this section and shall adopt rule and regulations delegating administrative and financial control and responsibility to such combinations of local school districts as are formed.

Section 3. There is hereby appropriated to the State Board of Education the sum of Sixty-five Thousand Dollars (\$65,000) for the purpose of implementing the institution of Supervisors of Transportation as provided by this Act. The sum hereby appropriated shall be considered a supplementary appropriation in addition to any sums heretofore provided to the State Board of Education, and shall be paid out of the General Fund of the

State Treasury from moneys not otherwise appropriated. All moneys hereby appropriated shall be used only for the purpose specified, and any of said moneys remaining unexpended on June 30, 1969, shall revert to the General Fund of the State Treasury.

Approved August 5, 1968.

CHAPTER 435

AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED BY THE UNIVERSITY OF DELAWARE FOR THE RENOVATION AND REMODELING OF BROWN LABORATORY AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONEYS TO THE UNIVERSITY OF DELAWARE AND PROVIDING FOR THE REDUCTION IN APPROPRIATIONS AUTHORIZED BY THE "ANNUAL CAPITAL IMPROVEMENT ACT OF 1967."

WHEREAS, statistical forecasts with respect to the study of chemistry at the University of Delaware indicate that in the next ten years the number of students enrolling for the study of chemistry is expected to triple, the number of individual students majoring in chemistry is also expected to triple, and the teaching staff is expected to double; and

WHEREAS, during the academic year 1967-1968, every available laboratory space, both graduate and undergraduate, was filled to capacity and the laboratory space situation for the Fall of 1968 is extremely critical; and

WHEREAS, there is a critical need for 8,000 to 10,000 square feet of new space at the University of Delaware for the teaching of chemistry; and

WHEREAS, the space in Brown Laboratory which has been vacated by the Chemical Engineering Department will answer the needs of the University of Delaware for additional space if proper renovations are made,

NOW, THEREFORE,

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each House thereof concurring therein):

Section 1. There is appropriated to the University of Delaware the sum of one million five hundred and fifty thousand

dollars (\$1,550,000), or so much thereof as shall be received from the sale of the bonds and notes hereinafter authorized, which shall be used for the renovation and remodeling of Brown Laboratory at the University of Delaware.

Section 2. Any of said appropriated funds remaining unexpended at the end of any fiscal year shall not revert to the General Fund but shall remain to be used for the purposes set forth in this Act.

Section 3. The said sum of one million five hundred and fifty thousand dollars (\$1,550,000) shall be borrowed by the issuance of bonds and bond anticipation notes upon the full faith and credit of the State of Delaware. Such bonds and notes shall be issued in accordance with the provisions of Chapter 74, Title 29, Delaware Code. For purpose of identification, the bonds issued pursuant to this Authorization Act may be known, styled or referred to as "Capital Improvement Bonds of 1969."

Section 4. There is hereby appropriated from the General Fund such sums as may be necessary for the expenses incident to the issuance of the bonds and notes herein authorized, and such further sums as may be necessary for the repayment of the principal of any of the said bonds which becomes due during the current fiscal year. Vouchers for the payment of the expenses incident to the issuance of bonds and notes and for the interest and repayment of said notes shall be signed by the Secretary of State by and with the approval of the Issuing Officers. Any moneys received from the premium and accrued interest on the sale of said bonds shall be deposited to the credit of the General Fund.

Section 5. The Budget Appropriation Bill which shall be enacted and approved by the General Assembly for the fiscal year next following the effective date of this Act and for such subsequent fiscal year or biennium, shall contain under the Debt Service Item provisions for the payment of interest and principal maturities of the bonds (or notes which are not to be funded by the issuance of bonds) issued under the authority of this Act, and such of the revenues of the State of Delaware as are not prohibited by constitutional provisions or committed by preced-

ing statutes for other purposes are hereby pledged for the redemption and cancellation of said bonds and payment of interest thereon.

Section 6. In the event the University of Delaware obtains a grant under Title II of the Higher Education Act of 1965 to defray in part the cost of the renovation and remodeling of Brown Laboratory at the University of Delaware, the appropriation herein provided for shall be reduced by the amount of such grant.

Section 7. The sum of three hundred and seventy-two thousand dollars (\$372,000) is hereby reduced from the appropriation authorized to the University of Delaware by the "Annual Capital Improvement Act of 1967," Section 7 (m), Volume 55, Chapter 429, Laws of Delaware for a capital project specifically identified in the "1967 Annual Capital Project Schedule" as the "Nursing School Facility."

Approved August 5, 1968.

CHAPTER 436

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE DEPARTMENT OF CORRECTIONS FOR THE
PURPOSE OF GRANTING SALARY INCREASES TO
CERTAIN EMPLOYEES.**

WHEREAS, employees of the institutions of the Department of Correction are subjected to unusual physical hazards by virtue of the nature of their work; and

WHEREAS, the recruitment and retention of capable employees at current salary rates has become increasingly difficult; and

WHEREAS, it is in the best interests of the welfare and safety of the people of the State of Delaware that these institutions be ably and adequately staffed; and

WHEREAS, the merit system of personnel administration vests in the State Personnel Commission broad discretionary and rule making authority;

NOW, THEREFORE,

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The State Personnel Commission is hereby directed to review salaries assigned to the employees of the Department of Correction to the end that each employee shall be placed in that step of the pay grade to which he is assigned that will increase his salary as paid June, 1968, by a sum that will assure an increase of at least \$600. per year and that will conform to the pay schedules adopted by the Commission and approved by the Governor, for employees in the following occupational groups:

- (a) Correctional Matron
- (b) Correctional Officer
- (c) Correctional Lieutenant

- (d) Correctional Captain
- (e) Deputy Warden
- (f) Farm Manager and Foremen
- (g) Maintenance Employees
- (h) Storeroom Employees
- (i) Kitchen Employees
- (j) Furniture Shop Employees
- (k) Hospital Employees
- (l) Office Personnel
- (m) Employees in the Parole and Probation Program

Section 2. This act shall not require that the salary already assigned to any employee under the merit system of personnel administration be reduced.

Section 3. The sum of \$100,000 is hereby appropriated to the Department of Corrections for payment of the salary increases provided for in Section 1 hereof.

Section 4. The salary increases stated in Section 1 are to be effective for the year commencing July 1, 1968 and ending June 30, 1969.

Section 5. The funds appropriated hereby shall be used only for the purpose specified and any unexpended funds shall revert to the General Fund of the State of Delaware on June 30, 1969.

Section 6. This Act shall be known as a Supplementary Appropriation Act and the funds hereby appropriated shall be paid out of the General Fund of the State Treasury from funds not otherwise appropriated.

Became law on August 5, 1968, without the approval of the Governor, and in accordance with Section 18, Article 3 of the Constitution of Delaware.

CHAPTER 437

**AN ACT TO AMEND SUBCHAPTER III, CHAPTER 21,
TITLE 21, DELAWARE CODE, RELATING TO INSPEC-
TION OF VEHICLES.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Subchapter III, Chapter 21, Title 21, Delaware Code, is amended by adding a new section to be known as Section 2145 to read as follows:

§ 2145. Regulation of vehicular flow through inspection places

The Department shall adopt and enforce by July 1, 1969, such administrative rules and regulations as may be necessary to insure an even distribution of vehicular inspections at the inspection places in each county on a monthly basis.

Approved August 9, 1968.

CHAPTER 438

AN ACT TO AMEND SECTION 8301, TITLE 11, DELAWARE CODE, TO INCREASE THE NUMBER OF STATE POLICE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 8301, Title 11, Delaware Code, is hereby amended by striking the last sentence and inserting in lieu thereof the following sentence:

There shall not be more than 400 police officers on active duty.

Approved August 9, 1968.

CHAPTER 439

AN ACT TO AMEND DELAWARE CODE, TITLE 14, CHAPTER 1, SUBCHAPTER II, BY ADDING A NEW SECTION RELATING TO DRIVER EDUCATION INSTRUCTION IN NONPUBLIC SCHOOLS, AND MAKING AN APPROPRIATION TO CARRY OUT THE PURPOSES OF THIS ACT.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Delaware Code, Title 14, Chapter 1, Subchapter II, is hereby amended by adding a new section to be designated Section 131 and to be entitled "Driver education instruction in nonpublic high schools," to read as follows:

§ 131. Driver education instruction in nonpublic high schools

The State Board of Education shall make rules and regulations concerning instruction in Driver Education in nonpublic high schools. Such rules and regulations shall provide for at least the following:

(a) The qualification of teachers for Driver Education in nonpublic high schools shall be the same as the qualification for teachers in the public high schools.

(b) Unless modified by other statutes enacted after July 1, 1967, the ratio of teachers to pupils for assignment of Driver Education teachers in nonpublic high schools shall be based upon one teacher for each 140 tenth grade pupils enrolled in the nonpublic high school; or one-fifth of a teacher assignment for each full 28 tenth grade pupils.

(c) General supervision for the program of instruction in Driver Education in nonpublic high schools shall be under the jurisdiction of the State Board of Education or as this supervision may be assigned to a local public school district.

(d) Assignment of teachers to nonpublic high schools shall be by authority of the State Board of Education and the Board shall have the authority to require from the nonpublic high schools a statement of certified enrollment on such date and in

such form as the Board may require for making the decision relative to assignment.

(e) Salary for teachers in nonpublic high schools, when paid from funds of the State of Delaware, shall be in accord with the regularly adopted salary schedule set forth in Chapter 13 of this Title.

(f) Any local salary supplement paid to Driver Education teachers assigned to nonpublic high schools may be paid by the public school district to which such teacher is assigned.

(g) For purposes of administration and supervision, the teachers of Driver Education in nonpublic high schools shall be assigned to the faculty of a public high school. The State Board of Education shall be responsible for designating such assignment. The assignment of a teacher to a public high school for purposes of driving instruction in a nonpublic high school shall be made as an assignment in addition to any assignment authorized to that public high school in accord with the unit program set forth in Chapter 17 or any other portion of this Title.

(h) Funds for the payment of the State portion of any salary due to teachers of Driver Education in nonpublic high schools shall be appropriated to a contingency fund to be administered by the Budget Director for the State of Delaware and to be paid in accord with appropriate fiscal documents presented by the public school district to which the teacher has been assigned.

(i) A teacher of Driver Education may be assigned to several nonpublic or nonpublic and public high schools in accord with the ratio for assignment as set forth in this section.

Section 2. To carry out the provisions of this Act the sum of \$81,900.00 is hereby appropriated to a special contingency fund to be administered by the Budget Director for the State of Delaware and to be expended by the Budget Director on the basis of appropriate fiscal documents presented by a local school district or the State Board of Education.

Approved August 9, 1968.

CHAPTER 440

AN ACT DIRECTING THE STATE HIGHWAY DEPARTMENT TO UNDERTAKE A FEASIBILITY STUDY OF A NORTH-SOUTH, EAST-WEST TOLL HIGHWAY NETWORK THROUGH THE STATE.

WHEREAS, recent years have witnessed substantial increases in the economic, industrial and recreational development in the State; and

WHEREAS, this development has caused, and has been fostered by a substantial increase in the vehicular traffic volumes in the State; and

WHEREAS, the increased volume of traffic has caused substantial delays, congestion and hazards to road safety on existing highways.

NOW THEREFORE,

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The State Highway Department shall retain an independent nationally-known consulting firm to conduct a feasibility study covering locations, costs, revenues, financial feasibility and priorities with respect to the construction of a North-South, East-West Toll Highway network through the State of Delaware, and report the results thereof to the General Assembly at the commencement of the 125th General Assembly.

Section 2. The sum of \$25,000.00 is appropriated to the State Highway Department to effectuate the purpose of this Act.

Section 3. This Act is a supplementary appropriation for the fiscal year 1969 and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated. Any sums appropriated herein, if not previously expended, shall not revert into the General Fund until June 30, 1970.

Approved August 9, 1968.

CHAPTER 441

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE CONSTITUTIONAL REVISION COMMISSION.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. In addition to any sums heretofore appropriated to the Constitutional Revision Commission, the sum of \$25,000 is appropriated to the Constitutional Revision Commission.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall revert to the General Fund of the State of Delaware on June 30, 1969.

Approved August 9, 1968.

CHAPTER 442

AN ACT TO AMEND CHAPTER 11, TITLE 19, DELAWARE CODE, BY ADDING A NEW SECTION RELATING TO BENEFITS AND WAGE SUPPLEMENTS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 11, Title 19, Delaware Code, is amended by designating Sections 1109, 1110, 1111, 1112, 1113 and 1114 as Sections 1110, 1111, 1112, 1113, 1114 and 1115, respectively.

Chapter 2. Section 11, Title 19, Delaware Code, is amended by adding a new section 1109 to read as follows:

§ 1109. Benefits and wage supplements

(a) Any employer who is party to an agreement to pay or provide benefits or wage supplements to any employee shall pay the amount or amounts necessary to provide such benefits or furnish such supplements within 30 days after such payments are required to be made; provided, however, that the provision of this section shall not apply to employers subject to Part I of the Interstate Commerce Act.

(b) As used herein, "benefits or wage supplements" means compensation for employment other than wages, including but not limited to reimbursement for expenses; health, welfare or retirement benefits; and vacation, separation or holiday pay, but not including disputed amounts of such compensation subject to handling under dispute procedures established by collective bargaining agreements.

Approved August 9, 1968.

CHAPTER 443

AN ACT TO AMEND TITLE 6, DELAWARE CODE, ENTITLED COMMERCE AND TRADE RELATED TO USURY.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 6, Delaware Code, is hereby amended by striking § 2304 therefrom and inserting a new § 2304 to read as follows:

§ 2304. Usury defined, borrower's rights and remedies where interest exceeds the lawful rate

(a) Usury is the charge to a borrower by a lender, directly or indirectly, of a higher rate of interest than that permitted by law.

(b) When a rate of interest for the loan or use of money exceeding that established by law has been reserved or contracted for, the borrower or debtor shall not be required to pay the creditor the excess over the lawful rate and the borrower or debtor may, at his option, retain and deduct the excess from the amount of any debt. In all cases where any borrower or debtor has paid the whole debt or sum loaned, together with interest exceeding the lawful rate, the borrower or debtor, or his personal representative, may recover in an action against the person who has taken or received the debt and interest, or his personal representative, the sum of three times the amount of interest collected on any loan in excess of that permitted by law or the sum of \$500.00, whichever is greater, if such action is brought within one year after the time of such payment.

Approved August 9, 1968.

CHAPTER 444

AN ACT TO AMEND CHAPTER 27, TITLE 6, OF THE DELAWARE CODE BY ADDING A NEW SECTION RELATING TO INDEMNITY AND HOLD HARMLESS PROVISION IN, OR COLLATERAL TO, OR IN CONNECTION WITH, CONSTRUCTION, ALTERATION, MAINTENANCE AND DEMOLITION CONTRACTS.

Be it enacted by the Genral Assembly of the State of Delaware:

Section 1. Chapter 27, Subchapter I, Title 6, of the Delaware Code, is hereby amended by adding thereto a new section to be known as Section 2704, to read as follows:

Section 2704. A covenant, promise, agreement or understanding in, or in connection with or collateral to, a contract or agreement relative to the construction, alteration, repair or maintenance of a building, structure, appurtenance or appliance, including without limiting the generality of the foregoing, the moving, demolition and excavating connected therewith, purporting to indemnify or hold harmless architects, engineers, surveyors, owners and/or others, and/or their agents, servants and employees, for damages arising from liability for bodily injury or death to persons or damage to property caused by or resulting or arising from or out of the negligence of such architect, engineer, surveyor, owner or others than the promisor or indemnitor, or their agents, servants or employees, or without limiting the genarity of the foregoing, caused by or resulting or arising from or out of defects in maps, plans, designs, specifications prepared, acquired or used by such architect, engineer, surveyor, owner, or others than the promisor or indemnitor, or their agents, servants or employees, is against public policy and is void and unenforceable; provided, however, that nothing in this section shall be construed to void or render unenforceable policies of insurance issued by duly authorized insurance companies and insuring against losses or damages from any cause whatsoever.

Approved August 9, 1968.

CHAPTER 445

AN ACT TO AMEND SUBCHAPTER VI, TITLE 20, DELAWARE CODE RELATIVE TO DEATH BENEFITS PAYABLE TO THE WIDOWS OR PERSONAL REPRESENTATIVE OF A MEMBER OF THE DELAWARE NATIONAL GUARD KILLED WHILE ON STATE DUTY.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Subchapter VI, Title 20, Delaware Code, by adding thereto a new Section 186 to read as follows:

§ 186. Death benefits for death occurring while on State service

(a) The widow, or if there is no widow, the personal representative of any member of the Delaware National Guard who is killed while on State duty pursuant to Section 171 of this title shall receive, in addition to other benefits provided for in this title, the sum of \$10,000.00.

(b) Any such payment provided for in this section shall be paid by the State Treasurer from any monies not otherwise appropriated, upon warrants therefor signed by the Adjutant General, and countersigned by the Governor.

Approved August 9, 1968.

CHAPTER 446

AN ACT TO AMEND CHAPTER 55, TITLE 29, DELAWARE CODE, RELATING TO STATE EMPLOYEES PENSIONS BY CHANGING CERTAIN REFUND PROVISIONS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 29, Section 5562 (c), Delaware Code, is hereby amended by inserting, after the word "shall" and before the word "be" the following:

"upon written request of the employee or the executor of his estate."

Section 2. Title 29, Section 5562, Delaware Code, is hereby amended by adding at the end thereof a new sub-section to read as follows:

(d) In the event an employee who has had contributions refunded as a result of leaving State service, returns to State service and otherwise qualifies for retirement under this Chapter, no pension benefit under this Chapter shall be paid to such employee until the employee has returned to the Fund any such amounts previously refunded.

Approved August 9, 1968.

CHAPTER 447

AN ACT TO PROVIDE SUMMER EMPLOYMENT FOR CERTAIN IMPOVERISHED ELDERLY OF THIS STATE AND TO MAKE A SUPPLEMENTARY APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$25,000.00 is appropriated to the State of Delaware Commission For The Aging for the fiscal year ending June 30, 1969, for the purposes set forth herein.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall not revert to the General Fund of the State of Delaware until June 30, 1969.

Section 4. The sums appropriated herein shall be expended for the purpose of providing employment for impoverished elderly of this State from the effective date hereof until October 30, 1969.

Section 5. Eligibles for the employment authorized by this Act shall be limited to a person who is at least 65 years of age and is a member of a household whose gross family income for 1967 was less than \$3,000.00 plus \$600.00 for each member of the household over 2 members.

Section 6. The provisions of Section 5 shall not apply to persons hired as staff who possess special training or skills if persons meeting the requirements of Section 5 with the special training or skills required are not readily available.

Section 7. In special circumstances the Director of State of Delaware Commission For The Aging, with the approval of

the Governor, may waive the requirements of Section 5, provided he states in writing the reasons for the waiver. Priority shall in all cases, however, be given to those persons who meet the requirements of Section 5.

Section 8. Moneys earned by persons employed under programs provided for herein shall not be considered as income by the Department of Welfare in considering eligibility for assistance under any of its programs.

Section 9. The moneys appropriated herein may be used by the State of Delaware Commission For The Aging in its discretion, as matching funds for any grants or aid provided by (1) the government of the United States or any of its agencies; or (2) any private non-profit agency with a recognized competence in the field of aging.

Approved August 9, 1968.

CHAPTER 448

**AN ACT TO AMEND § 555, TITLE 28, DELAWARE CODE,
RELATING TO HARNESS RACING.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Section 555, Title 28, Delaware Code, is amended by striking subsection (b) and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The State Treasurer shall deposit the monies received pursuant to subsection (a) of this Section in the General Fund of this State except that an amount equal to $\frac{1}{2}$ of one per cent of all contributions to all pari-mutuel and totalizator pools conducted or made on any and every race track licensed under this Chapter and on every race at such track, shall be deposited to a special fund called "The Delaware Standardbred Development Fund." All fees received pursuant to § 564 (b) and § 567 shall likewise be deposited to said special fund. Said special fund shall be administered pursuant to subchapter V of this Chapter.

Approved August 9, 1968.

CHAPTER 449

AN ACT AUTHORIZING THE INCUMBENT STATE TREASURER TO TRANSFER CERTAIN BALANCES IN THE ACCOUNTS OF THE FORMER STATE TREASURER TO THE CREDIT OF THE GENERAL FUND AND EMPLOYMENT SECURITY COMMISSION ADMINISTRATION ACCOUNT, RESPECTIVELY.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The incumbent State Treasurer is authorized to transfer to the credit of the general fund of the State of Delaware the amount of Four-Hundred Sixty-Eight Thousand Eight-Hundred Seventy-Four and 13/100 Dollars (\$468,874.13) made up of certain balances for which the date for honoring any check or orders drawn thereupon has expired by statute; such amount being the total of balances on deposit to the credit of the State of Delaware in the Farmers Bank of the State of Delaware, Dover, Delaware, in the name and in the accounts as follows:

TREASURER OF THE STATE OF DELAWARE:

Name of Account	Number of Account	Amount
Pension	2217-016-3	\$ 4,639.30
Welfare	2217-055-9	9,913.67
S.S. Refund 1958	2217-028-4	52.87
S.S. Refund 1959	2217-029-5	52.00
S.S. Refund 1960	2217-030-6	.57
S.S. Refund 1961	2217-031-7	.12
S.S. Refund 1962	2217-032-8	85.91
S.S. Refund 1963	2217-087-8	.22
S.S. Refund 1964	2217-088-9	1,640.02
S.S. Refund 1965	2217-099-9	78.40
Motor Fuel Tax Refund	2217-011-9	1,042.36
Motor Fuel License & Fee Refund.	2217-014-1	64.60
Welfare	2217-054-8	312.10
Payroll Spec. No. 2	2217-004-2	3,254.70
Pension	2217-015-2	4,004.45

Motor Fuel Refund	2217-010-8	64.61
Motor Vehicle License & Fees ...	2217-013-0	15.00
Payroll	2217-002-0	14,374.19
Regular Checking	2217-072-4	429,279.04

Section 2. The incumbent State Treasurer is authorized to transfer to the credit of the Employment Security Commission Administration Account the amount of Fifteen-Thousand Nine-Hundred Seventy-eight and 66/100 dollars (\$15,978.66) made up of certain balances for which the date for honoring any check or orders drawn thereupon has expired by statute; such amount being on deposit to the credit of the State of Delaware in the Farmers Bank of the State of Delaware, Dover, Delaware, in the name and in the amount as follows:

Name of Account	Number of Account	Amount
Employment Security Commission		
Administration	2217-073-5	\$ 15,978.66

Approved August 9, 1968.

CHAPTER 450

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE DELAWARE STATE DEVELOPMENT DE-
PARTMENT FOR FLAGS.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$2,500 is appropriated to the Delaware State Development Department for the fiscal year ending June 30, 1969, for the purpose of purchasing flags of this State to be distributed gratis to members of the Armed Forces of the United States serving overseas.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware, not otherwise appropriated.

Approved August 9, 1968.

CHAPTER 451

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE GOVERNOR FOR THE USE OF THE INTER-
AGENCY COMMITTEE ON MENTAL RETARDATION.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$19,000 is appropriated to the Governor for the fiscal year ending June 30, 1969, to be used by the Inter-Agency Committee on Mental Retardation for the purpose of establishing small group living quarters.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall revert to the General Fund of the State of Delaware on June 30, 1969.

Approved August 9, 1968.

CHAPTER 452

AN ACT TO AMEND SECTION 503, TITLE 31, DELAWARE CODE, RELATING TO THE METHOD OF PAYMENT OF WELFARE ASSISTANCE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 503, Title 31, Delaware Code, is amended by adding a new subsection (h) to read:

(h) Emergency monetary assistance as shall be granted under this chapter to any needy person who has insufficient income or other resources to provide a reasonable subsistence compatible with decency and health, shall be paid to such needy person only in the form of a check drawn upon the State of Delaware. If the check does not exceed \$100, it may be hand delivered to the eligible recipient at the time such eligibility and such emergency need is established.

Approved August 9, 1968.

CHAPTER 453

**AN ACT MAKING A SUPPLEMENTAL APPROPRIATION
TO THE STATE DISTRIBUTION AGENCY FOR THE
EXPANSION OF THE NEEDY FAMILIES COMMODITY
PROGRAM.**

WHEREAS, the State Distribution Agency is the sole Agency responsible to operate the federal food commodity program for needy families in the State of Delaware; and

WHEREAS, the State Distribution Agency is authorized to operate the program in accordance with regulations and procedures prescribed by the United States Department of Agriculture to provide for the distribution of all available commodities to eligible needy families; and

WHEREAS, the United States Department of Agriculture has changed its concept of the needy family commodity program from a supplemental to a total nutritional diet by providing additional commodities and quantities to these eligible needy families; and

WHEREAS, under the new concept it will be necessary to have multiple distributions each month to accomplish the donation of all available commodities to eligible needy families; and

WHEREAS, to accomplish multiple distributions it will be necessary to acquire additional personnel, service, supplies and equipment, NOW THEREFORE,

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$166,050 is appropriated to the State Distribution Agency for the expansion of the needy family commodity program of Delaware for the balance of fiscal year ending June 30, 1969, as follows:

Salaries & Wages of Employes (16)	\$ 79,600.
Salaries & Wages Casual	2,000.
Contractual Services	20,800.
Supplies & Materials	5,350
Capital Outlay	58,300.
	<hr/>
	\$166,050.

Section 2. This act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Approved August 9, 1968.

CHAPTER 454

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE INDUSTRIAL ACCIDENT BOARD.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$1,550 is appropriated to the Industrial Accident Board for the fiscal year ending June 30, 1969, to be expended for the costs incident to the removal of the office of the Industrial Accident Board, including moving and alterations.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall revert to the General Fund of the State of Delaware on June 30, 1969.

Approved August 9, 1968.

CHAPTER 455

AN ACT APPROPRIATING FUNDS TO THE STATE COMMISSION FOR THE AGING FOR SALARY AND OPERATION EXPENSES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$10,000 is hereby appropriated to the State Commission for the Aging to be used for Older American Act Grants (operation of Commission program).

Section 2. This Act is a Supplementary Appropriation ending June 30, 1969 and the money shall be paid by the State Treasurer out of the General Fund of the State of Delaware.

Approved August 9, 1968.

CHAPTER 456

AN ACT TO AMEND TITLE 3, DELAWARE CODE, BY ADDING THERETO A NEW CHAPTER 25, RELATING TO REQUIREMENTS OF LICENSES AND BONDS FOR DEALERS IN AGRICULTURAL PRODUCTS; APPLICATION REQUIREMENTS; RECORDS AND INFORMATION TO BE KEPT; REASONS FOR REVOKING LICENSES; AND, TO PROVIDE PENALTIES FOR VIOLATIONS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 3, Delaware Code, is amended by adding thereto a new Chapter 25 to read as follows:

CHAPTER 25. DEALERS IN AGRICULTURAL PRODUCTS**§ 2501. Definitions**

The following definitions shall apply in the interpretation and enforcement of this article.

(a) "Person" means any individual person, firm, partnership, corporation, association or syndicate, their lessees, trustees or receivers;

(b) "Dealer" means any person in Delaware who buys, sells, solicits for sale, processes for sale or resale, resells, exchanges, negotiates, purchases or contracts for processing or transfers any agricultural product of a producer. The term "dealer" shall exclude any duly incorporated agricultural co-operative association, persons who operate as cash buyers and any person who buys for wholesale or retail in Delaware;

(c) "Producer" means any person in Delaware who produces agricultural products;

(d) "Agricultural products" means vegetables, and the term "vegetables" for the purposes of this article shall be construed to include, but not by way of limitation, potatoes, tomatoes, melons, berries, and cucumbers;

(e) "Board" means the State Board of Agriculture;

(f) "Cash buyer" means any person who obtains from the producer or his representative, title, possession or control of any agricultural product or contracts for the title, possession or control of any agricultural product or who buys or agrees to buy any agricultural product by paying to the producer at the time of obtaining possession or control or at the time of contracting for the title, possession or control of any agricultural product, the full agreed price of such agricultural product in coin or currency, lawful money of the United States, certified checks, cashier's checks or drafts issued by a bank.

§ 2502. License required of dealer

It shall be unlawful for any dealer in agricultural products to operate and conduct a business without first having obtained a license as herein provided. The Board shall publish annually a list of licensed dealers under this Chapter.

§ 2503. Dealers licensed annually

Every dealer in agricultural products proposing to transact business within the State of Delaware shall on the effective date of this Act and annually on or before January first of each year, thereafter file a written application for a license or for the renewal of a license with the Board. The application shall be on a form furnished by the Board and shall contain the following information along with such other information as the Board shall require.

(a) The name and address of the applicant and that of its local agent or agents, if any, and the location of its principal place of business within this State.

(b) The kinds of agricultural products the applicant proposes to handle.

(c) The type of produce business proposed to be conducted.

§ 2504. License fee; bond required

All applications shall be accompanied by a license fee of ten dollars and a good and sufficient bond in the minimum sum of one thousand dollars or in such greater amount as is equal to

the maximum amount of gross business done in any month in the State of Delaware during the preceding year by the applicant, but in no event shall the amount of bond required exceed twenty thousand dollars.

§ 2505. Requirements of bond; bond form; action upon bond

The bond herein referred to shall be executed by the applicant as principal and by a surety company authorized and qualified to do business in this State as surety. The Board shall be designated as the trustee of this bond, and a copy of this bond shall be filed with it. Such bond shall be upon a form prescribed or approved by the Board and shall be conditioned to secure the faithful accounting for payment to producers, agents or representatives, of all agricultural products purchased, handled or sold by the dealer. Any producer claiming to be injured by the non-payment fraud, deceit or negligence of any dealer may bring action therefor upon the bond against the principal, or the surety, or both in any court of competent jurisdiction.

§ 2506. Renewal of license

Upon the application by evidence of payment of renewal premium continuing the bond herein required in full force and effect, and the payment of a fee of ten dollars on or before the first day of January following the date of expiration of any license hereunder issued. The application shall be entitled to renewal license to expire one year from the expiration of the old license.

§ 2507. Fees collected

All sums received by the Board for license fees and the renewals of the same shall be paid into the State Treasury to the credit of the General Fund.

§ 2508. Dealer to keep records

It shall be the duty of every dealer having received any agricultural product from a producer to make and keep a correct record and retain the same for two years, showing in detail the following with reference to the handling and/or sale of such agricultural products, along with such other information as the Board may require.

- (a) The name and address of the producer;
- (b) The date received;
- (c) The condition, grade (if officially graded) and quantity on receipt;
- (d) The date of resale or transfer of the products to another;
- (e) The price at which purchased and sold.

§ 2509. Board's authority to investigate

Upon the written complaint of any producer, the Board or its duly authorized agents shall have the authority to investigate the books and records pertaining to such complaint of any dealer in agricultural products at any time during business hours and shall have free access to the place at which the business is operated.

§ 2510. Board may refuse or revoke licenses

The Board may refuse to grant a license or may revoke any license already granted, as the case may be, when it is satisfied as to the existence of any of the following causes:

- (a) The dealer has suffered a money judgment to be entered against him upon which execution has been returned unsatisfied;
- (b) The dealer has failed to promptly and properly account and pay for agricultural products;
- (c) The dealer has made a false or misleading statement as to market conditions or the service rendered, if any, with the intent to defraud;
- (d) The dealer has perpetrated a fraud or engaged in deceit in procuring the license;
- (e) The dealer has engaged in any fraudulent or deceitful practices in his dealings with producers.

§ 2511. Penalty

Any person who shall violate the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof for

the first offense shall be fined not less than one hundred dollars nor more than five hundred dollars, or be confined in jail for a period not exceeding six months, or both; and upon conviction of a second offense shall be fined not less than five hundred dollars nor more than one thousand dollars, or be confined in jail for a period not exceeding one year, or both, in the discretion of the court.

Approved August 9, 1968.

CHAPTER 457

AN ACT TO AMEND CHAPTER 83, TITLE 9, DELAWARE CODE, TO PERMIT THE RESPECTIVE GOVERNMENTS OF NEW CASTLE, KENT AND SUSSEX COUNTIES TO MAKE SUPPLEMENTAL ASSESSMENTS OF REAL PROPERTY LOCATED IN THEIR RESPECTIVE COUNTIES AND TO LEVY AND COLLECT REAL PROPERTY TAXES BASED ON SUCH SUPPLEMENTAL ASSESSMENTS; TO PROVIDE FOR A LIEN AGAINST PROPERTY FOR UNPAID TAXES SO LEVIED, TOGETHER WITH PENALTIES, AND TO PROVIDE APPEALS FROM SUCH SUPPLEMENTAL ASSESSMENTS.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 9, Chapter 83, Delaware Code, is hereby amended by adding thereto the following new sections:

§ 8329. Supplemental assessments permitted quarterly

In addition to the annual assessment provided for in sections 8301 and 1311 of this title, each Board of Assessment of Kent and Sussex Counties and the Department of Finance of New Castle County may, at its option, prepare quarterly supplemental assessment rolls for the purpose of (1) adding property not included on the last assessment or (2) increasing the assessed value of property which was included on the last assessment. The supplemental assessment roll may be used to correct errors on the prior assessment rolls and to remove or modify any exemption from taxation applicable to property in the county.

§ 8330. Certification of supplemental assessment roll

(a) In New Castle County such supplemental assessment rolls shall be prepared quarterly during each fiscal year. The first such assessment roll shall be certified to the County Council of New Castle County on July 1 of each year, the second on October 1 of each year, the third on January 1 of each year and the fourth on April 1 of each year. ■

(b) In Kent County such supplemental assessment rolls shall be prepared quarterly in each fiscal year. The first such supplemental assessment roll shall be certified to the Levy Court of Kent County on June 1 of each year; the second on September 1 of each year; the third on December 1 of each year; and the fourth on March 1 of each year.

(c) In Sussex County such supplemental assessment rolls shall be prepared quarterly in each fiscal year. The first such supplemental assessment roll shall be certified to the Levy Court of Sussex County on May 1 of each year; the second on August 1 of each year; the third on November 1 of each year; and the fourth on February 1 of each year.

§ 8331. Levy of Tax and creation of a lien based on the supplemental assessment roll

On the date of certification of a supplemental tax roll to the respective Levy Court or County Council, (1) the property owners listed thereon shall be liable to pay taxes equal to the assessed value of the property multiplied by the tax rates for the then current fiscal year applicable to the property, reduced by 25% where the property is listed on the second supplemental assessment roll; by 50% where the property is listed on the third supplemental assessment roll; and by 75% where the property is listed on the fourth supplemental assessment roll; and (2) the amount of such tax shall be and remain a lien on such property, together with any penalties which might thereafter accrue, until such taxes and penalties are paid in full. Such tax rates shall include, without limitation, the tax rate imposed by any School Boards for districts in which the property is located.

§ 8332. Retroactive taxation prohibited

In no case shall the supplemental assessment procedure be employed to impose taxes retroactively.

§ 8333. Notice required under supplemental assessment procedure

(a) Whenever the Board of Assessment or Department of Finance places a property on a supplemental assessment roll, it shall deposit notice thereof in the regular mail addressed to the

owner of the property affected thereby at the address shown on the assessment rolls, or if the address of such owner does not appear on the assessment roll, then to the person occupying the property, or if there is no apparent occupant such notice shall be posted on the land. Such notice shall be given no later than the date on which the supplemental assessment roll on which the property appears is certified to the respective Levy Court or County Council.

(b) Each Board of Assessment or Department of Finance shall publish notices of the places where the supplemental assessment roll may be inspected together with a notice of the time and place of the sittings to hear appeals. The notices published by the Department of Finance for New Castle County shall also state the time and place for filing written notices of appeal with the Board or Department. Such notice shall appear at least once a week for 2 weeks in at least 2 newspapers in the case of Kent and Sussex Counties; and in at least 4 newspapers, one of which shall be published in the City of Wilmington, in the case of New Castle County. Such publication shall begin no later than the date on which the supplemental assessment roll was certified.

§ 8334. Appeal of supplemental assessment; penalties and interest

Within 30 days from the date notice of supplemental assessment was sent by the Board of Assessment or Department of Finance, the owner may appeal the supplemental assessment to the respective Board of Assessment or Board of Assessment Review. The appeal shall be scheduled and heard by the Board during its next regular appeal period as provided in this title. Pending determination of such appeal, the owner may (1) pay the tax imposed by the supplemental assessment, and if on appeal the assessment is reduced he shall be entitled to a refund of the taxes which he has overpaid plus interest thereon at the rate of 1 per cent per month; or (2) not pay the tax imposed by the supplemental assessment, in which case penalties shall accrue at the rate of 1 per cent per month on the amount of taxes computed in accordance with the determination of the appeal, and no action to collect the tax shall be taken until the appeal is determined. Such interest and penalties shall begin to accrue upon the expiration of three months from the date on which the unpaid

tax became due and payable. Interest attributable to the overpayment of school taxes shall be paid by the school board of the districts entitled to receive such taxes.

§ 8335. Requirement of written reports

The provisions of section 8320 of this title may be utilized by the respective Boards of Assessment and the Department of Finance in connection with the annual and supplemental assessment procedures.

Section 2. This Act shall be effective immediately upon its adoption.

Approved August 9, 1968.

CHAPTER 458

AN ACT APPROPRIATING MONEY TO BOYS HOME OF DELAWARE, INC.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each branch thereof concurring therein):

Section 1. The sum of Sixteen Thousand Two Hundred and Fifty Dollars (\$16,250) is appropriated to Boys Home of Delaware, Inc., a Delaware corporation. The said sum shall be paid by the State Treasurer upon a warrant signed by the Treasurer of the said corporation.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of the General Fund of the State of Delaware from funds not otherwise appropriated.

Approved August 9, 1968.

CHAPTER 459

AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED FOR CAPITAL IMPROVEMENTS AND EXPENDITURES IN THE NATURE OF CAPITAL INVESTMENTS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONEYS TO THE DELAWARE STATE HIGHWAY DEPARTMENT.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each branch thereon concurring therein):

Section 1. There is appropriated to the State Highway Department the sum of \$100,000 or so much thereof as shall be received from the sale of bonds and notes hereinafter authorized which shall be used for constructing beach erosion facilities along Delaware Bay.

Section 2. The funds appropriated by this Act may be used for the costs incidental to the purpose set forth in Section 1 of this Act and are to include but not be limited to design, planning, land acquisition, construction, repairing, remodeling, equipping, landscaping and inspection costs but are not to be used for ordinary or normal maintenance expense of other properties.

Section 3. Any of the funds appropriated herein remaining unexpended at the end of any fiscal year shall not revert to the General Fund, but shall remain to be used for the purposes set forth in this Act.

Section 4. The said sum of \$100,000 shall be borrowed by the issuance of bonds and bond anticipation notes upon the full faith and credit of the State of Delaware. Such bonds and notes shall be issued in accordance with the provisions of Chapter 74, Title 29, Delaware Code, and Chapter 75, Title 29, Delaware Code, where applicable. For purposes of identification, the bonds issued pursuant to this Authorization Act may be known styled or referred to as "Beach Erosion Facilities Construction Bond of 1969."

Section 5. There is appropriated from the General Fund of the State such sums as may be necessary for the expenses incident to the issuance of the bonds and notes herein authorized, and such further sums as may be necessary to pay any interest which becomes due on such bonds and notes during the current fiscal year and such further sums as may be necessary for the repayment of the principal of any of the said bonds which become due during the current fiscal year. Vouchers for the payment of the expenses incident to the issuance of bonds and notes and for the interest and repayment of said notes shall be signed by the Secretary of State by and with the approval of the Issuing Officers. Any monies received from the premium and accrued interest on the sale of said bonds shall be deposited to the credit of the General Fund.

Section 6. The Budget Appropriation Bill which shall be enacted and approved by the General Assembly for the fiscal year next following the effective date of this Act and for each subsequent fiscal year or biennium, shall contain under the Debt Service Item provisions for the payment of interest and principal maturities of the bonds (or notes which are not to be funded by the issuance of bonds) issued under the authority of this Act, and such of the revenues of the State of Delaware as are not prohibited by constitutional provisions or committed by preceding statutes for other purposes are hereby pledged for the redemption and cancellation of said bonds and payment of interest thereon.

Section 7. Any funds borrowed pursuant to this Act and remaining unexpended after the completion of the programs authorized by this Act and any funds borrowed pursuant to this Act and remaining unexpended because a project authorized by this Act is not timely undertaken, shall be deposited in a special account and appropriated against future capital improvement bond requirements. Any federal funds received as reimbursement for funds appropriated by this Act shall be deposited in a special account and applied against future capital improvement bond requirements.

Section 8. None of the monies appropriated by this Act shall be expended before July 1, 1968. None of the monies ap-

propriated by this Act shall be expended unless a contract for the expenditure of such monies is entered into before July 1, 1971, and the actual work on the contract is commenced before July 1, 1971.

Section 9. No bonds or notes shall be issued or monies borrowed on behalf of this State, pursuant to this Act, after June 30, 1974, except as provided in Chapter 75, Title 29, Delaware Code.

Section 10. This Act may be known styled or referred to as the "Beach Erosion Facilities Construction Act of 1969."

Approved August 9, 1968.

CHAPTER 460

**AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE,
ENTITLED "INSURANCE", BY ADDING THERETO A
NEW PART ENTITLED "SURETYSHIP".**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 18, Delaware Code, is amended by adding thereto a new Part to read:

PART II. SURETYSHIP**CHAPTER 77. SURETYSHIP****SUBCHAPTER 1. CORPORATE SURETIES****§ 7701. Execution and sufficiency of corporate suretyship**

(a) Whenever any bond, undertaking, recognizance or other obligation is by law or the charter, ordinances, rules or regulations of any municipality, board, body, organization or public officer, required or permitted to be made, given, tendered or filed with surety or sureties, and whenever the performance of any act, duty or obligation, or the refraining from any act, is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guarantee may be executed by an insurer duly authorized to transact surety insurance in this State under a certificate of authority issued by the Insurance Commissioner of this State.

(b) The execution by such insurer of such bond, undertaking, obligation, recognizance or guarantee shall be in all respects a full and complete compliance with every requirement of every law, charter, ordinance, rule or regulation that such bond, undertaking, obligation, recognizance or guarantee shall be executed by one surety or by one or more sureties or that such sureties shall be residents or freeholders, either or both, or possess any other qualification, and shall be accordingly accepted and treated.

§ 7702. Acceptance and approval by public officers

(a) Any public officer or department of state, county or municipal government, whose duty it may be to approve the surety

upon any bond or bonds, may accept and approve such bonds when executed by the principal therein and by any surety insurer qualified to act as surety or guarantor as provided in section 7701 of this subchapter. The Levy Courts of the several counties of this State may accept such bonds as security for Receivers of Taxes and County Treasurers in lieu of the security provided for by the laws of this State.

(b) Whenever any bond, undertaking, recognizance, or guarantee has been duly executed in compliance with the terms of this chapter by the principal or principals therein, and by an insurer, duly authorized under the law of this State to transact the business of executing bonds of suretyship, then any officer, judge or any department of the state, or of any county, or municipal government, whose duty it may be to approve of the surety upon the bond, undertaking, recognizance, or guarantee, may accept and approve such bond, undertaking recognizance, or guarantee.

§ 7703. Agreement requiring principal to deposit assets; withdrawal

Any party of whom a bond or undertaking is required may agree with his sureties for the deposit for safe keeping of any and all moneys and other depositable assets for which such sureties are or may be held responsible with a trust company, safe deposit company or bank authorized by law to transact business as such in this State, if such deposit is otherwise proper, in such manner as to prevent the withdrawal of such moneys and assets or any part thereof, except with the written consent of such sureties, or an order of the court, made on such notice to them as such court may direct.

§ 7704. Release of liability on bond; procedure

The surety or representatives of any surety upon the bond of any trustees, committee, guardian, assignees, receiver, executor or administrator or other fiduciary, may apply by petition to the court wherein the bond is filed or which may have jurisdiction of such trustee committee, guardian, assignee, receiver, executor or administrator or other fiduciary or to a judge of the court, praying to be relieved from further liability as such surety, for the acts or omissions of the trustee, committee, guardian,

assignee, receiver, executor or administrator or other fiduciary, which may occur after the date of the order relieving such surety, to be granted as herein provided for; and to require such trustee, committee, guardian, receiver, assignee, executor or administrator or other fiduciary to show cause why he should not account and such surety to be relieved from any such further liability as aforesaid, and such principal be required to give a new bond. Thereupon, upon the filing of such petition, the court or judge thereof, shall issue such order, returnable at such time and place and to be served in such manner, as such court or judge may direct, and may restrain such trustee, committee, guardian, assignee, receiver, executor or administrator or other fiduciary from acting except in such manner as it may direct to preserve the trust estate and, upon the return of such order to show cause, if the principal in the bond account in due form of law and file a new bond duly approved, then such court or judge shall make an order releasing such surety filing the petition from liability upon the bond for any subsequent act or default of the principal; and in default of such principal thus accounting and filing such bond, such court or judge shall make an order directing such trustee, committee, guardian, assignee, receiver, executor or administrator or other fiduciary to account in due form of law and if the trust fund or estate shall be satisfactorily accounted for and delivered or properly secured, such surety shall be discharged from any and all further liability as such for the subsequent acts or omissions of the trustee, guardian, committee, assignee, receiver, executor or administrator, or other fiduciary after the day of such surety being so relieved and discharged.

§ 7705. Estoppel of surety insurer to deny corporate power

No insurer having signed any bond, undertaking or obligation as surety, guarantor or indemnitor shall be permitted to deny its corporate power to execute such instrument or incur such liability, in any proceeding to enforce liability against it thereunder.

§ 7706. Premium on bond of public officers; expense of office

The expenses incurred by any public officer for suretyship upon any bond required by law of him, as well as the expenses

for suretyship upon any bond required of any of his assistants or clerks shall, where the bond or bonds are required for the protection of the State, be paid for by the State, and where the bond or bonds are required for the protection of any of the several counties, be paid for by the Levy Court of the county, and where the bond or bonds are required for the protection of a municipality, be paid for by the municipality, and shall be charged to and considered a part of the expenses of the office held by the official. The cost of the bond shall not exceed the sum or sums determined by any applicable rate filed by the surety with the Insurance Commissioner.

§ 7707. Premium on bond of fiduciary; expense of estate

Any receiver, guardian, assignee, committee, trustee, executor, administrator or other fiduciary required by law or the order of any court to give a bond undertaking or other obligation as such, who shall avail himself of corporate suretyship in such bond, undertaking or obligation as authorized by the laws of this State, may present to the proper court or officer before whom he is required to submit, a statement and receipt showing the amount of charges paid for such corporate suretyship; and thereupon the court or other officer, before whom such accounting is rendered, may either order and direct such sum, either in whole or in part, to be a charge upon the estate and charged accordingly; or it may direct that no part thereof shall be a charge upon the estate. No charge for such suretyship shall in any case be allowed in excess of the sum or sums determined by any applicable rate filed by the surety with the Insurance Commissioner.

§ 7708. Warrant of attorney

In all instances where corporate suretyship is offered in accordance with the provisions of this chapter, and where the form of bond required by law contains a warrant of attorney, the bond shall be accepted without such warrant of attorney being written therein.

SUBCHAPTER II. RIGHTS OF SURETIES

§ 7709. Assignment of obligation

Where any persons are bound in any bond, bill, or other writing, made payable to any person, his executors, admin-

istrators, order or assigns, and the money due thereon, or any balance thereof, shall be paid or tendered, by a surety therein, the obligee shall be obliged to assign such bond, bill, or other writing, to such surety; and such assignee shall, by virtue of such assignment, have an action in his own name thereon against the principal debtor, or his representative.

§ 7710. Joint sureties or debtors; assignment

Where several persons are bound together in any bond, bill, or other writing, as joint debtors, or as joint sureties, in any sum of money made payable to any person, his executors, administrators, order, or assigns, and such bond, bill or other writing, shall be paid by any of such joint debtors, or joint sureties the creditor shall assign such bond bill, or other writing, to the person paying the same; and such assignee shall, in his own name, as assignee, or otherwise, have such action, or remedy, as the creditor himself might have had against the other joint debtors, or sureties, or their representatives, to recover such proportion of the money, so paid, as may be justly due from the defendants.

§ 7711. Defense of infancy to joint sureties or debtors

Where several persons are bound together in any bond, bill or other writing or judgment, as joint debtors, or as joint sureties, in any sum of money, made payable to any person or corporation, his or its executors, administrators, successors, order or assigns, and one or more of such persons was, at the time of making, signing or executing the same, or at the time of the rendition of such judgment, an infant, such fact shall be no defense in any action, proceeding or suit for the enforcement of the liability of those bound thereunder, excepting as regards the person who was an infant at the time of making, signing or executing such bond, bill or other writing, or who was an infant at the time such judgment was rendered.

§ 7712. Rights of surety or of joint debtor on payment of judgment

(a) If a judgment recovered against principal and surety shall be paid by the surety, the creditor shall mark such judgment to the use of the surety so paying the same; and the trans-

feree shall, in the name of the plaintiff, have the same remedy by execution, or other process, against the principal debtor as the creditor could have had, the transfer by marking to the use of the surety being first filed of record in the court where the judgment is.

(b) Where there is a judgment against several debtors, or sureties, and any of them shall pay the whole, the creditor shall mark such judgment to the use of the persons so paying the same; and the transferee shall, in the name of the plaintiff, be entitled to an execution, or other process, against the other debtors, or sureties, in the judgment, for a proportionable part of the debt, or damages, paid by such transferee; but, no defendant shall be debarred of any remedy against the plaintiff, or his representatives, or assigns by any legal or equitable course of proceeding whatever.

§ 7713. Affidavit of sum due

Before any transferee shall have the benefit of section 7712 of this subchapter, he shall file in the court, or before the justice of the peace where such proceedings are instituted, a statement of the sum due from the defendant, with an affidavit that it is wholly unpaid.

§ 7714. Execution and effect of transfer

Transfers, by marking to the use of the persons paying such judgment, shall be in writing, signed by the plaintiff or by his attorney of record; and after the date thereof, the plaintiff may not release, or discharge any of the debts, or sums, so paid; but such transfer shall be without recourse to the plaintiff, and shall not make him liable to the transferee in case the latter shall not recover the same.

§ 7715. Application of chapter

Every provision in this chapter giving a right or remedy to, or imposing a duty upon, or referring to the act of a debtor, obligor, assignor or transferor, or a surety, obligee, assignee or transferee, creditor, or other person, shall be construed to extend to or against, his executors, administrators, or assignee, when so applicable.

§ 7716. Remedies of co-debtor or co-surety

(a) Whenever one or more of several co-debtors or co-sureties for the payment of a debt shall pay, or shall have paid to the creditor or creditors the sum due, including the costs, if any, that may have been incurred by him or them, the person or persons so paying, if the amount paid shall exceed his or their proportion of liability for the demand, shall be entitled to have a transfer of the creditor or creditors' securities for the payment of the debt, whatever the nature of such securities may be, to enable him or them to obtain contribution from the others, liable with himself or themselves; such transfer may be made by assignment, marking to the use, or other appropriate method.

(b) When such transfer is made, the transferee or transferees shall be entitled to and shall have in his or their own name or names as such, or by and in the name of such creditor or creditors, for his or their own use as transferee or transferees, all and singular the remedy or remedies against the other debtor or debtors, surety or sureties which the creditor or creditors could have; and no such payment shall in anywise operate to discharge, impair, or otherwise affect the securities held by the creditor or creditors to the prejudice of the debtor or debtors, surety or sureties, so paying; nor shall any release of such co-debtor or co-debtors, co-surety or co-sureties, or entry of satisfaction upon any lien against him or them operate in any respect as a payment or discharge of the demand itself or of any of the securities therefor as against the other parties originally bound, to the end that such co-debtor or co-debtors, co-surety or co-sureties may recover by the use of the creditor or creditors' means or remedies the proportion of the demand which his co-debtor or co-debtors, co-surety or co-sureties ought to pay according to law and equity.

(c) The transfer to be made by the creditor or creditors shall not enable the transferee or transferees to take any legal proceedings against the co-debtor or co-debtors, co-surety or co-sureties, unless such transferee or transferees, or some creditable person for him or them, shall first file in the office of the Prothonotary or justice of the peace of the county where legal proceedings are contemplated to be taken, an affidavit, setting forth the amount which he claims his or their co-debtor or co-debtors, co-surety or co-sureties is or are bound to contribute on account

of such co-indebthment or co-suretyship, and such amount shall be endorsed by the Prothonotary or magistrate upon the process issued.

§ 7717. Entry of satisfaction of judgment

(a) Upon the payment of any judgment under and according to the provisions of this chapter, the right or power of the creditor or plaintiff therein to enter satisfaction upon the record of such judgment shall *eo instanti*, cease and determine, and this whether the transfer of such judgment shall have been made or not; the fact of the payment thereof shall be sufficient,

(b) If any creditor or plaintiff in such judgment, after payment of any judgment to him shall enter, or cause to be entered, satisfaction of the judgment upon the record thereof, without the express consent, in writing, of the person entitled, under the provisions of this chapter, to its transfer, the court in which such judgment is recovered shall, upon application of the person so entitled and upon sufficient proof of the facts, strike from the record and entry of satisfaction; whereupon the judgment shall be and remain in full force and virtue, and as valid and binding upon the defendant therein as it was or could have been, had such entry of satisfaction never been made. The application shall be in writing, and sworn or affirmed to by the applicant, and shall contain a general statement of the facts. Nothing in this section shall be construed to divest or interfere in any way with any rights which may have been acquired by innocent third persons who, in good faith, and without notice, may have relied and acted upon the protection and security of the entry of satisfaction. No defendant shall be debarred of any remedy against the plaintiff, or his representatives or assigns, by any legal or equitable course of proceedings whatever.

Approved August 9, 1968.

CHAPTER 461

AN ACT TO AMEND CHAPTER 65, TITLE 29, DELAWARE CODE, RELATING TO BUDGET AND FISCAL REGULATIONS FOR STATE AGENCIES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 6512 (a), title 29, Delaware Code, is amended to read:

(a) It shall be unlawful for any agency to create any indebtedness or incur any obligation for personal services, work or labor, or for property, materials or supplies, except by written or printed order or requisition according to the form prescribed by the Budget Director and bearing the signed approval;

(1) In the case of an agency which is headed by a single official or employee, by that official or employee or

(2) In the case of an agency headed by a board or commission, by the President, Chairman or head officer thereof and of the Secretary thereof.

Section 2. § 6512 (b), title 29, Delaware Code, is amended by adding a new sentence at the end thereof to read:

A State Board or Commission may, by majority vote, delegate the authority to sign requisitions as required by this section to the chief full-time administrative employee of the Board or Commission and to one or more other employees; in this event the names of the employees so delegated shall be placed on file with the Budget Director and each requisition shall be signed in person by at least two of those so delegated including the chief administrative employee.

Section 3. § 6515 (b), title 29, Delaware Code, is amended to read:

(b) Such bills or statements must be presented to the Budget Director in duplicate bearing the signed approval;

(1) In the case an agency which is headed by a single official or employee, by that official or employee or

(2) In the case of as agency headed by a board or commission, by the President, Chairman or head officer thereof and of the Secretary thereof, and bearing also a statement of the appropriation against which the expenditure is to be charged. Whenever a bill or statement is for materials or supplies furnished or work or labor performed under contract awarded by the person or Board whose duty it is to procure and furnish State supplies, such bill or statement and duplicate thereof shall also bear the approval of such person or of the head officer and secretary of such board. All bills or statements for personal expenses or mileage used, by or for any State officer, or member of any agency, or any employee thereof, shall have a signed statement upon the face thereof to the effect that such expense was incurred, or mileage was used, only in the proper execution of the signer's official duties.

A State Board or Commission, may by majority vote, delegate the authority to sign bills or statements as required by this section to the chief full-time administrative employee of the Board or Commission and to one or more other employees; in this event the names of the employees so delegated shall be placed on file with the Budget Director and each bill or statement shall be signed in person by at least 2 of those so delegated including the chief administrative employee.

Approved August 9, 1968.

CHAPTER 462

AN ACT TO AUTHORIZE THE USE OF CONSTRUCTION FUNDS FOR PAYMENT OF SERVICES RENDERED PRIOR TO CHANGE ORDER AUTHORIZATION.

WHEREAS, the Construction Manual approved by the State Board of Education requires that change orders in school construction shall be submitted to the Department of Public Instruction and to the Budget Director for approval before the work is started; and

WHEREAS, Change Order No. 18, dated April 5, 1967, in the amount of \$5,608.04, was submitted to the Department of Public Instruction for work started prior to January 1, 1967, under Certificate of Necessity No. 160, authorized by Chapter 171, Volume 54, in the Marshallton School District; and

WHEREAS, the contractor has not been paid \$5,608.04 for work actually completed before prior authorization; and

WHEREAS, there remains a balance of \$35,837.29 in this Marshallton School District building program under Certificate of Necessity No. 160; and

WHEREAS, this balance of \$35,837.29 has been frozen by an opinion of the Attorney General to Budget Director, F. Earl McGinnes, for the exclusive purpose of constructing an administration building; and

WHEREAS, the funds remaining are not sufficient to construct an administration building,

NOW THEREFORE,

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The State Board of Education and the Budget Director are authorized to pay to the contractor \$5,608.04 of the balance of \$35,837.29 in Certificate of Necessity No. 160 of the Marshallton School District authorized by Chapter 171, Volume 54, Laws of Delaware, with sixty percent being State share and forty percent being local share.

Approved August 9, 1968.

CHAPTER 463

AN ACT TO PROVIDE FOR THE EDUCATION OF INSTITUTIONALIZED CHILDREN.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Title 14, Delaware Code, is amended by adding thereto a new section to read:

§ 3109. Educational services for institutionalized handicapped children

The State Board of Education may enter into agreements with any local school district whereby the State Board of Education will reimburse the district for part or all of the cost of educating handicapped children who are institutionalized.

Approved August 9, 1968.

CHAPTER 464

**AN ACT RELATING TO EDUCATION OF THE CITIZENS
OF DELAWARE BY MAKING AN APPROPRIATION
TO DELAWARE SAFETY COUNCIL, INC. ENGAGED
IN EDUCATING THE PEOPLE OF THIS STATE.**

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all members elected to each house thereof concurring therein):

Section 1. The sum of \$15,000 is appropriated to the Delaware Safety Council, Inc., to be used for the operations of the Council in educating the public as to safety.

Section 2. This Act is a supplementary appropriation for the fiscal year ending June 30, 1969, and the monies appropriated shall be paid by the State Treasurer out of monies in the General Fund of the State not otherwise appropriated.

Approved August 9, 1968.

CHAPTER 465

AN ACT TO AMEND CHAPTER 41, TITLE 16, DELAWARE CODE, BY PROVIDING UNIFORM STANDARDS AND REGULATIONS FOR THE PRODUCTION, PROCESSING, PACKAGING, DISTRIBUTION AND SALE OF FROZEN DESSERTS AND APPOINTING THE STATE BOARD OF AGRICULTURE AS THE ENFORCEMENT AGENCY.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Title 16, Delaware Code, Section 4101, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

§ 4101. Policy and definitions

(a) Declaration of policy.

(i) It is hereby declared that the dairy industry is a paramount industry of the state and the production, processing, packaging, distribution and sale of frozen desserts is an important segment of the dairy industry and is of vast economic importance to the state and of vital importance to the consuming public of the state, and which should be encouraged and promoted in the public interest. It is further declared to be in the interest of the dairy industry and of the consuming public that there be uniformity of standards for frozen desserts as between the various states and the federal government to the end that there may be free movement of frozen desserts between the states and to the end that the inefficiency, needless expense, and confusion caused by differences in products sold under the same name, and differences in labeling of identical products may be eliminated;

(ii) It is further declared to be the purpose of this article to promote honesty and fair dealing in the interest of consumers, to insure fair competition as between the manufacturers and distributors of the different products and to prevent confusion and deception in the sale of all such products by establishing definitions and standards of identity for such products, and by pro-

viding for rules and regulations which will effect their orderly marketing and insure uniform and proper sanitary standards.

(b) Definitions

(i) For the purpose of this article and for any rules, regulations, definitions, standards of identity, or labeling requirements promulgated pursuant thereto, the term frozen desserts shall be deemed to include ice cream, frozen custard, French ice cream, French custard ice cream, artificially sweetened ice cream, artificially sweetened ice milk, ice milk, fruit sherbet, water ice, quiescently frozen confection quiescently frozen dairy confection, whipped cream confection, bisque tortoni, mellorine frozen desserts as all such products are commonly known, together with any mix used in such frozen desserts, and any products which are similar in appearance, odor or taste to such products or are prepared or frozen as such products are customarily prepared or frozen whether made with dairy or non-dairy products.

Section 2. Amend Title 16, Delaware Code, Section 4102, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

§ 4102. Conformity with federal standards

(a) It is expressly declared to be the intent of the General Assembly in the passage of this chapter that Delaware law and regulations substantially conform with the Federal regulations promulgated under the authority of the United States Secretary of Health, Education and Welfare, prescribing definitions and standards for frozen desserts, published pursuant to Section 701, 52 Stat. 1055, 21 U.S.C. 371. It is further intended that provisions of this chapter and definitions and standards of identity promulgated in accordance herewith be construed in a manner similar to the corresponding Federal regulation, aforesaid, whenever possible.

(b) The Board of Agriculture shall, after public hearing, promulgate definitions and standards of identity for frozen desserts, regulations for the labeling of any frozen desserts, and regulations to implement the purposes of this chapter. Definitions and standards of identity promulgated by the Board shall not be

in conflict with Federal Standards. The Board may adopt such definitions and standards of identity as are adopted by the United States Secretary of Health, Education and Welfare as aforesaid.

(c) Public hearings as herein provided shall be held only upon reasonable notice to all interested parties as provided by law in like cases. Following any hearing to consider rules, regulations, definitions, standards of identity, labeling requirements, or any of these, the Board shall issue a recommended decision and shall afford interested parties an opportunity to file exceptions based upon the hearing record. The Board in issuing a final decision shall rule on any exceptions filed setting forth its reasons therefor. No definition or standard of identity promulgated by the Board shall conflict with Federal definitions or standards of identity. With each rule or regulation adopted there shall be filed and made available upon request to any interested person the findings of fact supporting such rule or regulation. A copy of each proposed rule or regulation of the State Board of Agriculture shall be printed, generally distributed and specially distributed to any person who signified their interest theretofore or thereafter. No rule or regulation shall take effect or be effective until 30 days after general distribution or such longer time as the Secretary of Agriculture shall deem to be in the public interest. Rules and regulations promulgated in accordance with this authority shall have the force and effect of law and supersede all local ordinances and regulations inconsistent therewith. Any interested person aggrieved by any rule or regulation promulgated in accordance with this authority may have an appeal within 20 days after the effective date of such rule or regulation, by petition to the Court of Chancery and may appeal from the decision of the Court of Chancery as provided for in other cases.

(d) Upon adoption of the rules and regulations by the State Board of Agriculture, as herein provided, the provisions of Section 4101 of this chapter, which are inconsistent with such rules and regulations shall be deemed to be of no effect.

Section 3. Amend Title 16, Delaware Code, Section 4103, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

§ 4103. Sale, possession, etc. of adulterated or misbranded products

No person shall sell, distribute, offer for sale, or have in possession for selling or distribution any frozen dessert which is adulterated or misbranded.

Section 4. Title 16, Delaware Code, Section 4104 is hereby repealed.

Section 5. Title 16, Delaware Code, Section 4105 is hereby repealed.

Section 6. Amend Title 16, Delaware Code, Section 4106, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

§ 4106. Adulterations; prohibited and permitted ingredients

(a) Any product for which a definition and standard of identity has been promulgated in accordance with this chapter shall be deemed to be adulterated within the meaning of this chapter if in purity or quality it fails to conform with the definitions and standards of identity promulgated.

(b) Any frozen dessert which contains any substance or compounds known or likely to be harmful to health, as determined by the State Board of Health, shall be deemed to be adulterated within the meaning of this chapter.

Section 7. Amend Title 16, Delaware Code, Section 4107, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

§ 4107. Misbranded

Any mixtures or preparations shall be deemed to be misbranded if marked or labelled as any frozen dessert for which a definition or standard of identity has been promulgated, but does not conform to such definition or standard of identity.

Section 8. Amend Title 16, Delaware Code, Section 4109, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

§ 4109. Enforcement Agency

The State Board of Agriculture shall be charged with the enforcement of the provisions of this chapter and may bring action in the Superior Court. Nothing contained in this section shall be construed to prevent any individual from prosecuting any one violating any of the provisions of this Chapter or of rules or regulations made pursuant to Section 4102 of this Chapter in the Superior Court.

Section 9. Amend Title 16, Delaware Code, Chapter 41, by adding a new subsection to read as follows:

§ 4111. Effective date

This Act shall take effect immediately; provided, however, that for a period of one year after the passage of this Act Sections 4101, 4103, and 4106 of Chapter 41, Title 16 as in effect prior to the passage of this Act shall become the definitions, standards of identity and regulations of the Board of Agriculture unless specifically superseded by definitions, standards of identity or regulations promulgated by the Board and expressed to supersede those sections of Chapter 41, Title 16 above mentioned.

Approved August 9, 1968.

CHAPTER 466

**AN ACT MAKING A SUPPLEMENTARY APPROPRIATION
TO THE GOVERNOR'S COMMITTEE ON EMPLOY-
MENT OF THE HANDICAPPED.**

Be it enacted by the General Assembly of the State of Delaware:

Section 1. The sum of \$2,500 is appropriated to the Governor's Committee on Employment of the Handicapped for the fiscal year ending June 30, 1969.

Section 2. This Act is a supplementary appropriation and the money appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 3. Any money appropriated herein and unexpended shall revert to the General Fund of the State of Delaware on June 30, 1969.

Approved August 12, 1968.

CHAPTER 467

AN ACT TO AMEND CHAPTER 81, TITLE 10, DELAWARE CODE, RELATING TO LIMITATIONS OF ACTIONS BY IMPOSING LIMITATIONS RELATING TO ZONING OR LAND SUBDIVISION ORDINANCES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Chapter 81, Title 10, Delaware Code, is amended by adding thereto a new Section 8125 to read as follows:

§ 8125. County and municipality zoning and planning actions

(a) No action, suit or proceeding in any Court, whether in law or equity or otherwise, in which the legality of any ordinance, code, regulation or map, relating to zoning, or any amendment thereto, or any regulation or ordinance relating to subdivision and land development, or any amendment thereto, enacted by the governing body of a County or municipality, is challenge, whether by direct or collateral attack or otherwise, shall be brought after the expiration of 60 days from the date of publication in a newspaper of general circulation in the County or municipality in which such adoption occurred of notice of the adoption of such ordinance, code, regulation, map or amendment.

(b) No action, suit or proceeding in any Court, whether in law or equity or otherwise, in which the legality of any action of the appropriate County or municipal body finally granting or denying approval of a final or record plan submitted under the subdivision and land development regulations of such County or municipality is challenged, whether directly or by collateral attack or otherwise, shall be brought after the expiration of 60 days from the date of publication in a newspaper of general circulation in the County or municipality in which such action occurred of notice of such final approval or denial of such final or record plan.

Approved August 12, 1968.

CHAPTER 468

AN ACT TO AMEND CHAPTER 41, TITLE 18, DELAWARE CODE, RELATING TO PROPERTY INSURANCE.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Sections 4104 and 4102, Title 41, Delaware Code, are designated as Subchapter I, Chapter 41, Delaware Code.

Section 2. Chapter 41, Title 18, Delaware Code, is amended by adding thereto a new subchapter to read:

**SUBCHAPTER II.
BASIC PROPERTY PROTECTION PLAN**

§ 4103. Definitions

As used in this Subchapter, unless the context otherwise requires:

(a) "Commissioner" means the Insurance Commissioner of the State of Delaware;

(b) "Basic Property Insurance" means insurance against direct loss to any property caused by perils as defined and limited in the Standard Fire Policy and Extended Coverage Endorsement as filed with the Commissioner;

(c) "Inspection Bureau" means any organization designated by the Commissioner to make inspections to determine the insurability and conditions of the properties for which basic property insurance is sought;

(d) "Qualified Property" means all real and tangible personal property at fixed locations, whether or not subject to exposure from an external hazard located on property not owned or controlled by the prospective insured, and whether or not subject to exposure from riot hazard which

(i) is not used for farming or manufacturing purposes; and

(ii) complies with applicable state laws and regulations and local building codes and ordinances; and

(iii) is not commonly owned or controlled, or combinable for rating purposes, with property insured for similar coverages elsewhere; and

(iv) has characteristics of ownership, condition or occupancy which do not violate public policy.

(e) "Premiums Written" means gross direct premiums charged on all policies of Basic Property Insurance and the Basic Property Insurance premium components of all multi-peril policies, less return premiums, dividends paid or credited to policyholders and the unabsorbed portion of premium deposits.

§ 4104. Purpose

The purposes of this Subchapter are:

(1) To assure stability in the property insurance market of this State;

(2) To make basic property insurance available for qualified property established by this section;

(3) To encourage maximum use in obtaining basic property insurance of the available, normal insurance market provided by the private property insurance industry;

(4) To provide for equitable distribution among authorized insurers of the responsibility for insuring qualified property for which basic property insurance cannot be obtained through the normal insurance market.

§ 4105. Inspection

(a) Any person having an insurable interest in real and tangible personal property at a fixed location who has made a diligent effort to obtain basic property insurance in the normal insurance market shall be entitled upon request to an inspection of the property by representatives of the inspection bureau. Such request shall be upon forms and in accordance with procedures reviewed by the Commissioner.

(b) The plan of operation of the inspection bureau, the manner and scope of the inspection, and the form of the inspection report shall be submitted by the inspection bureau in written report for review by the Commissioner.

(c) A copy of the inspection report shall be made available to the applicant or his agent or the insurer upon request.

§ 4106. Establishment of industry placement facility

An industry placement facility shall be established by authorized insurers to formulate and administer a program for the equitable distribution and placement of applications for basic property insurance for qualified property which has been so inspected. Separate classifications may be established for the purpose of equitable distribution but shall not include farm or manufacturing properties. Such program should be intended to conform with the applicable provisions of the National Insurance Development Corporation Act of 1968, or other such title as such federal legislation may bear upon enactment.

§ 4107. Review

Any facility, plan, program, or form required under this Subsection shall be subject to review by the Commissioner and deemed to meet the requirements of this Subchapter unless disapproved.

§ 4108. Failure of industry placement facility program

If the Commissioner finds, after a reasonable period of time, that the plan of operation set forth in Section 4106 of this Title is not creating a market which meets the purposes of that Section, he may order the implementation of Sections 4109 and 4110 of this Title.

§ 4109. Joint underwriting association

(a) After hearing and upon promulgation of an order by the Commissioner pursuant to Section 4108 of this Title, a joint underwriting association shall be created consisting of all insurers authorized to write and engaged in writing within this State, on a direct basis, fire and extended coverage insurance, including insurers covering such perils in homeowners and commercial multiple peril package policies. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to continue to transact such kinds of insurance within this State.

(b) The association shall, pursuant to the provisions of this Chapter and the plan of operation and with respect to basic property insurance on qualified property, have the power to (1) cause its members to issue policies of insurance to applicants; (2) assume reinsurance from members; and (3) code reinsurance.

(c) Within ninety days following the effective date of the order of the Commissioner, the association shall submit to the Commissioner for his review a proposed plan of operation, consistent with the provisions of this Subchapter, which shall provide for economical, fair and nondiscriminatory administration and for the prompt and efficient provision of basic property insurance to promote orderly community development, including, but not limited to, preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities, management of the association, assessment of members to defray losses and expenses, commission arrangements, reasonable underwriting standards and limits of liability, acceptance and cession of reinsurance, and procedures for determining amounts of insurance to be provided.

(d) The plan of operation shall be subject to review by the Commissioner, after consultation with affected individuals and organizations, and shall take effect ten days thereafter in the absence of any disapproval. If the Commissioner disapproves all or any part of the proposed plan of operation, the association shall, within thirty days, submit for review an appropriately revised plan of operation or part thereof, and, if the association fails to do so, or if the revised plan so filed is unacceptable, the Commissioner shall promulgate such a plan of operation or part thereof as he may deem necessary to carry out the purpose of this Subchapter.

(e) The association may, on its own initiative, or at the request of the Commissioner, amend the plan of operation or part thereof subject to review by the Commissioner.

§ 4110. Procedures

(a) Any member of the association may cede to the association basic property insurance written on qualified property, to the extent, if any, and on the terms and conditions set forth in the plan of operation.

(b) All members of the association shall participate in its writings, expenses, profits and losses in the proportion that the premiums written by each such member (but excluding (1) premiums on farm or manufacturing property, and (2) that portion of premiums attributable to the operation of the association) during the preceding calendar year bear to the aggregate premiums written in this State by all members of the association. Such participation by each insurer in the association shall be determined annually on the basis of such premiums written during the preceding calendar year as disclosed in the annual statements and other reports filed by the insurer with the Commissioner.

(c) The association shall be governed by a board of eleven directors, elected annually by cumulative voting by the members of the association, whose votes in such election shall be weighed in accordance with each member's premiums written during the preceding calendar year. The first board shall be elected at a meeting of the members or their authorized representatives, which shall be held within thirty days after approval of the plan of operation as provided in Section 4109 of this Title.

§ 4111. Examinations

The operation of the inspection bureau, the industry placement facility and any joint underwriting association shall at all times be subject to the supervision and regulation of the Commissioner. The Commissioner, or any person designated by him, shall have the power of visitation of and examination into such operations and free access to all books, records, files, papers, and documents that relate to such operations, may summon and qualify witnesses under oath, and may examine directors, officers, agents, or employees, or any other person having knowledge of such operations.

§ 4112. Appeals

Any person aggrieved by any action or decision of the inspection bureau or industry placement facility may appeal to the Commissioner within 30 days from the action or the decision. The Commissioner shall after hearing held upon not less than 10 days' written notice to the aggrieved person and the inspec-

tion bureau or the industry placement facility issue an order approving the action or decision, disapproving the action or decision, or directing the inspection bureau or the industry placement facility to reassign and place the application pursuant to said plan.

§ 4113. Nonliability as to information; statements

There shall be no liability on the part of, and no cause of action of any nature shall arise against insurers, the inspection bureau, the industry placement facility, the joint underwriting association, or their agents or employees, or the Commissioner or his authorized representatives, for any inspections undertaken or statements made by them in any reports and communications concerning the property to be insured, or at the time of the hearings conducted in connection therewith, or in the findings required by the provisions of this Chapter.

Section 3. The provisions of this Act shall become effective on November 1, 1968.

Approved August 12, 1968.

CHAPTER 469

AN ACT AUTHORIZING THE STATE OF DELAWARE TO BORROW MONEY TO BE USED FOR CAPITAL IMPROVEMENTS AND EXPENDITURES IN THE NATURE OF CAPITAL INVESTMENTS AND TO ISSUE BONDS AND NOTES THEREFOR AND APPROPRIATING THE MONEYS TO VARIOUS AGENCIES OF THE STATE.

Be it enacted by the General Assembly of the State of Delaware (three-fourths of all the members elected to each branch thereof concurring therein):

Section 1. There is appropriated to the agencies of this State set forth in Section 7 hereof the sum of \$55,974,800 or so much thereof as may be necessary for carrying out the purposes of this Act, which shall be used for the purposes set forth in Section 7, Section 8, Section 11 and Section 13 of this Act.

Section 2. The funds appropriated by this Act may be used for the costs incidental to the uses set forth in Section 7, Section 8, Section 11 and Section 13 of this Act and are to include but not be limited to design, planning, land acquisition, acquisition of utility and service areas, construction, repairing, remodeling, equipping, landscaping and inspection costs but are not to be used for off-site sidewalk construction by school districts or for ordinary or normal maintenance expense of highways, bridges or other properties.

Section 3. Any of the funds appropriated herein remaining unexpended at the end of any fiscal year shall not revert to the General Fund, but shall remain to be used for the purposes set forth in this Act.

Section 4. The said sum of \$55,974,800 or so much thereof as may be necessary for carrying out the purposes of this Act, shall be borrowed by the issuance of bonds and bond anticipation notes upon the full faith and credit of the State of Delaware. Such bonds and notes shall be issued in accordance with the provisions of Chapter 74, Title 29, Delaware Code, and Chapter 75, Title 29, Delaware Code, where applicable. For purposes of iden-

tification, the bonds issued pursuant to this Authorization Act may be known, styled or referred to as "Capital Improvement Bonds of 1969."

Section 5. There is appropriated from the General Fund of the State such sums as may be necessary for the expenses incident to the issuance of the bonds and notes herein authorized, and such further sums as may be necessary to pay any interest which becomes due on such bonds and notes during the current fiscal year and such further sums as may be necessary for the repayment of the principal of any of the said bonds which become due during the current fiscal year. Vouchers for the payment of the expenses incident to the issuance of bonds and notes and for the interest and repayment of said notes shall be signed by the Secretary of State by and with the approval of the Issuing Officers. Any monies received from the premium and accrued interest on the sale of said bonds shall be deposited to the credit of the General Fund.

Section 6. The Budget Appropriation Bill which shall be enacted and approved by the General Assembly for the fiscal year next following the effective date of this Act and for each subsequent fiscal year or biennium, shall contain under the Debt Service Item provisions for the payment of interest and principal maturities of the bonds (or notes which are not to be funded by the issuance of bonds) issued under the authority of this Act, and such of the revenues of the State of Delaware as are not prohibited by constitutional provisions or committed by preceding statutes for other purposes are hereby pledged for the redemption and cancellation of said bonds and payment of interest thereon.

Section 7. The moneys appropriated herein, or so much thereof as is necessary to carry out the purposes of this Act, shall be expended by the following state agencies in the following amounts:

- (a) State Highway Department—
Communications Division \$ 292,000
- (b) Department of Correction 4,128,000
- (c) Custodian of the State House 967,000

(d)	State Distribution Agency	20,000
(e)	State Forestry Department	65,000
(f)	Board of Game & Fish Commissioners ...	150,000
(g)	Home and Hospital for the Chronically Ill at Smyrna	384,000
(h)	State Board of Health— Emily P. Bissell Hospital	33,000
(i)	Lewes Memorial Commission	18,000
(j)	Department of Mental Health	170,000
(k)	State Highway Department— Motor Vehicle Division	500,000
(l)	State Park Commission	483,000
(m)	Public Archives Commission	948,000
(n)	State Highway Department— State Police Division	550,000
(o)	Youth Services Commission	30,000
(p)	Budget Commission — Sussex County Education Facilities for Mentally Retarded	1,000,000
	Center at Newark	600,000
(r)	Budget Commission	150,000
(s)	Delaware State College	340,000
(t)	University of Delaware	4,200,000
(u)	Delaware Institute of Technology	120,000
(v)	State Board of Education for construction or improvement of school facilities as more particularly set forth in Section 8 of this Act	15,679,000
(w)	State Highway Department for construction or improvement of highways and highway related facilities as more particularly set forth in Section 11 of this Act	23,700,000

(x)	State Board of Education for the cost of minor capital improvements, non-ordinary and non-recurring repairs to school facilities as more particularly set forth in Section 13 of this Act	754,800
(y)	Delaware Soil and Water Conservation Commission	400,000
(z)	State Highway Department— State Police Training Academy	293,000
TOTAL		<u>\$55,974,800</u>

Section 8. The sum of \$15,679,000 appropriated by Section 7 (v) of this Act to the State Board of Education for school construction purposes, or so much thereof as shall be necessary to carry out the purposes of this Act, shall be allocated by the State Board of Education to the following named school districts according to the following tabulation of maximum totals and shares, or in the proportions represented by said maximum totals and shares:

Name of District	Total Cost	State Share	Local Share
(a) Alexis I. duPont Special	\$ 4,491,000	\$ 2,328,000	\$ 2,163,000
(b) Alfred I. duPont #7	3,423,000	2,054,000	1,369,000
(c) Caesar Rodney Special	2,722,000	1,633,000	1,089,000
(d) New Castle Special	4,741,000	2,845,000	1,896,000
(e) Newark Special	8,073,000	4,967,000	3,106,000
(f) Stanton #38	2,982,000	1,789,000	1,193,000
(g) Sussex County Vocational Technical Center	63,000	63,000	-0-
TOTAL	<u>\$26,495,000</u>	<u>\$15,679,000</u>	<u>\$10,816,000</u>

Section 9. The sums of money allocated and appropriated for school construction purposes pursuant to Section 7 and Section 8 of this Act shall be expended in accordance with the provisions of Chapter 75, Title 29, Delaware Code.

Section 10. No money allocated and appropriated by this Act for school construction purposes pursuant to Section 8 of this Act shall be expended for educational supplies of an expendable nature which are consumed or materially changed as they are used; provided, however, that nothing herein contained

shall preclude the purchase of all educational supplies necessary for the initial operation of schools so built, altered or added to in accordance with the provisions of the School Construction Capital Improvements Act being Chapter 75, Title 29, of the Delaware Code. Each of said Local Shares shall be credited with interest when and to the same extent as the Farmers Bank credits interest on deposits of other state monies in said Bank and each individual disbursement during the project construction shall be assumed to have been disbursed 60% from the State Share and 40% from the Local Share or in such other ratio as evidenced by the listing in Section 8 hereof.

Section 11. The sum of \$23,700,000 appropriated by Section 7 (w) of this Act to the State Highway Department for highway construction and related construction purposes, shall be allocated by the State Highway Department to the following Capital Improvements Programs:

(a)	General Highway Construction Program	\$11,827,000
(b)	Construction of Buildings	113,000
(c)	Non-Corridor Route Improvement Program ..	5,110,000
(d)	Safety Improvements Program	500,000
(e)	Intersection Improvements Program	200,000
(f)	Traffic Signal Improvements Program	150,000
(g)	Small Bridge Replacement Program	1,000,000
(h)	Dirt Road Improvement Program	1,000,000
(i)	Suburban Development Street Improvement Program	400,000
(i)	Suburban Development Street Improvement Program	1,500,000
(k)	General Minor Capital Improvements Program	100,000
(l)	Advance Planning and Engineering Program	200,000
(m)	Advance Right-of-Way Acquisition Program	100,000
(n)	Contingencies	1,500,000
TOTAL		<u>\$23,700,000</u>

Section 12. The monies allocated in Section 11 of this Act shall be expended for highway construction or related purposes, but they shall not be used for office supplies or for office equipment and furnishings.

Section 13. (a) The sum of \$754,800 appropriated by Section 7 (x) of this Act to the State Board of Education for minor capital improvements, non-ordinary and non-recurring repairs to school buildings, or so much thereof as shall be necessary to carry out the purposes of this Act, shall be paid by the State Board of Education to the local districts as is provided in this section.

(b) The State Board shall establish criteria for the types of minor capital improvements and repairs which it will approve under this Section. The State Board shall pay local districts only for the actual expenses of repairs and replacements of a capital nature which shall include but not be limited to the rebuilding or major repair of roofs, floors, heating systems, electrical, and plumbing or water systems and facilities. The State Board shall not pay school districts for ordinary or minor maintenance repairs such as repainting, replacing of broken glass, refinishing floors, or for other repairs of a temporary duration from the funds appropriated by this section. The State Board shall, in any case, pay only 60% of the total costs of such capital improvements and repairs.

(c) Before any improvements or repairs authorized by this section are undertaken by any school district, the school district shall send a request to the State Board of Education which request shall itemize the improvements or repairs needed and show the estimated cost of each item. The State Board, using the criteria set forth in subsection (b) of this section, shall decide as to the right of payment to the local school district for any improvements or repairs, and the decisions of the State Board shall be final.

(d) In order to determine the right of payment to the school district under this section, the State Board, or its designated representative, shall:

(i) inspect the building or buildings to determine that the improvements or repairs requested by the school district are

needed and are in accordance with the criteria set forth in subsection (b) of this section;

(ii) provide necessary help to the school district for letting of bids on the repairs or replacements meeting the criteria;

(iii) inspect the improvements or repairs upon completion to determine that all specifications have been met and that the work and materials used are of acceptable quality, and

(iv) pay the State's share of the cost of the improvements or repairs made by the school district in accordance with the provisions of this section after the improvements or repairs are accepted as meeting all specifications as to workmanship and materials.

(e) The State Board of Education shall, if and when the criteria established in this section are met, pay the school district for the school building repairs, except that the amount paid to each school district shall not be in excess of the amount shown opposite the name of the school district in the following table:

Name of District	Maximum Amount	Maximum State Share	Maximum Local Share
1. Arden No. 3	\$ 4,000	\$ 2,400	\$ 1,600
2. Bedford, Gunning, Jr. No. 53	21,000	12,600	8,400
3. Bridgeville No. 90	15,000	9,000	6,000
4. Claymont Special	21,000	12,600	8,400
5. Clayton, John M. No. 97 .	17,000	10,200	6,800
6. Conrad, Henry C. No. 131	50,000	30,000	20,000
7. De Le Warr No. 47	16,000	9,600	6,400
8. Delmar No. 163	24,000	14,400	9,600
9. Dickinson, John No. 133 .	24,000	14,400	9,600
10. Dover Special	31,000	18,600	12,400
11. duPont, Alexis I. Special	26,000	15,600	10,400
12. duPont, Alfred I. No. 7 ..	83,000	49,800	33,200
13. Georgetown Special	10,000	6,000	4,000
14. Greenwood No. 91	12,000	7,200	4,800
15. Harrington Special	31,000	18,600	12,400

16. Houston No. 125	8,000	4,800	3,200
17. Laurel Special	20,000	12,000	8,000
18. Lewes Special	28,000	16,800	11,200
19. Lincoln No. 3	13,000	7,800	5,200
20. Magnolia No. 50	2,000	1,200	800
21. Marshallton No. 77	110,000	66,000	44,000
22. Middletown No. 60	20,000	12,000	8,000
23. Milford Special	35,000	21,000	14,000
24. Millsboro No. 23	38,000	22,800	15,200
25. Milton No. 8	14,000	8,400	5,600
26. Mount Pleasant Special ..	89,000	53,400	35,600
27. New Castle Special	7,000	4,200	2,800
28. Newark Special	63,000	37,800	25,200
29. Newport No. 21	9,000	5,400	3,600
30. Oak Grove No. 130	15,000	9,000	6,000
31. Odessa No. 61	7,000	4,200	2,800
32. Rehoboth Special	15,000	9,000	6,000
33. Richardson Park No. 20 .	18,000	10,800	7,200
34. Rodney, Caesar Special .	7,000	4,200	2,800
35. Seaford Special	137,000	82,200	54,800
36. Selbyville No. 32	7,000	4,200	2,800
37. Smyrna Special	48,000	28,800	19,200
38. Stanton No. 38	28,000	16,800	11,200
39. Wilmington	35,000	21,000	14,000
40. State Board of Education	100,000	60,000	40,000
TOTAL	\$1,258,000	\$754,800	\$503,200

(f) Any school district may levy and collect a tax to pay their 40% share of the cost of the improvements and repairs authorized by this section. Such taxes shall be collected by local taxation within the school district according to the provisions set forth in Chapter 19, title 14, of the Delaware Code, except that no referendum shall be required.

(g) Any school district, as an alternate to the levy and collection of a tax to pay its 40% share as provided in (f) above, may authorize the issuance of bonds to pay its 40% share of the

cost of the improvements and repairs authorized by this section, pursuant to Chapter 21, title 14, Delaware Code. In the event that such share is to be raised by the alternate method herein permitted the provisions of Section 7507, Chapter 75, title 29, Delaware Code, shall apply.

(h) The provisions of Chapter 75, title 29, Delaware Code, shall not apply to the improvements and repairs authorized by this section except for the applicability of Section 7507 of said chapter as provided in (g) above.

Section 14. All monies appropriated by this Act shall be considered to be in compliance with and shall be expended in accordance with the intent of the 1969 Annual Capital Projects Schedule as prepared by the State Planning Office on February 28, 1968, approved by the Governor on March 1, 1968, and as further amended hereby.

Section 15. Any funds borrowed pursuant to this Act and remaining unexpended after the completion of the programs authorized by this Act and any funds borrowed pursuant to this Act and remaining unexpended because a project authorized by this Act is not timely undertaken, shall be deposited in a special account and appropriated against future capital improvement bond requirements. Any funds that shall accrue to any school district in this State from the Treasury of the United States for building purposes shall be deposited in the State Treasury and shall be allocated by the State Board of Education to the school district for which the funds are appropriated. The said funds shall be in addition to any other local share and/or state share.

Section 16. None of the monies appropriated by this Act shall be expended before July 1, 1968. None of the monies appropriated by this Act shall be expended after June 30, 1971 unless a contract for the work is entered into and actual work is commenced prior to June 30, 1971.

Section 17. No bonds or notes shall be issued or monies borrowed on behalf of this State, pursuant to this Act, after June 30, 1974, except as provided in Chapter 75, title 29, Delaware Code.

Section 18. This Act may be known, styled or referred to as the "Annual Capital Improvement Act of 1969".

Section 19. No funds appropriated to the State Highway Department in Section 11 of this Act for "Contingencies" shall be obligated or expended without the prior approval of the Budget Commission.

Section 20. None of the funds appropriated in this Act for highway construction purposes shall be used for the purpose of the construction of a By-pass near or around Dover which would form a part of U. S. Route 13, a continuous road which extends through a portion of the three counties of the State of Delaware.

Section 21. None of the funds appropriated in this Act to the Department of Corrections shall be used for the purpose of establishing or constructing Dairy Facilities at its Smyrna Institution or elsewhere.

Section 22. None of the funds appropriated in this Act for highway construction purposes shall be used for the purpose of the construction of the New Allignment — Frederica to Camden Highway.

Approved August 12, 1968.

CHAPTER 470

AN ACT TO AMEND CHAPTER 13, TITLE 14, DELAWARE CODE, RELATING TO STATE SUPPORTED SALARY SCHEDULES FOR SCHOOL EMPLOYEES.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. § 1305 (a), Title 14, Delaware Code, is amended to read as follows:

§ 1305. Basic salary schedule for teachers, principals, superintendents, and other administrative employees

(a) All employees who hold appropriate certificates and whose salaries are paid for 10 months per year, shall receive annual salaries in accordance with the following schedule:

Yrs. of Exp.	No Degree	Bach. Degree	Bach. Degree Plus 30 Grad. Credits	Mast. Degree	Mast. Degree Plus 30 Grad. Credits	Doctor's Degree
0	\$5,600	\$6,000	\$6,600	\$6,800	\$7,400	\$7,800
1	5,800	6,200	6,800	7,000	7,600	8,000
2	6,000	6,400	7,000	7,200	7,800	8,200
3	6,200	6,600	7,200	7,400	8,000	8,400
4	6,400	6,800	7,400	7,600	8,200	8,600
5	6,600	7,000	7,600	7,800	8,400	8,800
6	6,800	7,200	7,800	8,000	8,600	9,000
7	7,000	7,400	8,000	8,200	8,800	9,200
8	7,200	7,600	8,200	8,400	9,000	9,400
9	7,400	7,800	8,400	8,600	9,200	9,600
10	7,600	8,000	8,600	8,800	9,400	9,800

Section 2. § 1308 (a), Title 14, Delaware Code, is hereby amended by striking the salary schedule contained therein by inserting in lieu thereof a new salary schedule to read as follows:

Yrs. of Exp.	Clerks	Secretaries	Senior Secretaries	Certified Secretaries
0	\$3,450	\$4,250	\$4,550	\$4,650
1	3,650	4,450	4,750	4,850
2	3,850	4,650	4,950	5,050
3	4,050	4,850	5,150	5,250

4	4,250	5,050	5,350	5,450
5	4,450	5,250	5,550	5,650
6		5,450	5,750	5,850
7				6,050
8				6,250
9				6,450
10				6,650

Section 3. § 1310 catch line and § 1310 (a), Title 14, Delaware Code, is amended to read as follows:

§ 1310. Salary schedules for school nurses

(a) All nurses who hold appropriate certificates and whose salaries are paid 10 months per year shall receive annual salaries in accordance with the following schedule:

Yrs. of Exp.	Reg. Nurse Prov. Cert. No Degree	Reg. Nurse Regular Cert. No Degree	Cert. Nurse Bachelor's Degree	Certified Nurse with Master's Degree or Bachelor's Degree Plus 30 Graduate Credits
0	\$4,450	\$4,650	\$5,050	\$5,650
1	4,650	4,850	5,250	5,850
2	4,850	5,050	5,450	6,050
3	5,050	5,250	5,650	6,250
4	5,250	5,450	5,850	6,450
5	5,450	5,650	6,050	6,650
6	5,650	5,850	6,250	6,850
7	5,850	6,050	6,450	7,050
8	6,050	6,250	6,650	7,250
9	6,250	6,450	6,850	7,450
10	6,450	6,650	7,050	7,650

Section 4. § 1311 (a), Title 14, Delaware Code, is amended to read as follows:

§ 1311. Salary schedule for school custodians

(a) Custodians who have the qualifications required by the certifying board and who work and are paid 12 months per year shall be paid in accordance with the following schedule:

Yrs. of Exp.	Custodian	Custodian Fireman	Chief Custodian Supervising 5 or less Custodians	Chief Custodian Supervising 6 or More Custodians	Supervisor Buildings & Grounds
0	\$4,450	\$4,650	\$4,750	\$5,150	\$5,850
1	4,600	4,800	4,900	5,300	6,050
2	4,750	4,950	5,050	5,450	6,250
3	4,900	5,100	5,200	5,600	6,450
4	5,050	5,250	5,350	5,750	6,650

Section 5. §1314, Title 14, Delaware Code, is hereby amended by deleting § 1314 in its entirety and inserting in lieu thereof a new § 1314 to read as follows:

§ 1314. Limitation on salary decreases

The salary paid from State funds to any person covered by this chapter employed during the fiscal year ending June 30, 1969, shall not be reduced by reason of the application of any salary schedule contained in this chapter, except in the case of a change to a lower classification.

Section 6. § 1322 (a), Title 14, Delaware Code, is amended to read as follows:

§ 1322. Salary schedule for school lunch employees

(a) School lunch managers who have the qualifications required by the certifying board and who work on a program of at least seven hours per day for each school day of the 10-month school year shall receive annual salaries in accordance with the following schedule:

Years of Experience	Manager	Manager with 1 Yr. College	Manager College with 2 Yrs.	Manager with Bach. Deg.	Cert. Supv. Mgr. with Bach. Deg.
0	\$3,550	\$3,850	\$4,150	\$5,050	\$5,450
1	3,700	4,000	4,300	5,200	5,650
2	3,850	4,150	4,450	5,350	5,850
3	4,000	4,300	4,600	5,500	6,050
4	4,150	4,450	4,750	5,650	6,250
5	4,300	4,600	4,900	5,800	6,450
6	4,450	4,750	5,050	5,950	6,650
7	4,600	4,900	5,200	6,100	6,850
8	4,750	5,050	5,350	6,250	7,050
9				6,400	7,250
10				6,550	7,450

Section 7. §1322 (d), Title 14, Delaware Code, is amended to read as follows:

(d) School lunch cooks and school lunch general workers shall be paid no less than the minimum hourly wage in accordance with the federal statutes.

Section 8. § 1324 (b), Title 14, Delaware Code, is amended by deleting the salary schedule which appears therein and substituting in lieu thereof the following salary schedule:

Yrs. of Exp.	Bus and Class Attendants	Class Aides
0	\$2,350	\$2,750
1	2,450	2,950
2	2,550	3,150
3	2,650	3,350
4	2,750	3,550

Section 9. This Act shall become effective on June 30, 1969.

Approved August 13, 1968.

CHAPTER 471

AN ACT TO AMEND CHAPTER 3, TITLE 9, DELAWARE CODE, RELATING TO COUNTY PERSONNEL ADMINISTRATION.

Be it enacted by the General Assembly of the State of Delaware:

Section 1. Amend Chapter 3, Title 9, Delaware Code, by adding thereto a new section to read:

§ 380. Continuance of present system

If any Levy Court or County Council has adopted or shall adopt a system of personnel administration based on individual merit, said system shall be regarded as repealing any provisions of this title which may be inconsistent therewith.

Became law on August 14, 1968, without the approval of the Governor and in accordance with Section 18, Article 3, of the Constitution of Delaware.

NOTE: This Act was codified as § 352, Title 9, Delaware Code.

Resolutions

CHAPTER 472

SENATE JOINT RESOLUTION No. 2

DIRECTING THE LEGISLATIVE COUNCIL TO CONTRACT FOR A CENSUS OF THE STATE OF DELAWARE.

BE IT RESOLVED by the Senate of the 124th General Assembly, the House of Representatives concurring therein, that the Legislative Council is directed to enter into a contract with the United States Bureau of the Census for the conducting of a census of the State of Delaware, to be used in drafting reapportionment legislation;

AND BE IT FURTHER RESOLVED that the Chairman and Vice Chairman of the Legislative Council be, and they hereby are, directed to sign said contract with the Federal Bureau of the Census for the conduct of the census;

AND BE IT FURTHER RESOLVED that the United States Bureau of the Census report the results or any preliminary part thereof of the Census simultaneously to the Chairman and Vice Chairman of the Legislative Council;

AND BE IT FURTHER RESOLVED that the Senate of the 124th General Assembly, the House of Representatives concurring therein, hereby appropriates to the Legislative Council the sum of \$150,000 to carry out the purposes of this resolution.

Approved May 4, 1967.

CHAPTER 473

SENATE CONCURRENT RESOLUTION No. 8

DECLARING THAT THE GENERAL ASSEMBLY SHALL NOT MEET ON 8 MAY 1967 AND COMMENDING THE EFFORTS OF THOSE INVOLVED IN DOVER'S 250TH ANNIVERSARY CELEBRATION.

WHEREAS, the Committee organizing Dover's 250th Anniversary Celebration has set aside Monday, 8 May 1967, as Military Day and in connection therewith intends to have an extensive display of military hardware in the area of the mall in front of the Legislative Hall and expects a considerable number of people to be on hand to view said displays; and

WHEREAS, were the General Assembly to meet on said day, the visitors viewing said display would have difficulty finding available parking spaces in the area of the Legislative Hall; and

WHEREAS, the members of the Committee organizing Dover's 250th Anniversary Celebration, together with all their subcommittees and other interested citizens working with them have done a truly remarkable job in fostering this celebration to the overall credit of our State and its citizens and have thereby directed most favorable attention to our history, traditions and general position among the States of the Union;

NOW THEREFORE BE IT RESOLVED, by the Senate of the 124th General Assembly, the House of Representatives concurring therein, that the General Assembly will not meet for sessions of the respective Houses of the General Assembly on Monday, 8 May 1967;

AND BE IT FURTHER RESOLVED, that the Senate of the 124th General Assembly, the House of Representatives concurring therein, by the passage hereof do hereby commend the noble and selfsacrificing efforts of the members of the Committee organizing Dover's 250th Anniversary Celebration, together with all their subcommittees and all other interested citizens cooperating with them, for the truly magnificent work they have done to date and do wish them every hope for success in their efforts leading up to the consummation of this worthy undertaking.

Approved May 8, 1967.

CHAPTER 474

HOUSE JOINT RESOLUTION No. 2

IN REFERENCE TO COMMEMORATING THE GOLDEN
ANNIVERSARY OF THE INTERSTATE MILK PRO-
DUCER'S COOPERATIVE AND THE ISSUING OF SAID
PROCLAMATION BY THE GOVERNOR.

WHEREAS, the Inter-State Milk Producers' Cooperative will celebrate their founding date of March 14, 1917, and have completed fifty years of excellent service to the State of Delaware to insure a constant supply of fresh, wholesome milk to its residents; and

WHEREAS, on this Golden Anniversary, to be celebrated November 21, 1967, with suitable ceremonies the Inter-State Milk Producers' Cooperative may be justifiably proud of their assistance to their dairy farmer members through many activities, including scientific marketing, educational and informational services, and bargaining for fair prices; and

WHEREAS, not the least of the superior services performed for the Inter-State Milk Producers' Cooperative members is the legislative informational service of interpretation of pertinent statutes and rules and regulations and the Inter-State Milk Producers' Cooperative informational service and assistance rendered to the Delaware Legislature for its consideration of proposed legislation, experience has indicated, over the years, the integrity and reliability of the information supplied and of the Inter-State staff assistance.

NOW, THEREFORE,

BE IT RESOLVED by the House of Representatives that the Inter-State Milk Producers' Cooperative be congratulated on their Golden Anniversary celebrating fifty years of excellent service for the benefit of its members and for the benefit of the residents of Delaware, and commend the Inter-State Milk Producers' Cooperative's officers and staff for establishing and maintaining high professional standards in dairying, and the manner of their services to Delaware residents.

BE IT FURTHER RESOLVED that copies of this tribute be presented to the Inter-State Milk Producers' Cooperative and their several local units as a token of the appreciation of the Delaware Legislature.

Approved June 21, 1967.

CHAPTER 475

HOUSE JOINT RESOLUTION No. 5
ESTABLISHING A COMMITTEE TO MAKE AN IMMEDIATE, VIGOROUS, AND COMPREHENSIVE EXAMINATION OF THE BASIC UNDERLYING PROBLEMS CAUSING CIVIL UNREST.

WHEREAS, recent events in certain areas of the State illustrate the potential for widespread civil disorder; and

WHEREAS, action to be taken today will strengthen the criminal statutes to help deter such disorders but do not eliminate the basic causes of such; and

WHEREAS, there exists within certain communities of the State widespread unemployment, poverty and lack of adequate housing, recreation and educational opportunities; and

WHEREAS, positive and constructive proposals to solve these problems are necessary and of prime importance to the welfare of all citizens;

NOW THEREFORE, BE IT RESOLVED that the Governor of the State of Delaware is hereby empowered and requested to appoint immediately a committee which shall include representatives of business, local government, religious and educational groups and organized labor, plus individuals from the neighborhoods most directly involved. This Committee shall also include two members of the House of Representatives as appointed by the Speaker of the House and two members of the Senate as appointed by the President Pro Tem of the Senate; and

BE IT FURTHER RESOLVED that the Committee shall immediately undertake a vigorous and comprehensive examination of the basic underlying problems causing the civil unrest and report back to the Governor and the General Assembly within sixty (60) days of its formation with recommendations for action that the State Government can take to solve these problems; and

BE IT FURTHER REVOLVED that the sum of \$10,000 be appropriated from the General Fund to the Governor for the use of this Committee in carrying out its responsibilities.

Approved August 4, 1967.

CHAPTER 476

HOUSE CONCURRENT RESOLUTION No. 30**RELATING TO MEMBERS OF THE GENERAL ASSEMBLY
PRACTICING LAW AND REPRESENTING CLIENTS
BEFORE THE COURTS OF THIS STATE OR VARIOUS
STATE AGENCIES.**

WHEREAS, the maintenance of high ethical and moral standards among legislators, especially in their area of public trust, is essential to the conduct of the state government of Delaware and is a matter of continuing concern; and

WHEREAS, it is incumbent upon those who occupy positions of high public responsibility and authority to set an impeccable example; and

WHEREAS, legislation to abolish dual job-holding has been introduced in this House; and

WHEREAS, the General Assembly enacts legislation creating, funding and authorizing various courts of law and certain quasi-judicial state agencies; and

WHEREAS, the salaries, pensions and authority of various individuals serving these courts and quasi-judicial agencies are established by the General Assembly; and

WHEREAS, certain members of the General Assembly practice law and represent the special interests of their clients before these courts and agencies; and

WHEREAS, adequate guidelines and a code of ethics governing practicing attorneys is necessary to prevent conflicts of interest to improve standards of public service and to promote and strengthen the faith and confidence of the people of the State of Delaware in their General Assembly.

NOW THEREFORE,

BE IT RESOLVED by the House of Representatives of the 124th General Assembly, the Senate concurring therein, that the Chief Justice of the Supreme Court of Delaware in consultation with the appropriate committee of the Delaware Bar Association

establish a code of ethics and standards for the members of the Delaware Bar Association also serving as members of the General Assembly.

BE IT FURTHER RESOLVED that the committee shall render a report and recommendations to the members of the General Assembly, the Governor and the members of the Delaware Bar Association on or before June 15, 1968.

Approved June 11, 1968.

CHAPTER 477

HOUSE JOINT RESOLUTION No. 3

As Amended by

SENATE AMENDMENT No. 1

ESTABLISHING A COMMITTEE TO MAKE A THOROUGH, UNRESTRICTED, LONG-RANGE INVESTIGATION INTO STATE FINANCES.

WHEREAS, Delaware's present financial status is largely the result of extraordinarily large and non-recurring sources of income; and

WHEREAS, the state's normal income over the past 10 years from regular sources has not been adequate to meet normal expenses; and

WHEREAS, the annual budget has increased at a yearly average of 10 per cent, while revenues have increased only five per cent; and

WHEREAS, the General Assembly and the Governor are faced with frequent and often compelling requests for costly new programs and additional funding of present programs; and

WHEREAS, it is apparent that the state will face a fiscal crisis within the next few years if present trends continue, and the Governor himself has said the next administration will have to raise taxes; and

WHEREAS, it is desirable that the crucial issue of state finance be considered carefully and before any crisis does develop;

NOW THEREFORE, BE IT RESOLVED, by the House of Representatives of the 124th General Assembly, the Senate concurring therein, that a committee of qualified citizens be named to undertake a thorough, unrestricted, long-range investigation into state finances; and

BE IT FURTHER RESOLVED, that the Speaker of the House of Representatives appoint four persons to this committee, no more than two from the same political party; that the President Pro Tem of the Senate appoint four persons to this com-

mittee, no more than two from the same political party; and that the Governor of the State of Delaware appoint five persons to this committee no more than three from the same political party and one member designated as the chairman; and

BE IT FURTHER RESOLVED, that the Chairman of the House Revenue and Taxation Committee and the Chairman of the Senate Finance Committee be members of this committee; and

BE IT FURTHER RESOLVED, that this committee be and is hereby instructed to investigate, without limitation, anticipated revenue and expenditures over the next decade, potential sources of new revenue, revenue collection procedures, state borrowing policies, efficiency of state government, use of the Capital Investment Fund, and such other areas as the committee may deem advisable; and

BE IT FURTHER RESOLVED that this committee be given a free hand to make whatever recommendations to the Governor and the General Assembly that it finds proper; and

BE IT FURTHER RESOLVED, that the sum of \$25,000 is hereby appropriated for the committee to employ professional staff and begin its work, with the understanding that any further sums required must be appropriated in a later resolution; and

BE IT FURTHER RESOLVED, that the Committee shall submit to the Governor and the General Assembly, its report not later than April 1, 1969; and

BE IT FURTHER RESOLVED, that the appointing authorities notify the other two (2) appointing authorities, in writing, within thirty (30) days of the effective date hereof, the names of their respective appointees.

Became law on June 28, 1968, without approval of the Governor in accordance with Article 3, Section 18, as amended, of the Constitution of Delaware.

CHAPTER 478

SENATE JOINT RESOLUTION No. 8

RELATING TO THE UNION AFRICAN METHODIST EPISCOPAL CHURCH.

WHEREAS, the Union African Methodist Episcopal Church between 8th and 9th Streets and King and French Streets in Wilmington is an inspirational symbol for the black people of that community; and

WHEREAS, the ancient church is located in a redevelopment area which means it must be moved, stored or otherwise relocated; and

WHEREAS, it has proudly stood since 1813 as a manifestation of the freedom of all men to worship as they please; and

WHEREAS, its fate is deserving of special consideration by the citizens of the State of Delaware because of its great heritage and moving tradition; and

WHEREAS, thousands have worshipped in its sanctuary since it was first constructed under the leadership of Peter Spencer, who is also deserving of special recognition; and

WHEREAS, it has played a significant role in the annual celebration of big quarterly;

NOW THEREFORE, BE IT RESOLVED, by the Senate of the 124th General Assembly the House concurring therein, that a special committee of five outstanding citizens be named by the Governor of Delaware to provide for preservation of the church, a fitting monument to be erected at the site and other considerations that might be necessary; and

BE IT FURTHER RESOLVED that the sum of One Thousand Dollars (\$1,000) be and is hereby appropriated to the committee for necessary expenses; and

BE IT FURTHER RESOLVED that the said committee submit its report to the Governor before the Big Quarterly of 1968 so that he may prepare recommendations to be made public on that day of celebration and then presented to the 125th General Assembly for action when it convenes next January.

Approved August 1, 1968.

Executive Orders

CHAPTER 479

STATE OF DELAWARE EXECUTIVE DEPARTMENT

DOVER

EXECUTIVE ORDER
NUMBER TWENTY-SEVEN

TO: Heads of all State Departments and Agencies

SUBJECT: Notification Procedure by State Agencies of Federal Financial Assistance Applications

WHEREAS, there are currently many programs and agencies of the Federal Government which provide assistance, both financial and otherwise, to agencies of the State of Delaware; and

WHEREAS, in order to achieve the maximum benefit for all Delaware citizens it is necessary to fully coordinate and complement federal financial programs, to determine the sources of all federal funds available to the State of Delaware, to establish new state programs and to participate in advance whenever possible in the formulation of policy decisions on each phase of programming, planning, and administration; and

WHEREAS, a procedure of notification must be established to insure coordination of the applications of all State agencies for federal financial assistance for the most efficient and effective use of all funds from whatever source:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me as Governor of the State of Delaware, hereby declare and order that:

1. All State agencies shall give notice of intent to apply to the Federal government for funds from any source whatever and for whatever reason to the Governor, Governor's Federal-

State Coordinator, Budget Director, and Director of State Planning, at least two weeks prior to submission of the actual application.

2. All State agencies shall give notice of approval or disapproval of any such application for Federal funds immediately after receipt thereof, to the Governor, Governor's Federal-State Coordinator, Budget Director and Director of State Planning.

3. Such notification in either one or two above shall apply to any type of application for Federal funds, including, but not limited to reimbursement.

4. The form, procedure, and extent of notification of one and two above shall be prescribed and determined by the Governor's Federal-State Coordinator.

Approved this 16th day of March, 1967.

(GREAT SEAL)

CHARLES L. TERRY, JR.
Governor

Attest:

ELISHA C. DUKES
Secretary of State

CHAPTER 480
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER TWENTY-EIGHT

TO: Heads of all State Departments and Agencies

SUBJECT: Establishment of the Vocational Student Loan Plan of the Delaware Higher Education Loan Program Under the National Vocational Student Loan Insurance Act of 1965

WHEREAS, the National Vocational Student Loan Insurance Act of 1965 provides for the establishment of low interest insured loan programs to assist students attending vocational schools and institutions; and

WHEREAS, the U.S. Office of Education has announced the availability of Federal funds to establish a vocational student loan plan; and

WHEREAS, the Higher Educational Aid Advisory Commission has been designated as the State of Delaware's official agent to receive Federal funds under both the Higher Education Act of 1965 and the National Vocational Student Loan Insurance Act of 1965, replacing the University of Delaware; and

WHEREAS, the Committee of Representatives created by Executive Order 19, April 4, 1966 for the implementation and establishment of Delaware's guaranteed student loan program under the Higher Education Act has been charged with the responsibility of the Delaware Higher Education Loan Program under Executive Order 26, August 8, 1966:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me, as Governor of the State of Delaware, do hereby order that the Committee of Representatives

heretofore appointed under and by Executive Order #19 shall continue to serve as the governing body of what shall be hereafter known as the Vocational Student Loan Plan of the Delaware Higher Education Loan Program under the Higher Educational Aid Advisory Commission. The membership of this Committee shall continue to be composed of Harold Kaufman, Assistant Dean, University of Delaware as Director; William R. M. Osborne, Business Manager of Wesley College as Associate Director; Edward T. Crawford, Business Manager of Delaware State College as Second Associate Director. The Committee shall continue to retain all responsibility for setting all policies and procedures necessary for the operation of the Delaware Higher Education Loan Program.

FURTHER, the Directors of this Program shall have authority to negotiate and prepare all contracts and agreements including those to be signed with private non-profit agencies or organizations, such as the United Student Aid Funds, Incorporated, whose function would be to administer the program under the control and supervision of the State governing body. Said contracts and agreements may be signed by the Director of the Delaware Higher Education Loan Program on behalf of the Higher Educational Aid Advisory Commission. The state governing body shall generate and enact all rules and regulations necessary for the proper operation and continuance of this program. They shall be empowered to receive such funds by and through the Higher Educational Aid Advisory Commission as may be granted to this Program whether from public sources or from persons, firms, corporations, associations, trust and foundations for the establishment, support, and promotion of the objective of the Vocational Student Loan Plan of the Delaware Higher Education Loan Program.

FURTHER, the Directors of the State governing body shall have the power to contract for the guarantyship of loans with any administering agencies such as the United Student Aid Funds, Incorporated. In this regard it shall be the responsibility of the administering agency such as the United Student Aid Funds, Incorporated, to guarantee the repayment of all loans as well as to absorb all costs of administration and litigation. The Directors of the State governing body shall also have the

CHAPTER 480
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER TWENTY-EIGHT

TO: Heads of all State Departments and Agencies

SUBJECT: Establishment of the Vocational Student Loan Plan of the Delaware Higher Education Loan Program Under the National Vocational Student Loan Insurance Act of 1965

WHEREAS, the National Vocational Student Loan Insurance Act of 1965 provides for the establishment of low interest insured loan programs to assist students attending vocational schools and institutions; and

WHEREAS, the U.S. Office of Education has announced the availability of Federal funds to establish a vocational student loan plan; and

WHEREAS, the Higher Educational Aid Advisory Commission has been designated as the State of Delaware's official agent to receive Federal funds under both the Higher Education Act of 1965 and the National Vocational Student Loan Insurance Act of 1965, replacing the University of Delaware; and

WHEREAS, the Committee of Representatives created by Executive Order 19, April 4, 1966 for the implementation and establishment of Delaware's guaranteed student loan program under the Higher Education Act has been charged with the responsibility of the Delaware Higher Education Loan Program under Executive Order 26, August 8, 1966:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me, as Governor of the State of Delaware, do hereby order that the Committee of Representatives

heretofore appointed under and by Executive Order #19 shall continue to serve as the governing body of what shall be hereafter known as the Vocational Student Loan Plan of the Delaware Higher Education Loan Program under the Higher Educational Aid Advisory Commission. The membership of this Committee shall continue to be composed of Harold Kaufman, Assistant Dean, University of Delaware as Director; William R. M. Osborne, Business Manager of Wesley College as Associate Director; Edward T. Crawford, Business Manager of Delaware State College as Second Associate Director. The Committee shall continue to retain all responsibility for setting all policies and procedures necessary for the operation of the Delaware Higher Education Loan Program.

FURTHER, the Directors of this Program shall have authority to negotiate and prepare all contracts and agreements including those to be signed with private non-profit agencies or organizations, such as the United Student Aid Funds, Incorporated, whose function would be to administer the program under the control and supervision of the State governing body. Said contracts and agreements may be signed by the Director of the Delaware Higher Education Loan Program on behalf of the Higher Educational Aid Advisory Commission. The state governing body shall generate and enact all rules and regulations necessary for the proper operation and continuance of this program. They shall be empowered to receive such funds by and through the Higher Educational Aid Advisory Commission as may be granted to this Program whether from public sources or from persons, firms, corporations, associations, trust and foundations for the establishment, support, and promotion of the objective of the Vocational Student Loan Plan of the Delaware Higher Education Loan Program.

FURTHER, the Directors of the State governing body shall have the power to contract for the guarantyship of loans with any administering agencies such as the United Student Aid Funds, Incorporated. In this regard it shall be the responsibility of the administering agency such as the United Student Aid Funds, Incorporated, to guarantee the repayment of all loans as well as to absorb all costs of administration and litigation. The Directors of the State governing body shall also have the

power to distribute such funds as may be received and deposited with it.

FURTHER, all Federal funds received by the Higher Educational Advisory Commission for the Higher Education Loan Program and the Vocational Student Loan Plan shall be deposited with the State Treasurer.

Approved this 25th day of April, 1967.

(GREAT SEAL)

CHARLES L. TERRY, JR.
Governor

Attest:

ELISHA C. DUKES
Secretary of State

CHAPTER 481
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER

NUMBER TWENTY-NINE

TO: Heads of all State Departments and Agencies
SUBJECT: Declaring Monday, July 3, 1967, a Holiday for
State Employees

WHEREAS, the great Independence holiday of the United States falls this year on a Tuesday, thus separating it from the weekend which precedes it; and

WHEREAS, the Fourth of July has traditionally been a time for family celebration and observance of the significant event which it commemorates; and

WHEREAS, such family enjoyment of the holiday often requires extensive traveling and the shifting of many belongings for purposes of accommodation; and

WHEREAS, the cause of safety is better served when traveling back and forth can be held to a minimum; and

WHEREAS, it has been the pattern in Delaware to recognize a day falling between two holidays as a day of leisure in its own right; and

WHEREAS, Sunday, July 2 and Tuesday, July 4 are legal holidays pursuant to 1 Delaware Code, Section 501:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me as Governor of the State of Delaware, do hereby order (with the exception of those state offices which require emergency services to be rendered on a 24-hour basis) that all state agencies treat Monday, July 3, as a holiday (unless the Department head determines that his agency should be open for business) and accord employes the same time off and other benefits as if it were a legal holiday.

Approved this 7th day of June, 1967.

(GREAT SEAL)

CHARLES L. TERRY, JR.
Governor

Attest:

ELISHA C. DUKES
Secretary of State

CHAPTER 482

STATE OF DELAWARE

EXECUTIVE DEPARTMENT

DOVER

EXECUTIVE ORDER
NUMBER THIRTY

TO: Heads of all State Departments and Agencies

SUBJECT: Change of Name of the State Building Formerly
Known as Independence Mall to the "Thomas
Collins Building"

WHEREAS, the State of Delaware has purchased the building known as Independence Mall, Dover, Delaware, for the use of state business by certain State agencies; and

WHEREAS, it has become necessary and desirable to rename the building now being used officially by certain State agencies in honor of a former distinguished Governor of Delaware from 1786 to 1789 who served the State of Delaware in all three branches of state government as well as the military; and

WHEREAS, it would be most appropriate to name this state building in keeping with the history of our State and the architecture of the Colonial period of said building:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me, as Governor of the State of Delaware, do hereby order, declare, and designate the name of the Independence Mall Building to be changed to and henceforth be known as the "Thomas Collins Building."

Approved this 7th day of August, 1967.

(GREAT SEAL)

CHARLES L. TERRY, JR.
Governor

Attest:

ELISHA C. DUKES
Secretary of State

CHAPTER 483
STATE OF DELAWARE
EXECUTIVE DEPARTMENT

EXECUTIVE ORDER DOVER
NUMBER THIRTY-ONE

TO: The State Board of Health
SUBJECT: Emergency Medical Services Under the National
 Highway Safety Act of 1966

WHEREAS, public law 89-564, entitled the National Highway Safety Act of 1966, provides Federal Grants for its planning, administration and implementation; and

WHEREAS, public law 89-564 provides in Section 4.4 11 that planning has to be made for the provision of Emergency Medical Services to highway accident victims; and

WHEREAS, the American Medical Association has urged that the State Health Agencies in each of the States be given the responsibility and authority in developing standards for a unified system of Emergency Medical Services:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me as Governor of Delaware, do request that the State Board of Health in cooperation with our Federal-State Highway Safety Coordinator, undertake the establishment of such emergency medical standards and the question of the advisability of a unified statewide system for the provision of such emergency medical services and if advisable, the form that such a system should take if a decision is made to establish a unified statewide system. I view, inter alia, as within the purview of this study such things as the coordination of ambulance-hospital communications, the establishment of methods for coordinating the dispatching and summoning of ambulances, and an evaluation of the emergency medical services presently being provided, the establishment of standards for the training of ambulance drivers and attendants, and lists of recommended supplies and equipment for use in ambulances.

Approved this 8th day of December, 1967.

(GREAT SEAL)

CHARLES L. TERRY, JR.
Governor

Attest:

ELISHA C. DUKES
Secretary of State

1884

CHAPTER 484
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER THIRTY-TWO

TO: Heads of all State Departments and Agencies
SUBJECT: Regulations Promulgated by State Agencies

WHEREAS, people affected by the regulations of the State's various administrative agencies, including in particular, members of the Delaware Bar, have found it difficult to obtain knowledge of copies of the regulations issued by the State's various administrative agencies; and

WHEREAS, it has usually been necessary to write directly to the State agency involved; and

WHEREAS, there is available a convenient method of providing access to rules and regulations of all State agencies by placing them in the three County Law Libraries:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me as Governor of Delaware, do request that all State agencies, Commissions and Boards make available to the Bar Association and to the general public all existing regulations of their agency which they will supplement with new copies thereof as they are revised by placing the regulations of said Agencies, Commissions and Boards in each of the three County Law Libraries.

Approved this 8th day of December, 1967.

(GREAT SEAL)

CHARLES L. TERRY, JR.
Governor

Attest:

ELISHA C. DUKES
Secretary of State

CHAPTER 485
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER THIRTY-THREE

TO: Heads of all State Departments and Agencies
SUBJECT: Designation of the Delaware State Planning Office as the State Agency in Delaware to Carry Out the Provisions of Title IX of the Demonstration Cities and Metropolitan Development Act of 1966 (P.L. 754) and Title VIII of the National Housing Act of 1964 (P.L. 88-560)

WHEREAS, the rapid urbanization of our State is causing ever heavier demands to be placed upon local governments for improved and expanded public improvements and services necessary for the solution of critical physical, social and economic problems in our urban areas; and

WHEREAS, there is great need in our State for information and data on urban needs and programs and for technical assistance to small communities in their efforts to solve community problems; and

WHEREAS, the increasing number and magnitude of Federal, State and local assistance programs that affect urban development require considerable technical information and statistical data not readily available to local communities; and

WHEREAS, local officials of small communities face the problem of working with government programs without the expert professional know-how and technical assistance needed in the identification and solution of urban problems; and

WHEREAS, the Demonstration Cities and Metropolitan Development Act of 1966 (P.L. 754) establishes a program to assist States and the instrumentalities of their political subdivisions in making available information and data on urban needs and assistance programs and activities and in providing technical assistance to small communities with respect to solving urban problems; and

WHEREAS, TITLE VIII of the National Housing Act of 1964 (P.L. 88-560), 20 U.S.C. 801 establishes a program to assist

States and the instrumentalities of their political subdivisions through training of elected officials, community development and policy making groups, and employees of local governments as well as professional planners and those desiring formal training in planning and closely related fields; and

WHEREAS the additional expertise that will be gained through training under the auspices of TITLE VIII combined with improved governmental organization and services through the utilization of TITLE IX, will facilitate the solution of urban problems; and

WHEREAS, Section 905 of the Demonstration Cities and Metropolitan Development Act and Section 802 subsection (b) of the National Housing Act of 1964 require formal designation by the Governor of a State Agency as the applicant State Agency to receive Federal grants for programs:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me as Governor of Delaware, do order and direct that the Delaware State Planning Office be hereby named and designated for the purposes of carrying out the provisions of TITLE IX of the Demonstration Cities and Metropolitan Development Act of 1966 (P.L. 754) and TITLE VIII of the National Housing Act of 1964 (P.L. 88-560), as the State Agency in Delaware to make available information and data on urban needs and assistance programs and activities, to provide technical assistance to small communities and to administer educational programs dealing with urban problems to lay and professional persons as designated under the law; and it is further

ORDERED: that the Delaware State Planning Office shall serve as the State Agency in Delaware to effectuate the purposes of TITLE IX as specifically set forth in Section 901 and to receive grants authorized under Sections 902 and 903 of the Demonstration Cities and Metropolitan Development Act of 1966 and to effectuate the purposes of TITLE VIII as set forth in Sections 802, subsection (b) and 804 to receive grants authorized under Section 802, subsections (a) and (c).

Approved this 11th day of January, 1968.

(GREAT SEAL)

CHARLES L. TERRY, JR.
Governor

Attest:
ELISHA C. DUKES
Secretary of State

CHAPTER 486
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER THIRTY-FOUR

TO: Heads of all State Departments and Agencies
SUBJECT: Re: Agencies Closing on Tuesday, April 9, 1968

WHEREAS, the people of Delaware are greatly saddened by the tragic assassination of Dr. Martin Luther King, Jr.; and

WHEREAS, the said Dr. Martin Luther King, Jr., is to be interred on Tuesday, April 9, 1968; and

WHEREAS, many employees of the State of Delaware and many employees and students of our public school system would like to participate in appropriate memorial services and would like to join in a day of mourning; and

WHEREAS, it is hoped that all people in view of this great loss will now commit themselves to adjusting their legitimate social and economic grievances through the existing channels of our governmental institutions and through the use of non-violent means:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me as Governor of Delaware, do order and direct that the State Board of Education declare the schools closed on Tuesday, April 9, 1968, except as to those employees who are still needed to perform essential functions, and it is further

ORDERED: that all State agencies be closed on Tuesday, April 9, 1968, except for those agencies required by statute to remain open on a continuing basis and those state agencies which require a skeleton work force for the performance of essential functions.

Approved this 8th day of April, 1968.

(GREAT SEAL)

CHARLES L. TERRY, JR
Governor

Attest:

ELISHA C. DUKES
Secretary of State

CHAPTER 487
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER THIRTY-FIVE

SUBJECT: State Highway Safety Office

WHEREAS, the burden, grief and cost of deaths, personal injuries and property damage resulting from motor vehicle accidents upon our nation's highways have reached intolerable proportions; and

WHEREAS, it is recognized by the State of Delaware that this is a matter of grave State concern demanding positive action if we are to adequately cope with this growing problem; and

WHEREAS, no formal mechanism has existed in the past for the integration and coordination of our existing safety efforts; and

WHEREAS, the Governor on July 19, 1967, initiated such a program under his direction, appointing V. Blades Derrickson, Jr., to be his Federal-State Highway Safety Coordinator and to direct Delaware's efforts at improved coordination and integration of our highway safety programs; and

WHEREAS, it has become desirable to formalize this pre-existing arrangement:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me as Governor of Delaware, do order and direct that a Statewide highway safety program be established under the guidance and direction of the Governor, this program to provide for the unification and coordination of State and local efforts in the ongoing effort to reduce highway deaths, personal injuries and property damage; and it is further

ORDERED: that the Governor shall maintain and continue the Office of Highway Safety in order to plan and administer the State Highway Safety Program; and it is further

ORDERED: that the Chief Administrative officer of the Office of Highway Safety be appointed by the Governor and be responsible to him for the conduct of the State Highway Safety Program.

Approved this 19th day of July, 1968.

(GREAT SEAL)

CHARLES L. TERRY, JR.
Governor

Attest:

ELISHA C. DUKES
Secretary of State

CHAPTER 488
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER THIRTY-SIX

TO: Heads of all State Departments and Agencies
SUBJECT: Establishment of a Comprehensive Health Planning Council

WHEREAS, the Federal government has recognized the need for the extension and improvement of comprehensive health planning and public health services by passing the Comprehensive Health Planning and Public Health Services Amendments of 1966 (P.L. 89-749); and

WHEREAS, the State of Delaware wishes to promote and assure the highest level of health for all of its citizens; and

WHEREAS, Public Law 89-749 recognizes the need for effective cooperation between the Federal, state and local governments, private non-profit health organizations, the medical profession and consumers of health services if this goal is to be obtained; and

WHEREAS, on January 30, 1967, I previously designated the State Board of Health as the single state agency to administer and supervise the state's health planning functions resulting from implementation of P.L. 89-749:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me as Governor of Delaware, do hereby establish an Advisory Council to be entitled the Comprehensive State Health Planning Council whose purpose shall be to advise the State Board of Health in carrying out its functions under the comprehensive state plan. A majority of membership of such Council shall be representative of consumers of health services.

Approved this 14th day of August, 1968.

(GREAT SEAL)

CHARLES L. TERRY, JR.
Governor

Attest:

ELISHA C. DUKES
Secretary of State

CHAPTER 489
STATE OF DELAWARE
EXECUTIVE DEPARTMENT

DOVER

EXECUTIVE ORDER
NUMBER THIRTY-SEVEN

TO: Heads of all State Departments and Agencies

SUBJECT: Delaware Law Enforcement Planning Agency

WHEREAS, The Governor's Commission on Law Enforcement and the Administration of Justice was created in May, 1967, for the purpose of considering the recommendations of the President's Commission on Law Enforcement and Administration of Justice for adoption by the State of Delaware; and

WHEREAS, The Governor's Commission on Law Enforcement and the Administration of Justice, assisted by many other dedicated citizens of this State, has partially completed its task; and

WHEREAS, the Congress of the United States enacted in June, 1968, the "Omnibus Crime Control and Safe Streets Act of 1968"; and

WHEREAS, that Federal Act authorizes the Administration, established by the Act, to make grants to each State for the establishment and operation of State law enforcement planning agencies for the preparation, development, and revision of State comprehensive plans in the criminal justice field and for the making of action grants thereafter for the implementation of such plans; and

WHEREAS, the existing Governor's Commission on Law Enforcement and the Administration of Justice does not comply precisely with the requirements of the Federal Act as to the composition of such a State planning agency; and

WHEREAS, it is desirable and in the public interest that a State planning agency as contemplated by the Federal Act be established by the State of Delaware in order to prepare the

comprehensive plan and to administer the action grants thereafter on a permanent basis:

NOW, THEREFORE, I, Charles L. Terry, Jr., by virtue of the authority vested in me as Governor of the State of Delaware, do hereby order and direct that the DELAWARE LAW ENFORCEMENT PLANNING AGENCY shall be and it hereby is created and established, and it is further ORDERED and DIRECTED as follows:

1. The Delaware Law Enforcement Planning Agency is hereby designated as the "State Planning Agency" within the meaning of the Omnibus Crime Control and Safe Streets Act of 1968 to carry out the duties specified in that Act; to carry out any responsibilities imposed upon a state planning agency by virtue of the provisions of the Federal Juvenile Delinquency and Control Act of 1968; to carry out such other duties as may be assigned to it by the Governor from time to time; and complete the assignment of the Governor's Commission on Law Enforcement and the Administration of Justice.

2. The Agency shall be composed of the following members who shall serve ex-officio:

1. Attorney General
2. Chief Justice
3. Public Defender
4. Superintendent of the State Police
5. Commissioner of Public Safety of the City of Wilmington
6. President of the Delaware Mayors' Association
7. County Executive of New Castle County
8. President of the Levy Court of Kent County
9. President of the Levy Court of Sussex County
10. &
11. Secretary of the new Department of Correctional Rehabilitation (if the pending Bill so providing is enacted; otherwise, the Director of the Youth Services Division and the Commissioner of Corrections)
12. State Planner
13. President, Fraternal Order of Police.

3. In addition the Agency shall include six persons representative of the public at large who shall serve for terms of three years each, except that two shall serve for an initial term of one year, two shall serve for an initial term of two years, two shall serve for an initial term of three years. Their successors shall be appointed for terms of three years each. The following six persons are hereby appointed in that capacity:

William Hallman	1 year
Edmund N. Carpenter 2nd, Esquire	1 year
The Honorable Courtney P. Houston	2 years
John B. Jessup	2 years
James H. Sills, Jr.	3 years
Dr. Howard Harlan	3 years

4. The Governor's Commission on Law Enforcement and the Administration of Justice shall terminate on the effective date of this Executive Order, and all of its books, records, reports, equipment, property, accounts, liabilities, and all funds subject to its control shall be transferred to the Delaware Law Enforcement Planning Agency as of the effective date of this Executive Order.

5. The employees of the Governor's Commission on Law Enforcement and the Administration of Justice, consisting of the Executive Director and his secretary shall become employees of the Delaware Law Enforcement Planning Agency as of the effective date of this Executive Order.

6. The first Chairman of the Delaware Law Enforcement Planning Agency, shall be the Superintendent of the State Police, who shall serve at the Pleasure of the Governor.

7. This Executive Order shall become effective on September 1, 1968.

Approved this 20th day of August, 1968.

(GREAT SEAL)

CHARLES L. TERRY, JR.
Governor

Attest:

ELISHA C. DUKES
Secretary of State

CHAPTER 490
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER

RESOLUTION

Whereas, Charles Ralph Tod Goodwin has completed 37 years of honorable military service; and

Whereas, the Governor and people of the State of Delaware wish to express their confidence in and appreciation for his patriotism, valor, fidelity and many abilities, as well as his continuing interest in the defense of our nation; and

Whereas, he will depart this country on July 20, 1968, to serve as special liaison officer to the North Atlantic Treaty signatory countries and the provisional and allied affiliated countries with their respective Ministers of National Defense; and

Whereas, this exchange of visits and interchange of information relative to military training and other matters of mutual interest is of great value and benefit to the people of Delaware and the United States; and

Whereas, he has all necessary security clearance, top secret; and

Whereas, he will be representing this state government at the XXI Congress Confederation of Interallied Officers Reserve at Versailles Paris, France, returning to the United States on August 12, 1968;

Now, therefore, I, Charles L. Terry, Jr., Governor of Delaware, do hereby appoint the said Charles Ralph Tod Goodwin to the post of Brigadier General for the period of 20 July, 1968 to 12 August, 1968 and by virtue of my authority as Governor also designate General Goodwin our official representative at the Confederation and at the meeting of officers of the North Atlantic signatory countries.

It is furthermore ordered that General Goodwin will serve in this capacity during the pleasure of the Governor for all matters arising from these European Conferences.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 9th day of July in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-third.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

Proclamations

CHAPTER 491

STATE OF DELAWARE EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, this land of peace and plenty we enjoy today where each individual is endowed with a type of freedom heralded throughout the world as our precious heritage; and

Whereas, Richard Bassett, Gunning Bedford, Jr., Jacob Broom, John Dickinson and George Read represented Delaware in the Federal Constitution Convention which drafted our Constitution; and

Whereas, following the adoption of this Constitution, on September 17, 1787, each of the thirteen colonies was called upon to express its desires regarding this document; and

Whereas, this great document was unanimously ratified by a special convention of ten delegates from each of Delaware's three counties who met in Dover, on December 1, 1787; and

Whereas, in recognition of this action the General Assembly of the State of Delaware by resolution on November 29, 1933 authorized and directed the Governor to issue annually a proclamation designating each December 7th as "Delaware Day" in commemoration of this historic event; and

Whereas, on this December 7th, the State of Delaware will observe, with appropriate ceremonies, the 179th anniversary of this brave and foresighted action which served to give our state its proud title of "First State";

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby designate and proclaim Wednesday, December 7, 1966, as

DELAWARE DAY

and urge our schools, churches, civic and fraternal organizations to participate in appropriate observance of this proud and historic event.

Further, I direct that, on this day, our national and state flags be flown from all public buildings and I urge all our citizens to join in this display of the colors.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 2nd day of December in the year of our Lord, one thousand nine hundred and sixty-six, and of the Independence of the United States of America, the one hundred and ninetieth.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 492
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

Whereas, Elisha C. Dukes, Secretary of State on behalf of the State of Delaware, has reported to me a list of corporations which for two years preceding such report have failed to pay the taxes assessed against them and due by them under the laws of this State.

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby issue this proclamation according to the provisions of Section 511 and 512 of Title 8 of the Delaware Code of 1953, as amended, and do hereby declare under this act of the Legislature that the charters of the following corporations, reported as aforesaid, are repealed:

A & B Construction Co.; A. Binneweg, Incorporated; A C H Enterprises, Incorporated; A & E Sales Engineers, Inc.; A. H. Bull Steamship Co.; A. & I. Inc.; A. L. Dougherty Investments, Inc.; A. M. G., Inc.; A. T. Handel International & Associates, Incorporated; Aaron L. Cohen Foundation, Inc.; Abbott Western, Inc.; ABC Triplan Ltd.; Abco Office Suppliers, Inc.; Able Marine Products Corporation; Accurate Adding Machines and Typewriter, Inc.; Ace Johnson Company; Acme Port Jervis, Inc.; Acme Systems, Inc.; Acquisition Services, Inc.; Actec International, Inc.; Actuarial Research, Inc.; Ad-Craft Inc.; Adel Sales, Service & Rental Company; Adjust-A-Drape Fold Finishing Corporation; Adriatic Holding Corporation; Adtek, Inc.; Advance Glass Company of Georgia; Advanced Oil Tools, Inc.; Adventurous Eight, Inc.; Advertile Corporation; Advertising Display Corporation of America; Aerosonic Aircraft Manufacturing Corporation; Affiliated Realty Properties of America, Inc.; African American Seafood Corp.; Air Charter, Incorporated; Aire-Vac Corporation; Airline Services, Inc.; Akridyne Corporation; Alan D. Courtney Productions, Inc.; Albert Amoroso Company; Albert Donald Corporation; Alco Foods Co.; Alexander-Murphey Associates, Inc.; Alfco, Inc.; Aljur, Inc.; All Risk Insurers, Inc.; Allegheny Chemical Corporation; Alliance Development Corporation; Alliance Engineering Corporation; Allied Foam & Plastics Inc.; Allison-Thorndyke, Inc.; Alloyd Gen-

eral Corporation; Allstate Bowling Centers Inc.; Alodan Corporation; Alpha Corporation; Alumni Association of Cades C.P.A. School; Alweg Company, Inc.; Am-Tex Enterprises, Inc.; Amarillo Aeration & Temperature Company, Inc.; Amca Development Corporation; America Near East Associates, Inc.; American Allied Associates, Inc.; American Ambulance Association;

American Apparel Associates, Inc.; American Armed Services Underwriters, Inc.; American Central Farm Equipment Co.; American College Tuition Corporation; American Communications Corporation; American Drilling Company, Inc.; American Ease, Inc.; American Eastern Farm Equipment Co.; American Geriatrics Corporation; American Holding Corp.; American Industries Fund, Inc.; American International Bowling Corp.; American International Insurance Association; American International Life Insurance Company; American Military International Insurance Association; American Milling Corp.; American Mortgage Co.; American National Corporation; American Northwestern Farm Equipment Co.; American Overseas Development Corporation; American Petroleum Associates, Inc.; American Pro Shops, Inc.; American Range Lines, Inc.; American School Picture Corporation; American Statronic Corp.; American Vitos Company, Inc.; American Western Farm Equipment Co.; American World Wide Forwarders, Inc.; Americana Exhibitions Limited; Ames Electro-Chemical Corporation; Ames Taping Tools, Inc. of Delaware; Amicus Corporation; Amorette Shoe Corp.; Amy Joy Jeffery, Inc.; Amy Joy Marquette, Inc.; Anchor Industries Corp.; Anco Corporation, The; Angle Machine Shop, Inc.; Animal Food Corporation; Answering Management, Inc.; Antoine's Credit Corp.; Anzpac Petroleum Corporation; Aon Industries, Inc.; Appalachian Natural Gas Co.; Aramac Industrial Development Corporation; Arcolor Inc.; Argo, Inc.; Arlington Associates, Incorporated; Arnav Shoe Corporation; Arthritis Research and Endowment Foundation; Arthur Lawrence Productions, Inc.; Arthur Markel, Incorporated; Artis Israel, Inc.; Ash Associates, Inc.; Ashley Homes, Inc.; Ashworth, Inc.; Assembly Engineering Corporation; Assets Equipment Inc.; Associated Aviation Representatives, Inc.; Associated Electric Company; Associated Technical Services International Incorporated; Associated Travel Services, Inc.; Association of Retired Delaware State Police, Inc.; Atkins & Pepper Feed Service, Inc.; Atlantic Airlines, Inc.; Atlantic Amusement Co.; Atlantic

Cargo Equipment Corp.; Atlantic Development Corporation; Atlantic Equipment Corp.; Atlantic Frostop Corp.; Atlantic-Pacific Auto Leasing, Inc.; Atlantic Realty Associates, Inc. of Delaware; Atlantic Vending Corporation; Atmospheric Energy, Ltd.; Atomic Fuel Extraction Corp.; Attic, Inc., The; Audiomatic Vending Corp.; Auditron Corporation; Audograph Sales Company, Incorporated; August Berry Co.; Augustine Beach Yacht Club, Inc.; Augustus Realty Company; Auto Imports, Inc.; Auto-Pak Corporation; Autobath, Inc.; Autographic Inc.; Automation, Inc.; Automotive Leasing Corporation; Autophonic, Inc.; Autotran, Inc.

B and B Amusement, Inc.; B-B Service Co., Inc.; B. & D. Trucking, Inc.; B. H. Carolyn Corp.; B & M Realty Co.; B & R Press, Inc.; B-T Corporation; Bacchus Corporation; Bacteriological Enterprises, Inc.; Bakers Oven, Inc.; Balcourt Manufacturing Co., Inc.; Balich Company, Inc., The; Balich International, Inc.; Bamboo Inc. of Florida; Banks & Boyce, Inc.; Barclay General Corporation; Barclay Industries, Inc.; Basic Enterprises, Inc.; Basin & Basin Insurance Agency, Inc. of Delaware; Bass Vending, Inc.; Bauma Air Corporation; Bayvo Manufacturing Company; Beauty Bazaar, Ltd.; Beebe Industries, Inc.; Beer Distributors Local #16, Inc.; Bel-Arden Inc.; Belco Equipment Leasing Corp.; Bell Tool Corporation; Belmawr Corp.; Bendeen Holding Corp.; Berman & Co.; Berwind Foundation, Inc., The; Bestway Rug & Upholstery Cleaners, Inc.; Big Ben Department Stores, Inc.; Big Laurel, Inc.; Binkley Corporation; Biologics International, Inc.; Birchside Centers, Inc.; Birmingham Sugar Company; Bismarck Lumber Company; Bissonnet Company Inc.; Blitzfunken Incorporated; Bloomfield Parkade Drug Corporation; Blue Ribbon Club, Inc.; Blue Rock Realty, Inc.; BMC 145, Inc.; Boam International Corporation; Bob Hale's Cartoon College, Inc.; Bomex Corporation; Bonded Collection Association, Inc.; Boosta Flock, Inc.; Boots Export, Inc.; Boston Development Corporation; Boston Warranty Depositors, Inc.; Boulevard Auto Sales, Inc.; Boutwell Company, Incorporated, The; Bowdle Realty Company; Bradford Farm Supplies, Inc.; Brandywine Boosters Club, Inc.; Brandywine Hundred Democratic Clubs, The; Braun Realty Company, Inc.; Braun's Stores, Inc.; Bren Products, Incorporated; Brent-Wash, Inc.; Brevoort Industries, Inc.; Brigadoon Shoppes 5 Inc.; Brigadoon Shoppes of Greenwich, Inc.; Brigadoon Shoppes, Incorporated;

Brigadoon Stores 1 Inc.; Britt's Ice Cream, Inc.; Broadway Medical Bldg., Inc.; Brock Realty Corporation; Brookmeade Development Co.; Broomell Associates, Inc.; Brother Gus, Inc.; Brown Herb Co., Inc., The; Bud Roe, Inc.; Buena Park Hotel Corporation; Building Equipment Company; Burden Pan American, Inc.; Business Enterprises, Inc.; Business Planning, Incorporated; Buyers, Consultants, Inc.

C. B. C. Inc.; C. B. M. Industries, Inc.; C B S Panel Corporation; C.D.P., Inc.; C. & M. Corporation; C & M Excavating Company; C. & S. Enterprises, Inc.; Cairo Packers, Inc.; California Air Taxi, Inc.; California First Broadcasting Corporation; Cam Development Corporation; Cambridge Builders, Inc.; Cameo Cosmetics, Inc.; Campbell Printing Company, Inc.; Campus Facilities Development Corporation; Canaveral Princeton Lands, Inc.; Capers Corporation; Capital Classic, Inc.; Capitol Automatic Transmission Specialists, Inc.; Capitol City Motorcade, Inc.; Capitol Engraving & Electrotype Co.; Capitol Homes, Inc.; Caravelle Enterprises, Inc.; Caribbean Development Corporation; Caribbean Iron & Steel Corporation; Carribean Salvage Corporation; Caribe Industries, Inc.; Carlo, Inc.; Carnes Weaver Barge Drilling Company, Inc.; Carolina Mortgage and Land Corporation; Carolyn Enterprises, Inc.; Carr's Industries, Limited; Carraco Oil Company; Carroll Construction Co., Inc.; Carroll Enterprises, Inc.; Carter and Galantin of Illinois, Inc.; Casco Bowl, Inc.; Cathay Corporation; Causeway Motors, Inc.; Cedars Convalescent Center, Inc.; Cedartown Corporation, The; Cell-O-Matic Corporation; Centers Corporation; Central Builders, Inc.; Central Illinois Communication Co.; Central Office Protective Association, Inc.; Central States Land & Development Co.; Centurian Corporation, The; Chadds Ford Racquet Club, Inc.; Chamber of Commerce Building, Inc.; Chamber Music of Philadelphia, Inc.; Champion Industries, Inc.; Chapman Construction Company; Char-Nan Foundation Inc.; Charcoal Pit of Boxwood Road, Inc.; Charles E. Lebet, Incorporated; Charmer Corporation; Charter Industries, Incorporated; Charter Institute, Inc.; Chemical Sand Services, Inc.; Chemipulp Corporation, The; Chemisol Sales Corporation; Chemo-Vive Processes, Inc.; Chemprint Corporation; Cherry Hill Development Co.; Chesapeake Corporation, The; Chevalier Jackson Foundation, The; Chevy Chase Towers, Inc.; Chicago Attractions, Inc.; Christiana Engineering Co.; Christiana Realty, Inc.; Cienki, Inc.;

Cinefield Productions, Inc.; Cip, Inc.; Circle Tank, Inc.; City Refrigeration & Heating Co.; City of Wilmington Pipe Band, Inc., The; Clairemont Oil Company; Clark & Clark Co.; Clay Bros., Inc.; Claymont Bible Church, Incorporated; Claymont Corporation; Claymont Electric Construction Co.; Cleaning Enterprises of Providence, Inc.; Clearview Homes, Inc.; Cleome Mines, Inc.; Cliff Gerlach, Inc.; Clifton Development Company; Clifton Terrace Development Corporation; Clover Spinning Mills Company; Club Ebony, Inc.; Coast to Coast Credit Corporation; Coastal Dredging, Inc.; Cogia Industries, Inc.; Coiffure Continental, Inc.; Coinvenders, Inc.; Col-R-Corn Corporation, The; College of Mecca of Chiropractic, Inc., The; Colonial Airlines, Inc.; Colonial Concrete Co., Inc.; Colonial Construction Co.; Colonial Corporation of Delaware, Inc.; Colony Airlines System, Inc.; Colony Land & Development, Inc.; Color Control Company, Inc.; Columbia Warehouse Co., Inc.; Columbus Publishing Company; Commercial Fuels, Inc.; Commercial Maintenance Corporation; Commodity Fund for Capital Growth, Inc.; Commonwealth Cast Stone, Inc.; Commonwealth Plastics Corp.; Communications Industries Corp.; Community Bond & Mortgage Company of Delaware; Community Investors, Inc.; Computer Usage Company; Concord Auto Sales, Inc.; Concord Holding Co., The; Concrete Contracting Company, Inc.; Concrete Improvements Corporation, Ltd.; Condel Corporation; Connecticut Drive-In Concessions, Inc.; Connecticut & Macomb Investment Corporation; Consolidated Container Carriers, Inc.; Consolidated Equities Corporation; Consolidated Land Investment, Inc.; Consolidated of North America, Incorporated; Consolidated Screw Corporation; Construction Industries, Inc.; Construction Unlimited, Inc.; Continental Business Machines Incorporated; Continental Classroom, Inc.; Continental Commerce, Inc.; Continental Distributing Corporation; Continental Finance Corporation; Continental Food Associates, Inc.; Continental Industrial Corporation; Continental Investment Co., Inc.; Contract Wall-covering Installations, Inc.; Convalescent Centers, Inc.; Conventioneer Display Exhibits, Inc.; Conventioneer International, Inc.; Cooley Corporation; Corbin Corporation; Corlis Corporation; Cornhusker Manufacturing Company; Coronet Development Company, Inc.; Corsicana Paper Mills, Inc.; Cosgrove's Hatchery, Inc.; Cosmo Capital Inc.; Cottage Gardens, Inc.; Country Club Enterprises, Inc.; Country Maid Bakeries, Inc.; Countryside Construction, Inc.; Countryside Farms Service

Corp.; Craft Products Company; Crater Oil Corporation; Creative Film Foundation; Credit Control Collections, Inc.; Credit Motor Sales, Inc.; Credit Scurity Bureau, Inc.; Crescent Athletic Club; Cross Construction Co., Inc.; Crossco Corporation; Crossgate Corporation; Crown Life Corporation; Crystal City, Inc.; Cumberland Oil Company, Inc.; Curtis Investments, Inc.; Custom Homes Development Company; Custom Services, Inc.

D D C Management Co., Inc.; D & D Realty Co.; D. F. D., Inc.; D.O.E. Research Lab, Inc.; D. P. C. Corporation; D. P. E., Inc.; Daddy-O Daylie Enterprises, Inc.; Dahlia Corporation; Dairy Advance Marketers, Inc.; Dalkeith Woolens, Inc.; Dalmark Corporation; Damus Music Co.; Dance Magazine Teachers Association; Daniel Boone Association; Danita Hosiery Manufacturing Co., Inc.; Darden Company; Dart National Corporation; Data Automation Service, Inc.; Dave Rubin Oil Properties, Inc.; Davette, Inc.; De Britto Irmaos Compania Limitada; De-Luxe Candy Shop, Inc.; Dealers Counsel Associates, Inc.; Debmar Corporation; Debusse Corporation; Dejay Eastern Stores, Inc.; Delaware Association of Beauticians; Delaware Association of Small Passenger Carrying Vessels, Inc.; Delaware Automobile & Aeronautic Association; Delaware Beach Service, Inc.; Delaware Beer Distributors, Inc.; Delaware Brewery, Inc.; Delaware Catering Co., Inc.; Delaware Conservative Party, Inc.; Delaware Construction Company, Inc.; Delaware Feed Service, Inc.; Delaware Improvement Corporation; Delaware Maintenance Company; Delaware Neurosurgical Research Foundation; Delaware Nursing Homes, Inc.; Delaware Plumbing Supply Company; Delaware Products Company, Inc.; Delaware Utilities Service Co.; Delaware Valley Finance Corp.; Delaware Valley Guards Service, Inc.; Delaware Vitamin and Cosmetic Company; Deli-Mart Stores, Inc.; Delmarva Mortgage & Investment Corp.; Delpenn Enterprises, Inc.; Delta Enterprises, Inc.; Delta Refrigerated Lines, Inc.; Deltex Products Company, Inc.; Demontluzin Corporation, The; Denco International Inc.; Denen Electric Company, Inc.; Denson Manufacturing Company, Inc.; Desser and Garfield, Inc.; Determined Inc.; Devco, Inc.; Dewey County Coal Co.; Dial-A-Car Rental Systems, Inc.; Diamond Lodge No. 16 K.P. Kiamens I, Del.; Diamond State Auto Club, Inc.; Diba Enterprises, Inc.; Diesel Construction Company; Direct Receivers, Inc.; Discount Auto Rentals of America, Inc.; Discount Investment Corporation; District Investment Properties, Inc.; Dis-

trict Paint and Wallpaper Co.; Diversified Resources, Inc.; Dixie Discount Stores, Inc.; Dixie Medicine Corporation; Documents and Data Transportation, Inc.; Doll House Nursery, Inc.; Dominion Formed Plastics, Inc.; Donald F. Cox, Inc.; Donut Man, Inc., The; Dooley Aircraft Corporation; Dorama, Inc.; Dorbos Manufacturing Co., Inc.; Dorno, Inc.; Dorsey & Ganemi, Inc.; Douglas Machinery Co., Inc.; Downs Brothers, Incorporated; Drakens Oils, Inc.; Du Pont Employees Aero Club, The; Duff Products, Inc.; Duker Bros. & Co.; Duncan Builders, Inc.; Duncan Village Corp.; Dunham & Chalfant Incorporated; Dunn Engineering Corporation; Duorail Aerospace Rapid Transit Corp.; Dura Business Machines of Delaware Valley, Inc.; Duro Manufacturing Company; Dutch Maid Laundry & Dry Cleaner, Inc.; Dynamic Oils, Inc.; Dynamics International, Inc.; Dynatron Corporation.

E. David Long Co.; E-Z Do-Pools Incorporated; Eagle Dye Works, Inc.; Earle S. Phillips, Inc.; Earp-Thomas Foundation, Inc., The; Ease Concession Company; East Coast Aviation Corporation; East Coast Boring and Casting Service, Inc.; East Coast Broadcasting Corp.; East Coast Packing Co. Inc.; Eastern Auto Supply, Inc.; Eastern Food Distributors, Inc.; Eastern Mortgage and Appraisal Company; Eastern Properties Improvement Corporation; Eastern Seaboard Exchange Corporation; Eastern Shore Builders, Inc.; Eastern Shore Development Company; Eastmont Park Corporation; Easton-Zimmerman, Inc.; Eckerd's of Florida, Inc.; Econo-Builders, Inc.; Economic Research Associates, Inc.; Edeco Realty Corporation; Edgar Plumbing & Heating Co., Inc.; Edgemoor Terrace Civic Association; Edgewater Cold Storage Company; Edmar Hill Realty Corp.; Edward V. Lower, Inc.; Egyptian Vault Company; 818 West, Ltd.; 8760 Blue Ridge Blvd., Inc.; El Central Development Corp.; Elco Steel Products, Inc.; Eldu Company, Inc.; Electro-Mec Laboratory, Inc.; Electromatic Corporation; Electronic Materials Corporation; Electrostatics Inc.; Eleventh and Jefferson Corp.; Elkhart Apartments, Inc.; Ellison Salvage & Used Cars, Inc.; Elsmere Constructing Co.; Elston-Herbert Corporation; Emco Enterprises Incorporated; Emerson Company, The; Emerson-Garden Electric Co., Inc., Caribbean; Empire Properties, Inc.; Empire Realty, Inc.; Enalcha Enterprises, Inc.; Enbee Pleating Fashions Corp.; Encyclopaedia Judaica, Inc.; Energy Corporation of America; Engineering Service Installations, Inc.; Enter-

prise Research Corporation; Enterprise Unlimited Corporation; Eppe's, Inc.; Erasmus Financial Ltd.; Ergas Enterprises, Inc.; Ernest A. Timmons, Inc.; Ertec International, Inc.; Esor Corporation; Evangelical Prison Society; Evelyn Wood Reading Dynamics Institute of Boston, Inc.; Evelyn Wood Reading Dynamics Institute of St. Louis, Inc.; Ever-Sell Enterprises, Inc.; Ever-Soft of Delaware, Inc.; Exclusive International Films, Inc.; Expandolite, Inc.; Exploration Management Corporation; Extractol Process, Ltd.

F. J. Warrington & Sons, Inc.; F Street Hotel Corporation; Facciolo Paving and Construction, Inc.; Facerform Corporation; Fader Motor Company; Fair Haven Plaza, Inc.; Fairfield Mills, Inc.; Fairhaven Corporation; Fairknolls, Inc.; Fairlease, Inc.; Fairway View Apts., Inc.; Fashion Flair Homes, Inc.; Federal Products, Inc.; 57th Street Hotel Corporation; Film Bureau of America, Inc.; Financial Investment Corporation; First Accrediting Corporation of New York; First Lumber and Chemical Corporation; First Mortgage Corporation of Delaware; First North Atlantic Corporation; First Security & Loan Corp.; First State Savings and Loan Association; First Ward Republican Club, Inc.; 554 South Fourth St. Corp.; Fleming Enterprises, Inc.; Flower Bell Realty Co.; Fluid Mechanisms, Inc.; Foley Corp., The; Food Masters, Inc.; Foreign Fixit Shop, Inc.; Foreign Markets Trading Corp.; Foremost Warehouse & Distributors, Inc.; Fort McClellan Post Beauty Salon, Inc.; Fort Pitt Typewriter Co.; Foulk Woods Construction Co.; Foundation Advisors, Inc.; Foundation Company, The; Foundation For Inter American Scholarships For Independent Schools; Foundation For A Permanent Theatre, The; Foundation For Research In Economic Growth, The; 404-406 Corporation; 4545 East 71st Street Corp.; Franc-Alexandria Co., Inc.; Francis Consolidated Mining & Milling Corp.; Francor Productions, Inc.; Franele Construction Co.; Frank Cassidy Employment Service, Inc.; Frank Morris Co., The; Frank Rogers, Inc.; Franklin S. Minnis Incorporated; Freedom Ice Company; Frigidrun Cryolink System, Inc.; Frontier Pontiac, Inc.; Fuels Combustion Research Corp.; Fuller Research Foundation, Inc.; Functional Container Corporation, N. A.; Funicult Funicula, Inc.; Fusca & Krone, Inc.; Fusco-Campanelli Corporation; FWK Corporation.

G & G Drapery Company, Inc.; G. H. Anderson & Associ-

ates, Inc.; G-Mac Lanes, Inc.; G & W Enterprises, Incorporated; Gallagher Realty Co.; Gardner-Thompson Co., Inc.; Gea Airex-changers, Inc.; Gem Musical Corp. of Virginia; General Aggregates, Inc.; General Fastener Corporation; General Industries, Inc.; General Natural Resources Corporation; General Purchasing and Investment Corporation; General Realty & Utilities Corporation; General Research Associates, Inc.; Geodesics, Inc.; Geophysical Development Corporation; George C. Bayne & Co., Inc.; George H. Duliere, Inc.; Geo. L. Miller, Inc.; George-Co Mfg. Co. Inc.; George M. Wilson and Son, Inc.; George Manufacturers, Incorporated, The; George W. King, Inc.; Georgelis Mid-America Lines, Inc.; Georgelis Lines, Inc.; Georgia Pipeline Company; Geotechnical Research Corporation; Gerber Corporation; Geriatrics Construction Corporation; Gevinson Associates Construction Co., Inc.; Gifts by Wire, Inc.; Gil Boers Equipment Company; Gilton Equipment Co.; Gladding Produce Corporation; Glass, Inc.; Global Maritime Supplies, Inc.; Gold Cross Convalescent Hospitals, Inc.; Gold Mountain Mining & Milling Co., Inc.; Golden Point of Wilmington, Inc.; Goldsmith Motors, Inc.; Good Fellows Club of Surrey; Gordon Heights Civic Association, Incorporated, The; Gordshell Chemical Company, The; Gottlieb Properties, Inc.; Granite Corporation; Graves Transfer Co.; Graylyn Shoe Repair, Inc.; Great Bay Petroleum, Inc.; Great Eastern Corporation; Great Northern Broadcasting, Inc.; Great West Oil Company; Greater Frederica Chamber of Commerce, Inc., The; Greenchapel Corporation; Greensboro Ice Cream Co.; Greenville Products, Inc.; Growth Industries Group, Inc.; Guaranteed Investors Corporation; Gulf Coast Films, Inc.; Gyro Rail Car Corporation.

H. B. Clark & Company; H & B Enterprises, Inc.; H. E. Mason Company; H. F. Lipschultz, Inc.; H & H Ltd.; H. & J. Riley, Inc.; H. L. Tracy Associates, Inc.; H & M Corporation; H. M. Hamilton & Co., Inc.; H. M. Hohns, Inc.; H. M. Stuart Incorporated; H-P Industries, Inc.; H-W Electronics, Inc.; Habera Corporation; Hackensack Homeowners Agency, Inc.; Haitian Fiber Corporation; Hallmark V Ltd.; Hallock Construction, Incorporated; Halmark Farms, Inc.; Halzor Inc.; Hanby-Grubb-Associates, Inc.; Hand-In-Hand Corporation; Handee-Pak Corporation; Hannon Transportation Lines, Inc.; Hanover Management Corporation; Harbert Laboratories, Inc.; Harbor Ferries, Inc.; Harjo, Inc.; Harold S. Smith & Son, Inc.; Harris Engineer-

ing Company, Inc.; Hartman-Cox, Inc.; Hayes, Inc.; Hebron Poultry Farms, Inc.; Helium Corporation of America; Henry Miller Motors, Inc.; Henry S. Morgan Foundation, Inc., The; Here-We-Go Enterprises, Inc.; Hi-Fi Sales Co.; Highway Constructors of Delaware, Inc.; Highway Equipment and Management Company; Hillside Bowl, Inc.; Hilltop Manor Association; Hilya, Inc.; Hiway House of America, Inc.; Hodges, Incorporated; Hoffman Bottling Industries, Inc.; Hoffman Company, Inc.; Hollis Enterprises, Inc.; Holly Hill Products Co.; Home Capital Corporation; Home Entertainment Company of Los Angeles, Inc.; Home Owners Insurance Agency, Inc.; Hotel Stokes, Inc.; Hotelvision Presentations Corporation; House of Navarre, Inc.; House of Schaefer, Inc.; House Trailer Sales, Inc.; Howard, Barnes & Munson, Inc.; Howard Builders, Inc.; Howard McElroy Builder, Inc.; Howard Realty Inc.; Hubert A. Guyer & Son, Inc.; Hudson Homes, Inc.; Hurley & White, Inc.; Hussmann-Milwaukee, Incorporated; Hy-Point Stores, Inc.; Hydro-Space Technology Incorporated; Hyman Brodsky Foundation, Inc.; Hypower Hydraulics, Inc.

I B A C, Inc.; I.C.A. Industries, Inc.; I. Miller Pickles, Inc.; I. T. C. Resources Inc.; Ideation Technology, Incorporated; Iduna Investments, Inc.; Illinois California Enterprises, Inc. Illinois Contracting and Remodeling, Inc.; Illinois Poultry Products, Inc.; Illinois Soil Conditioners, Inc.; Illinois Tractor Company; Illustrated Films, Incorporated; Immanuel Independent Church, Inc.; Imperial International, Inc.; Imperial Oil Co., Inc.; Inc. Inc.; Incentive Merchandising Products, Inc.; Incomparable Motels Incorporated, The; Indamer Corporation; Independent Airlines Association; Independent Tire Company of Delaware, Inc.; Indian Bay Oyster Farms Co.; Indianapolis Airways Motor Inn, Inc.; Idraline Corporation; Industrial Builders, Inc.; Industrial Capital Corporation; Industrial Consultants Incorporated; Industrial Dynamics Corporation; Industrial Machines, Inc.; Inertia-Matic, Inc.; Inpel Corporation; Insta-Credit Corporation; Insta-Matic Products Corporation; Instant Synchronization Corporation; Institute For Gracious Living; Institute of Public Information, Inc.; Institute for Studies in Social Cooperation; Instrument Laboratories Corporation; Insurance Investment Corporation; Intag Electronics, Inc.; Inter-American Holdings Corporation; Inter American Imports, Inc.; Inter-America Mines & Minerals, Ltd., Inc.; Inter-State Construction Company of

Nashville, Tennessee; Inter-World Aircargo, Inc.; Interamerican Power Company; Interamerican Refining Corporation; Intercontinental Motels, Ltd.; Intercontinental Trade Administration Corporation; International of Africa Development Corporation; International Air Pageant, Inc.; International Asbestos Cement Corporation; International Billiard Corporation; International Business Exchange, Inc.; International Commerce & Finance Corporation; International Engineering & Financial Consultants, Inc.; International Far Eastern Corporation; International Flight Caterers, Inc.; International Food Service-Wilmington, Inc.; International Freez Dri, Inc.; International Graduate Achievement, Inc.; International Magnetic Tape Co.; International Oil Portraits, Ltd.; International Patent Exchange, Ltd. of Delaware; International Realty Consultants, Inc.; International Realty Investment Corporation; International Recreation Corporation; International Ship Service Distributors Corp.; International Sonics Corp.; International Travel Cheques, Ltd.; Interser Holding Company; Interstruct Corporation; Investment Insurance Company of America; Iron Kettle Corporation; Irvin Muscle Toners, Inc.; Ivanhoe Castle, No. 21 Knights of Golden Eagle of Del., Inc.; Iversen Corporation, The.

J. & B. Petroleum Company; J B R Associates Inc.; J. D. Jewelers, Inc.; J. E. Friedel and Son, Inc.; J. E. Healy & Sons Co.; J. E. West, Inc.; J. Edwards Construction Company; J. R. Boyer, Inc.; J & R Radio & TV Electronics Service Inc.; Jack C. McGuire, Ltd.; Jaggy, Inc.; Jaipur Investment Co.; James E. Murray and Son, Inc.; Janus Fund, Incorporated; Jasmine Corporation, The; JBJ International, Inc.; Jed, Inc.; Jeffcott & Company, Inc.; Jefferson Warehouse and Cold Storage Company; Jeter Corporation, The; Jeve Properties, Inc.; JKM Instrument Company, Inc.; Jog Togs, Inc.; John G. Webster & Sons, Inc.; John J. Driscoll & Co., Inc.; John Mittelman & Sons, Inc.; Jones Realty Co.; Joy Homes, Inc.; Just-Us Community Club, Inc.

K. D. Associates Inc.; K. & G. Co., Inc.; Kady, Inc.; Kaiser Airways Inc.; Kalkon Corporation, The; Kara Corp.; Karbo, Inc.; Kay Jewelers of Lenox Square, Inc.; Kayness Corporation; Keanon Woolens, Inc.; Keewaydin Corporation; Kelleher & Kirwin, Inc.; Kellous Oil Corp.; Kelmar Oil Company; Kemline of Delaware, Inc.; Ken-Lab, Inc.; Kendrick Corporation; Kenjo

Corporation; Kennett Equipment and Machinery Co.; Kent Quality Construction, Inc.; Kent-Reber Real Estate Company, Inc.; Key Punch and Data Processing Training Institute Inc.; Keystone Automotive Credit Company; Keystone Organic Corporation; Kitchen Maid Sour Cream Company, Inc.; Kittell-Hammond Company; Kloverleaf Inn, Inc.; Knight Supply, Inc.; Knights of Pythias Hall Company of Wilmington, Delaware; K9 Guard Dog Service Inc.; Koedding, Inc.; Koehler, Incorporated; Kramer Acceptance Corporation; Kreedman Realty & Construction Corp.; Kultur Manufacturing Co., Inc.

L. F. D. Corp.; La Fayette Home Nursery, Inc., The; La Guardia Hotel, Inc.; La Mont Steam Generators, Inc.; Lachman Amusement Co., Inc.; Lamet Motors, Inc.; Lancer Corporation, The; Land At Hillside, Inc.; Land Title Realty Co.; Lane Opticians, Inc.; Larod Corp.; Lavenus Hemispheric Corporation; Lawncroft Park Cemetery, Inc.; LBT Service Corporation; Lee Shell Company, Inc.; Leewood Offset Printers Incorporated; Lektron Dynamiks, Inc.; Lence Lanes, Inc.; Lescar Investment Company; Leval Bonded Fibers, Inc.; Lewis Edwards, Inc.; Lewis Gunite Pools Inc.; Liberal Credit Sales Co.; Life Affiliates Corporation; Life Shares Fund, Inc.; Life Shares Fund Management, Inc.; Lift-O-Loft Corporation; L'Image Professional Distributors, Inc.; Limestone Acres Civic Association, Inc.; Lincoln Productions, Inc.; Lincoln Studios, Inc.; Line Material Company; Litho-Paint Poster Company, Inc.; Livesey Realty, Inc.; Lo-Del Development Corporation; Lock-Joint Window Company; Lock-Lined, Inc.; Longhorn Petroleum Corporation; Lorimer's Recreation, Inc.; Louis Bernheimer Enterprises, Inc.; Louis Bernheimer Theatres, Incorporated; Louisiana Holding Corporation; Love-Courson Drilling Co., Inc.; Lubar Oil Corporation; Luria's-Wilmington, Inc.; Lusk Corporation, The; Lynn Carbon Black Company.

M&M Enterprises Inc.; M. M. International Inc.; M. V. Three Rivers, Inc.; M. W. King Solomon Grand Lodge, A.F. & A.M. of Pennsylvania, Inc.; Madison Insurance Company; Mag Mining Corp.; Magnar Corporation; Magnescope Corporation; Magnode Products, Ltd.; Maheu & King Maritime Associates, Inc.; Mahon Development Company; Mahoning Corporation, The; Maintenance Inc.; Maison De Paris, Inc.; Maison Du Maxim, Inc.; Majestic Realty, Inc.; Major Markets Development

Corporation; Malyne, Inc.; Man's Best Friend Inc.; Management Associates, Inc.; Management Enterprises, Inc.; Management International, Inc.; Manchester Organizations, Inc., The; Manning, Bowman & Co.; Mansfield Paper Corporation; Mantor Trading Corporation, The; Marbet Corp.; Marbus Corporation, The; Marco, Inc.; Mardal Construction Co., Inc.; Mario's Hair Fashion Salon, Inc.; Maritime Management Corporation; Maritime Port Development Services, Inc.; Marjack Company, The; Mark 62 Enterprises, Inc.; Market Masters Incorporated; Marketing Methods & Materials Inc.; Marlew Farms, Inc.; Marsepp Corp.; Martin's, Inc.; Martin Realty & Investment Co.; Mary M., Inc.; Mary Vison Daly, Inc.; Marylass Corporation; Mason's of Delaware, Inc.; Matachem Research Corporation, Materials Technology, Inc.; Matralin Co., Inc.; Maxam Dothan, Inc.; Maxam East Greenbush, Inc.; Maxam Raleigh, Inc.; Maxbern Inc.; May Foundation, The; Mayfair Laundry Company, Inc.; Mayo Thomas Associates, Inc.; Mazelle Company, Inc.; McHenry Humidifying Company; McKinley-Haddon, Inc.; McKinney Foods, Inc.; McLain Insurance Agency, Inc.; McReynolds Super Market, Inc.; Meade Hardware, Inc.; Meadow Brook Farms, Inc.; Meadowlark Lane Service Corporation, The; Meadowood Development, Inc.; Medi-Tronics Productions Company; Medical Funds Management Company, Inc.; Medical Securities Distributing Corp.; Medical Services Corporation of America; Medico-Dent, Inc.; Mediplan, Inc.; Megowen Associates, Inc.; Memory Gardens Inc.; Menaquale Realty Company; Mercury Leasing, Inc.; Mercury Photo Corp.; Merkl Developers, Inc.; Merob, Inc.; Merrels Drive-In Langley Park, Inc.; Merryland Roller Rink, Inc.; Mesa Post Royalties, Inc.; Metropolitan Lincoln Mercury Dealers Association; Metrox, Inc.; Mex-Am Interchange Corp.; Mi Lady Sportswear, Inc.; Mickelberg's Bakery, Inc.; Micronics Corporation of America; Microson Equipment Corporation; Mid-American Steamship Corp.; Mid-Atlantic Enterprises, Inc.; Mid-Continent Films, Inc.; Mid-Eastern Construction Corporation of America; Mid-West 20th Century Corp.; Middletown Merchandise World, Inc.; Middletown Shopping Center, Inc.; Midland Chemical Corporation; Midland Iron and Steel, Inc.; Midland Securities, Inc.; Midway Foundation, Inc., The; Midwest Dredging Corp.; Midwest Inventory Service, Inc.; Midwest Investment Company; Midwest Sales & Service Corporation; Midwest Speaker Corporation; Midwest-Sun Oil Cor-

poration; Migdal Corporation; Milfin Corp.; Milltown Homes, Inc.; Millville Grocery, Inc.; Miltex, Inc.; Mineral Associates Inc.; Mineral Company of America, Inc.; Mineral Industries Corporation of America; Mineval Inc.; Missile Electronics, Inc.; Missouri Investors, Inc.; Mister Carwash Inc.; Mr. Incentive Inc.; Mr. Puppet, Inc.; Mobile Bituminous Concrete Corporation; Modern American, Inc.; Modern Barge Lines, Inc.; Modern Business Credit Corp.; Modern Carpet Holding Corp.; Modern Investors Corp.; Modern Merchandise, Incorporated; Modern Methods, Incorporated; Modernization Associates, Incorporated; Mohawk Electronics Corporation; Molecular Materials Corporation; Molony, Newhoff, Inc.; Monmouth Publishing Company; Monograms Inc.; Monorail Transportation Co., Inc.; Montchanin Associates, Inc.; Montchanin Distributors, Inc.; Montego Bay Development Corporation; Monterey Oil Co.; Moore's Drug Stores, Inc.; Moore-Grear Motors, Inc.; Moore's Wholesale Company, Inc.; Morgan's Home Equipment Corporation; Morrisdale Coal Mining Company; Mortgage Associates, Inc.; Morton J. Wagner Companies, Inc.; Mothers Club of Stanton School, Inc., The; Motor Realty Co.; Moulin Rouge, Ltd.; Moulthrop Company, Inc.; Mounce Cars Rental, Inc.; Mt. Pleasant Cleaners, Inc.; Mountain States Industries of South Dakota, Inc.; Movers Committee For Equitable Distribution of Government Traffic, Inc., The; Muntz Music, Inc.; Mutual Marine Operators, Inc.; Mytie Corp.

N. E. O. Distribution, Inc.; Naamans Service Garage, Inc.; Nancy Trading Corp.; Nanfran Corporation; Narragansett Industries Corporation; Natick Bowling Corporation; Nation's Supermarket, Inc.; National Academy of Broadcasting, Inc., The; National Air Ambulance Service, Inc.; National Automatic Equipment Corporation; National Automation Corporation; National Bagasse Products Corporation; National Bellas Hess Stores, Inc., Port-Au-Prince; National Co-Operative Trailer Parks of Delaware, Inc.; National Commodities Corporation of America; National Control Corporation; National Council On Smoking and Health, Incorporated; National Dormitory Corporation; National Electric Coil Company; National Family Stores of Wilmington, Inc.; National Finance Company of Delaware, Inc.; National Foundation For Christian Education, Inc., The; National Foundation For Student Guidance, The; National Industrial Machinery Corporation; National Keys, Inc.; Na-

tional Memorial Society, Incorporated; National Merchandising Services Corporation; National Model Distributors, Inc.; National Pool Equipment Co., Inc.; National Pool Equipment Co. of Illinois; National Pool Equipment Co. of Indiana; National Pool Equipment Co. of North Carolina; National Resistance Corporation; National Society of Professional Engineers Educational Foundation, The; National Strancar Corporation, The; National Vitamin Corporation; Nationwide Physical Fitness Centers, Inc.; Navco Incorporated; Nayort Electric Co.; Necastro Auto Body Co.; Neil Electric Company, Incorporated; Nello L. Terr International, Inc.; Nelson Woodworking Co.; Nepa Enterprises, Inc.; Nesbitt's, Inc.; New Africa, Inc.; New Castle Baking Company, Inc.; New Castle Boat Company, Inc.; New Castle Discount Toys and Hobbies, Inc.; New Castle Fish Market, Inc.; New Castle Motors Co.; New Ideas Incorporated; New York-Alaska Gold Dredging Corporation; New York & Southern Timber Corp.; New Yorker Hats, Inc.; Newark Housing Associates, Inc.; Newark Releasing & Storage Co.; New Comb & Hand, Inc.; Newcomb & Hand Oyster Co.; Newport Industries, Inc.; Newport Land and Investment Company; Newport Merchandise Mart, Inc.; Newspaper Investment Corp.; Nicewood Corporation; Nicholas Truly Associates, Ltd.; Nickerson-Burks Research Foundation, Inc.; Niki Trading Corp.; Ninth Ward Athletic Club; No-Cal Bottling Company of So. Calif.; Noel D. Clark, Inc.; Norest, Inc.; Norgon Company, The; North American Land & Development Corp.; North American Realty Service Corporation; North Camerican Vending Machine Corp.; North Brandywine Shopping Center, Inc.; North East Aviation Corp.; Northern Crude Oil Purchasing Co.; Northwest Livestock Sales Company; Novellas Manufacturing Company; Noyes Enterprises, Inc.; NTA Storevision Corp.; Nu-Way Industrial Burner Corporation; NuAero Corporation; Nutrition International Corporation; Nylok Midwest Corporation.

O. H. D. Co., Inc.; Oak Ridge Atom Industries Sales Corp.; Ocean Corp.; Off Duty Enterprises, Inc.; Offshore Distributors, Inc.; Oklatex Resources, Inc.; Old Capitol Gas Co.; Olympia Chartering Inc.; Olympia Realty Corporation; One-Hour Valet of Amsterdam, Inc.; One-Hour Valet of Asheville, Inc.; One-Hour Valet of Calhoun, Inc.; One-Hour Valet of Charleston, Inc.; One-Hour Valet of Ft. Wayne, Inc.; One-Hour Valet of Huntington, Inc.; One-Hour Valet of Melbourne, Inc.; 1-2 Corporation;

O'Neill, Inc.; Onondage Motor Inn & Restaurant, Inc.; Onteora Speedway Park, Inc.; Orchem Corporation; Ore Reduction Corporation of America; Osage Novelty Co., Inc.; O'T Liquidating Corp.; Otter Distributing Co. Inc.; Oxytronics Corporation.

P. D. N., Inc.; P.O.O.F., Inc.; Pacific Holding Corporation; Pacific Star Corporation; Pacificus, Inc.; Packaged Products Corporation; Packer Investors Corporation; Paco Petroleum Corporation; Paint & Body Service, Inc.; Paladin Corporation, The; Pan American Engineering and Development Corporation; Pan-American Ore & Exploration Corporation; Pan Cuba Oil & Metals Corporation; Pan-Oceanic Corporation; Panamanian Minerals Inc.; Pandy Inc.; Panther Cart Club, Inc., The Twin Cedars; Panther Ledge Farms Inc.; Papen Farms, Inc.; Paper Unlimited, Inc.; Paradyamics, Incorporated; Park Drive Apartment Corporation; Park Fund, Inc., The; Park Millwork, Inc.; Park Road Housing Co., Inc.; Park Towne Court, Inc.; Parkview Apartments, Inc.; Parkway Towers No. 1, Inc.; Paseo Manor of Kansas City, Inc.; Patanias Corporation; Patent Development Corporation of America; Pathe Pictures, Inc.; Patten Development Corporation; Patterns For Success, Inc.; Pau-Mar Construction Company; Paul G. Van Sickel Corporation; Pauline A. Mayer, Inc.; Penn Triangle Corp.; Pennsylvania Testing Laboratory, Inc.; Peoples Transfer-Company; Peruvian Terrace Cooperative Apartments, Inc.; Peter Pan Adams, Inc.; Peter Pan Madison, Inc.; Peter Pan Oak, Inc.; Petroleum Equipment Leasing Company; Petroleum Exploration, Inc.; Petroleum Resources Corporation; Petroleum Vanango Corp.; Phil's Distributors, Inc.; Philip R. Grennan Baking Co., Philpac Corp.; Phoenix General Research Associates, Inc.; Phone Recorder Corp.; Photoconic Studios, Inc.; Phran Corporation, The; Pianos, Inc.; Pickett Motor Co.; Pike Properties, Inc.; Pin Pal Corporation; Pinebrook Sales Company, Inc.; Pioneer Book Publishers, Inc.; Pioneer Farms, Inc.; Pioneer Trading Corporation; Pipe Holding Company; Pittsburgh Shippers Association, Inc.; Plastic Fabricators, Inc.; Play-Mate Products, Inc.; Playland, Inc.; Pluribus, Inc.; Plydomes, Inc.; Point Breeze Civic Association, The; Poly-Pak Corporation of America; Popular Merchandise Company, Inc.; Porter-River Oaks, Inc.; Porter-Sharpstown, Inc.; Prang Construction Co.; Precision Electro-Optics, Inc.; Price-Matthews Corporation; Produce Transit Co.; Product Improvement

Corporation; Professional Building Services Inc.; Professional Industries International Incorporated; Progreso Interamericano, Inc.; Progressive Broadcasting Corporation, The; Progressive Business Men's Association; Proov-it Company, The; Public Service Construction Incorporated; Puerto Rico Foundry Company, Inc.; Purchase Associates, Inc.; Puritan Shippers Cooperative Association.

Quanta Electronics, Inc.; Quin-Messina, Inc.

R. D. Bullard Corporation; R. J. Westphal Concrete, Inc.; R. N. Horton, Inc.; R & R Interurban, Inc.; Race To Riches, Inc.; Radio Missouri Corporation; Radwin Development Corp.; Ralikin, Inc.; Rambleton Acres Laundromat, Inc.; Rand Properties, Inc.; Randco Corporation; Rath Unitized Navigfation, Inc.; Rauh Process Corporation, The; Rya-Lite Corporation; Raydel Builders, Inc.; Raydel Homes Corporation; Raymon's Patrol Service, Inc.; Raymur Acceptance Corporation; Re-Insul-Mi-Crete Plank & Corporation; Real Estate Management Associates, Inc.; Real Property Investment Corporation; Rebuilder Publishing Company, The; Recordagraph Inc.; Recreation Development Co., Inc.; Redmont Civic Association; Reed Drug Company; Rehoboth-Lewes Translator Association; Rehoboth Liquor Store, Inc.; Reid Enterprises, Inc.; Reidler Foundation Properties, Inc.; Reliable Loan Association, Inc.; Reliable Protective Ass'n, Inc.; Reliance Management Corporation; Renmar, Inc.; Reps, Inc.; Research Corporation of America; Restmore Corporation; Retired Armed Forces Association; Rex Sierra Gold Corporation; Rica, Incorporated; Rich Acres Incorporated; Rich Stores Inc. of Delaware; Richard C. Paine, Jr. Foundation; Richard's-Green Bay Inc.; Richard's-Harlem Inc.; Richard's-Lincoln Inc.; Richard's Properties, Inc.; Richard's Stony Island, Inc.; Richard's Musical Instruments, Inc.; Richland Sales Co.; Richlyn Distributors, Inc.; Ridgeview Corporation; Rite-Way Dairy Farm Equipment Corporation; RKC Incorporated; Robert A. Parrish Ltd.; Robert Armour Foundation of the Chevallier Jackson Clinic, The; Robert Hirss Co., Inc.; Roberta G. Dempsey, Inc.; Robertson Realty Company; Robinson Furniture Store, Inc.; Robolease Corporation of America; Rock Island Produce Company; Rockcell Corporation; Rockmate, Inc.; Rockmate International, Inc.; Rodney Realty Co.; Roger W. Gunby Post 16 Corporation; Rona Lee Corporation; Ronjon, Inc.; Rosenfield

Jewelry Co.; Rosenfields Uptown, Inc.; Rough Point Investment Corporation; Route 40 Truck Stop, Inc.; Rowley Drilling Company; Royal Liquors, Inc.; Ruffwards, Inc.; Rural New Castle Rod Gun Club, Inc.; Ryukyu Industrial Development Corporation.

S Co.; S.M.C. Realty Corp.; S. W. Coe & Co.; S & Y, Inc.; Sabina, Inc.; Safe Auto Leasing & Rental Corporation; St. Andrews Corporation; Saint Louis County Broadcasting Company; Samuel Bronston Productions, Inc.; Sand Mountain Gas Company; Sanders Paint Company, Inc.; Sangamon Sanitary Land-fill Corporation; Sani-Vac, Inc.; Sanitary Services, Inc.; Santay Eastern, Inc.; Sarril Gardens, Inc.; Saul Goldman & Sons, Inc.; Scharf Oil Co.; Schuylkill Valley Association, The; Science Generic Drug Co.; Scientific Mechanisms Corporation; Scoville Homes, Inc.; Sea Water Resources, Inc.; Seafarers, Inc.; Seaford Corporation; Seaford Lodge No. 1728, Loyal Order of Moose, Inc.; Seaford Motor Co., Inc.; Seaway Aluminum Products & Development Co., Inc.; Seawind Maritime, Inc.; Second Service Investors, Inc.; Second Marbel Arch Properties, Inc.; Security Supply and Equipment Co., Inc.; Self-Lite Tobacco Corporation; Seminar, Inc.; Senak Co. of Tennessee; Seneca Enterprise, Inc.; Senior Citizens Cooperative Modular Housing Corporation; Senior Citizens Mobile Home Procurement Corporation; Senior Foods Corporation; Sentry Motels Corp.; Serca Land Company; Service Food Distributing Corporation; Service Parking Corporation; Service For Professionals, Inc.; Shapiro's Transport, Inc.; Shappert Engineering Company; Sharelle Company, The; Sharon Hill Memorial Park, Inc.; Shelter Unlimited Corporation; Shepherd Gardens, Incorporated; Sheppard-Geiger Construction Co.; Sherwood Development Co.; Shoppers Information Service, Inc.; Show Off Corporation, The; Sil-Mex Corporation; Silver Dunes Cooperative, Inc.; Silver Spring Building Supply Company; Silverstone Oil Corporation; Simpson Marina, Inc.; Sivart Corporation; 65 M. Street N.W., Inc.; Skashaway Bowling, Inc.; Slate Farm Service, Inc.; Slater Mills Realty Corp.; Slocomb Engineering Corp.; Slocomb Sales Co.; Small Business Council of Delaware, Inc.; Smog-Burner, Inc.; Society of Gourmets For the Leisure Arts of Delaware, Inc., The; Solar Investment Corporation; South Central Natural Gas Corp.; South Leather Corp.; South Padre Island Realty Company; Southcam Petroleum Corpora-

tion; Southeastern Sussex Industrial Development Association; Southern Bowling Corp., Southern Bowling Corp. of Louisiana; Southern Bowling Corp. of North Carolina; Southern Educational and Recreational Association; Southern Equities Corporation; Southern Investing Corporation; Southern Land Development Corporation; Southern MTU, Inc.; Southern Offshore Oil Company, Inc.; Southern Professional Entertainment, Inc.; Southern Shippers & Receivers, Inc.; Southwest Land Corporation; Sovereign Grand Supreme Council of Free and Accepted Ancient Scottish Rite Masons of the World, Inc.; Soy Ford, Inc.; Space Club International, Inc.; Space Planning and Conversion Engineering, Inc.; Special Purpose Engineering Co., Inc.; Specialties, Inc.; Spectacular Concessions, Inc.; Speculative Fund, Inc.; Speed Queen Corporation; Speedwing Corporation; Spot Take-Out Shops Co., The; Sprague and Plog, Inc.; Spred Marx System, Inc.; Spring Corporation; Spring-Hill Light and Water Company; Standard Office Service, Incorporated; Stanthony Corporation of Delaware; Star Falcon Oil Company; Star International, Inc.; Star-Key Laboratories, Inc.; Starr Rack Distributors, Inc.; State Credit Control Board, Inc.; State of Delaware Chapter of the Arthritis and Rheumatism Foundation, The; States Broadcasting Company, Inc.; Statewide Collection Services, Inc.; Station Services Inc.; Stenocord of America, Inc.; Sterling Australian Oil Corporation; Sterling Middle East Petroleum, Inc.; Sterling Realty Co., Inc.; Strait Distributing Company; Stratford Boston Ave. Drug Corporation; Strato-Port Corporation of America; Strickland Aircraft Corporation, The; Subsurface Studies, Inc.; Suburban Decorators, Inc.; Sue Gale, Inc.; Summit Investments, Inc.; Sunnyside Village, Inc.; Sun-piper, Ltd.; Super Chief Theatres, Inc.; Superheater Company, The; Superior Reproductions, Inc.; Superior Rubber Refining Corp.; Superior Well Servicing Co.; Supplement Publishing Corporation; Sure-Grip Corporation; Surety Investment Co., Inc.; Surgical Selling Co. of Georgia, Inc.; Surgical Selling Co. of Texas, Inc.; Surrey Restaurant, Inc.; Sussex Cantaloupe Growers Association, Inc.; Swifton Village Section 3, Inc.; Swifton Village Section 5, Inc.; Symerton Garage, Inc.; Syscom Electronics Corporation.

T & C Construction Company; T-K Foods, Inc.; T. M. Co., Inc.; T. P. Reath Associates, Inc.; T R T, Inc.; T. & S. Corporation; Talbot Park, Inc.; Talley's Garage, Inc.; Tangent Corpora-

tion; Tanjak Corporation; Tasty Pizza, Inc.; Taylor-Holmby, Corp.; Taylor Uranium Corporation; Teaching Machines, Inc.; Tec-Crafts, Incorporated; Technicor Instruments, Inc.; Techno-Vending Corp.; Technomedic Corporation; Tejanos Mining Corporation; Tele-Craft Electronics Corp.; Telje Films, Ltd.; Termini Color Video Tape Corporation; Terry Enterprises, Inc.; Terry Federal Construction Corp.; Tetrohelix, Inc.; Thermal-Stable Laminates, Inc.; Thermocheff Corporation; This Is The U.S.A. Not The A.M.A. Associate of America; Thomas Construction Co.; Thomas W. Briggs Company, Inc.; Thoroughbred Breeders, Inc.; 320 Avenue Corporation; Three Little Bakers Cake and Frosting, Inc.; Timbrook Industries, Inc.; Timor Corporation; Tintoreria Sandoz, Inc.; Titan Heel Corporation; Titans of New York, Inc.; Toth Motorships, Inc.; Towne Cleaners, Inc.; Towne House Motor Lodge, Inc.; Townsend Enterprises, Inc.; Trans-American Vending Corp.; Trans-Atlantic Trading Corp.; Trans-Global Navigation Corporation; Trans-Mark, Inc.; Trans Petrol Corporation; Trans Supply Corporation; Trans World Industries, Inc.; Trans-World Leasing, Inc.; Trans-World Marketing, Inc.; Trans-World Mines and Metals, Inc.; Transa Structures, Inc.; Transasia Carriers Corporation; Transasia Marine Corporation; Transasia Steamship Company, Inc.; Transasia Transport Corp.; Transcontinental Alabama Corporation; Transfer Corporation; Transistor Communications Corporation; Transittair Services, Inc.; Transport & Supply, Inc.; Transportation Institute of Public Policy; Transportation Rentals, Inc.; Travco, Inc.; Travel America, Inc.; Tred Avon Marine Service, Inc.; Tri-Dac Industries, Inc.; Tri-State Laboratories, Inc.; Tri-State Tire Warehouses, Inc.; Tri (111) Service Corporation; Triangle Construction Co., Inc.; Trio Investment Corporation; Triton Corporation, The; Trojan Corporation; Tropic-Aire Corporation; Truck Services, Inc.; Trustees of St. Mary's College, The; Try-Co., Inc.; Turnor Coal Corporation; Turshin Realty and Investment Company; Twin Oceans Management, Inc.; Twin Valet, Incorporated; 2430 Pennsylvania Ave. N.W., Inc.

U. S. Alaska Corp.; U. S. Casting Corporation; U. S. Engineering & Mfg. Co.; U. S. Tax Institute; U. S. Tractor Parts Mfg. Corp.; U. S. Van Export, Inc.; U. S. Van Lines, Inc; Unimaster Screen Corporation; Union Petroleum Company; Unit, Inc.; United Budget Incorporated of Delaware; United Gold

Reserves, Inc.; United Nations World Directory, New York, Inc.; United Poultry Processors Company; United Research and Development Corporation, The; United Sports Centers, Inc.; United States Hoffman Machinery Corporation; Universal Chemical Industries, Inc.; Universal Electronics Laboratories Corporation; Universal Bicrotron Corporation; Universal Publishing Corp.; Universal Vending Corp.; University Publishers Incorporated; Uranium Metals, Inc.; Urban Land Corp.; Ursuline Academy Association, The; Us Okinawa Air Lines Co., Ltd.; Usaform Panamerican Ltd.; Utility Truck Distributors, Inc.

V. A. Bedford Corporation; V. B. Construction-Patterson International Corporation; V. B., Inc.; V. P. X. Corporation; Vacuumatics International Products, Inc.; Valentino Motors Corporation; Value Incorporated; Value Investments Corporation; Vanguard Service Corporation; Vend-Mart, Inc.; Vendotronics Corp.; Venturers International Inc.; Verivo Corporation; Victor Cleaners, Inc.; Viglo Corporation; Village Theatres Corporation; Vincent's Restaurant, Inc.; Vindel Company, The; Vintem Delicatessen, Incorporated; Visual International, Inc.; Visual Plant Layouts Inc.; Vital Distributors, Inc.; Vitalo Brothers, Inc.

W. C. Rein Corp.; W. Glenn Oslin, Inc.; W. R. Clark Company, Inc.; W-R Payment Corp.; Wahl's Northeast, Inc.; Walter G. Bailey, Inc.; Walter J. Schneider Hotels Corporation; Walton Chiropractic Hospital, Inc.; Warrington Furniture Co.; Washarama B.G., Inc.; Washburn Investment Company, Inc.; Water Pollution Treatment Corporation Using The Villanova University Process; Waterford Projects and Enterprises, Inc.; Waukegan-Caldwell Building Corporation; Wayside Development Co., Inc.; Webb & Associates, Inc.; Webwraps, Inc.; Wellington Agency, Inc., The; Wells Food Products, Inc.; Wene, Inc.; Wenga Copper Mines, Inc.; West Africa Development Corporation; West Bloomfield Golf and Country Club; West Indies Development Company, Ltd.; West-More Plaza, Inc.; Westchester Apartments, Inc.; Western Blower Company; Western Saratoga Company; Westgate Farms Association; Wetherill Engineering Company; Whird, Ltd.; White Avionics Corporation; White-Hall Garment Corp.; White House Motels, Inc., The; Wilkie, Inc.; Willdon, Incorporated; William A. White & Associates, Inc.; William F. Wagner Co., Inc.; William J. Steffenberg, Inc.; Wil-

liam J. Tigani, Inc.; Wm. N. Kirshner & Company, Inc.; Williams Hatchery, Inc.; Williamsburg Art Corp.; Willie's Fair, Inc.; Wilmington Aquatic Club, Inc.; Wilmington Businessmen's Civic Association; Wilmington Drama League, Inc.; Wilmington Manor Civic Association, Inc.; Wilmington Musical Corp.; Wilmingtonian, Inc., The; Win-Rock Engineering Corporation; Windsor Drug & Chemical Corporation; Windsor Holding Corp.; Woidat Meat Company; Wolverine Acceptance Corporation; Wonder Leasing Corporation; Wong Wan Sun Association, Inc.; Wood-Clad Corporation; Woodenhawk, Inc.; Worab Foods Corp.; Workman Service, Inc.; World Development Corporation; World Executives, Inc.; World of Music, Inc.; Worthy Bros. Construction Corp.; Worthy Bros. Corporation; Wpop, Inc.; Wyckwood Development Corporation; Wyoming Castle #22 K. G. E.

X. Co. Corporation.

Yankee Pedlars, Ltd.; Young Adult Enterprises, Inc.; Young Republican Review, Inc.; Younger Each Day, Inc.

IN TESTIMONY WHEREOF, I, CHARLES L. TERRY, JR., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal to be hereunto affixed this seventeenth day of January in the year of our Lord one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-first.

(GREAT SEAL)

By the Governor:
CHARLES L. TERRY, JR.

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 493

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, the Tall Cedars of Lebanon of the United States of America has been among the Nation's leaders in its effort to encourage public response to the needs for medical and scientific research into the causes and possible cure of muscular dystrophy; and

Whereas, the public health of our Nation is constantly imperiled by this disease; and

Whereas, research units sponsored by the Tall Cedars of Lebanon at the Institute of Muscle Diseases in New York City offer hope that an effective method of combating muscular dystrophy may be found; and

Whereas, the Tall Cedars of Lebanon continues its selfless devotion to the philanthropic principles of its Founders through the participation of its members in civic projects throughout the Country; and

Whereas, House Joint Resolution 7, passed by the 122nd General Assembly, provides that in March of each year a week shall be designated as National Tall Cedars of Lebanon Week in the State of Delaware and authorizes the Governor of the State of Delaware to issue an appropriate proclamation marking this occasion;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim the period March 12 to March 18, 1967, as

NATIONAL TALL CEDARS OF LEBANON WEEK

in the State of Delaware, and urge the people of our State to acquaint themselves with the programs of the Tall Cedars of Lebanon and to lend their support to its commendable efforts to combat Muscular Dystrophy.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 10th day of March in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-first.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 494

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, Greek Independence Day is an important event in the life of mankind and the history of nations; and

Whereas, people of Greek origin and descent have made a significant contribution to the principles of freedom and individual liberty which we enjoy in the United States; and

Whereas, the Greek nation throughout this century and before has been a staunch partner of the United States in many projects including two World Wars and Nato; and

Whereas, the culture bequeathed to us by the Greek nation and its people is the foundation of our own Democracy; and

Whereas, the citizens of Greece, inspired by Bishop Germanes of Old Patras, did proclaim their freedom from the Turkish Empire on March 25, 1821, and did thereafter fight valiantly for eight years to secure to themselves and their posterity the blessing of liberty; and

Whereas, after winning freedom they did rebuild their nation into a great economic and cultural center for humanity thereby recapturing the essence of their ancient glory and heritage;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby recognize that historic date and accomplishment by hereby proclaiming March 25, 1967, as

GREEK INDEPENDENCE DAY

and call upon the citizens of the State to observe it with appropriate ceremony and respect and to extend congratulations to those among our number who are the proud possessors of Greek antecedents.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 21st day of March in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-first.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 495

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, April 14, 1967, will mark the seventy-seventh anniversary of the inter-American Republics, known as the Organization of American States; and

Whereas, the United States and the other American Republics have been neighbors for almost two hundred years, and are equal partners and sovereign states within the inter-American System; and

Whereas, for decades differences among members have been settled at conference tables, thus giving proof of the effectiveness of the inter-American system; and

Whereas, the people of the United States consider themselves partners of the people of Latin America, sharing with them not only a common continent, but a mutual and abiding aspiration for the achievement of a good life for every citizen of the Americas; and

Whereas, the nations of the Hemisphere are embarked, through the Alliance for Progress, in a relentless pursuit of a better life, social justice and human rights to which all the people of the hemisphere are entitled;

Now, therefore, I, Charles L. Terry, Jr., Governor of Delaware, do hereby proclaim, Friday, April 14, 1967, as

PAN AMERICAN DAY

and the week beginning April 9, and ending April 15, as Pan American Week and call upon the citizens of Delaware to rededicate themselves during this period to the ideals of the inter-American system as embodied in the Charter of the Organization of American States, and to the goals of economic and social progress of the Charter of Punta del Este which are so firmly based on our common belief in the dignity of man and our faith in freedom.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 21st day of March in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-first.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 496
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

Whereas, by Public Law No. 85-529 of the 85th Congress (House Joint Resolution 479, July 18, 1958, the House of Representatives and the Senate of the United States concurring), May 1st of every year has been designated as National Loyalty Day; and

Whereas, by House Joint Resolution No. 6, 121st General Assembly, State of Delaware, May 1st has been designated as a "special day" for annual observance in the State of Delaware as Loyalty Day; and

Whereas, throughout our Nation and State, the Veterans of Foreign Wars annually mark this occasion with special and appropriate ceremonies; and

Whereas, such occasions provide an opportunity for all citizens to reaffirm their faith in the United States and to rededicate themselves to the principles upon which our great Nation was founded; and

Whereas, there have been varied attempts over the last two centuries to stifle and destroy the hard-won rights of free speech, freedom of the press, and the right to worship as one chooses; and

Whereas, each of us should make a personal pledge to uphold these God given rights in the defense for which thousands of our fighting forces died on battlefields all over the world;

Now, therefore, I, Charles L. Terry, Jr., Governor of Delaware, do hereby proclaim May 1, 1967, as

LOYALTY DAY

in Delaware and urge that on this day all citizens of our State join in reaffirming their undivided allegiance to the government of the United States and the ideals which it defends and pre-

serves. Civic groups are urged to join with our veterans in ceremonies and exercises that will appropriately demonstrate such loyalty, and in display of our National Emblem and Delaware State Flag.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 1st day of May in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-first.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 497

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, it is highly appropriate that grateful Americans everywhere should pause on Memorial Day to pay tribute to the hallowed memory of our heroic war dead, and to honor those who served their Nation's cause and have since gone to their reward; and

Whereas, it is our solemn duty to preserve and continue this custom, first established in 1868, by gathering in public places, before memorials and in cemeteries to pay our respect to the valor and sacrifices of those who fought and died that America might remain free; and

Whereas, because of the increased use of our highways and byways over the Memorial Day weekend it is also appropriate to remember that there are 20,000,000 smash-ups each year and many deaths each day across our Nation that we hear little about except on holidays when we take particular notice of the mounting toll; and

Whereas, the President of the United States of America, by the authority of the Congress, has set aside May 30, 1967, as a day when we should honor the memory and deeds of our valiant fallen war heroes; and

Whereas, Paragraph 501, Chapter 5, Title 1 of the Delaware Code provides that the Governor may issue a proclamation setting aside the 30th day of May in each year as Memorial Day:

Now, Therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Tuesday, May 30, 1967, as

MEMORIAL DAY

and urge the people of our State on this day to participate in exercises, graveside ceremonies and other appropriate memorials in grateful remembrance of the sacrifices of our war dead;

Further, I request that the Flag of the United States of America and of the State of Delaware be properly displayed from all state buildings and institutions on this day, with the national colors to be flown at half-mast until noon and raised high for the remainder of the day as evidence that we, as loyal, patriotic Americans, remain faithful to the memory of those who fought, suffered and died in defense of freedom;

I further request that all motorists drive with their headlights on from 5 o'clock Friday, May 27th, through Monday, May 30th, using low beams during the daylight hours, to forcefully remind us of the mounting highway accidents leading to far too many fatalities.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 26th day of May in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-first.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

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CHAPTER 498
STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, it is appropriate we honor our fathers with a special day; and

Whereas, the theme for this American Holiday is "Juvenile Integrity Starts In The Home"; and

Whereas, it is the fathers of our land who have made an essential contribution to this great democracy through their teachings and sturdy devotion to liberty and love of freedom; and

Whereas, we respect the father in the home as the good partner in the moulding of tomorrow's citizens, the building of good family life, and the foundation of our future, and teacher of our young in the importance of good ethics, fair play, peace and brotherhood throughout the world:

Now, Therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Sunday, June 18, 1967, as

FATHER'S DAY
GRANDAD'S TOO

and I call upon all the citizens of this state to observe it in worship and displaying the American Flag and otherwise commemorating the Father in the home, so that every day in the year may have the blessings that flow from good fatherhood, good citizenship, and a strong family life.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 1st day of June in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-first.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 499

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, "Old Glory" has been the emblem of our unity and the symbol of our determination to remain a free people for one hundred and ninety-one years; and

Whereas, to those less fortunate in other parts of the world, the American Flag and the proud Nation it represents, stand as a beacon of hope for all those who are oppressed, for all those who desire the freedoms that we, as Americans, enjoy; and

Whereas, this banner with its thirteen alternate stripes of red and white and its field of blue with a star for each state, was officially adopted by the Continental Congress on June 14, 1777; and

Whereas, tradition has it that this same banner, stitched together by the inspired fingers of Betsy Ross, was first unfurled in land battle at Cooch's Bridge, Delaware, in early September, 1777; and

Whereas, thousands of Delawareans through succeeding generations have since followed the emblem of our unity, strength and ideals, and many have perished in the effort to keep it aloft; and

Whereas, the first star of that Flag represents Delaware symbolizing our position as "The First State"; and

Whereas, National Flag Week, which is being observed from June 11th through 17th, offers us another opportunity to re-affirm our allegiance to "the Flag of the United States of America and to the Republic for which it stands" and pledge anew that it shall always proudly wave as the symbol of "one nation, under God, indivisible, with liberty and justice for all":

Now, Therefore, I, Charles L. Terry, Jr., Governor of Delaware, do hereby proclaim June 14th as

NATIONAL FLAG DAY

and the week of June 11th through 17th, 1967 as

NATIONAL FLAG WEEK

in Delaware and urge all Delawareans to display the American Flag daily during National Flag Week.

I further urge all Delawareans to display with pride the flag of "The First State" as a companion to our national emblem.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 5th day of June in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-first.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 500

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, on July 4, 1776, the Declaration of Independence proclaimed to all the world that this new nation conceived in the Spirit of Freedom under God, guaranteed to all men their inherent right to life, liberty and the pursuit of happiness; and

Whereas, Delaware patriots played important roles in the adoption of this brilliant and inspiring document which helped to pave the way for the establishment of our nation in 1787 with Delaware as its first state; and

Whereas, this Declaration and the great country to which it gave birth stand as a source of hope and promise for Americans and all the peoples of the world; and

Whereas, on this July 4th, patriotic Americans everywhere are being asked to help revive an old form of celebrating the anniversary of American Independence with the ringing of bells—from churches, from government buildings, from commercial buildings—recalling the joyous moments that created news of this great history making event 191 years ago:

Now, Therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim that Tuesday, July 4, 1967, shall be observed in this state as

INDEPENDENCE DAY

Further, I order that the flag of the United States of America and the flag of the State of Delaware shall be properly displayed from all state and public buildings on this day, and I urge all our citizens to join in this display of our national and state colors in recognition of the significance of this great event in our history.

I, also, request that all churches, government buildings and other edifices possessing bells arrange for the ringing of these bells for five minutes beginning at noon on this Independence

Day so that everyone in this great nation may be made fully aware of the historic significance of this occasion.

It is my fervent hope that, while our citizens are enjoying this holiday, they will pause to give thanks to Almighty God for the blessings we enjoy as citizens of this Great Republic.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 20th day of June in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-first.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 501

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, the State of Delaware is made up of many people from many parts of the world; and

Whereas, many American citizens from the United States Commonwealth of Puerto Rico now make their home in Delaware; and

Whereas, the unique governmental formula known as Commonwealth was enacted as Puerto Rico's Constitution on July 25th, 1952; and

Whereas, on July 25th, 1967, the enactment will be observed by many people in the State of Delaware:

Now, Therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby designate and proclaim Tuesday, July 25, 1967, as

PUERTO RICO CONSTITUTION DAY

and urge all interested Delawareans to participate in this event.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 18th day of July in the year of Our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor
Attest: ELISHA C. DUKES, Secretary of State

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CHAPTER 502

STATE OF DELAWARE

EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, twenty-two years ago, on October 24, 1945, at San Francisco, California, representatives of this and other sovereign nations met and completed the organization of the United Nations; and

Whereas, this assembly has as its principal purpose the establishment of greater understanding among nations through appropriate and open discussion of world problems at the conference table; and

Whereas, the United States of America entered this organization fully prepared to have its representatives meet those of other nations at all levels in order to bring about greater worldwide understanding over the years. The leaders of our Nation have repeatedly reiterated our faith in the aims of the United Nations as stated at San Francisco; and

Whereas, the United Nations has accomplished much through its many specialized agencies and has provided food for millions of starving people, reduced disease epidemics, raised educational and labor standards, and helped to improve and protect the rights of the individual. Through these activities, the United Nations has brought the people of the world closer together and has prompted better international understanding; and

Whereas, it is vital to the survival of humanity that every avenue of approach be explored in the effort to establish and maintain peace in the world. The effectiveness of the United Nations can be increased through greater public understanding of its aims and accomplishments, and free discussion of those problems that threaten the world peace:

Now, Therefore, I, Charles L. Terry, Jr., Governor of Delaware, do hereby declare October 24, 1967, as

UNITED NATIONS DAY

in Delaware and urge its citizens to join in an observance of the 22nd anniversary of the founding of the United Nations. We will by this action reaffirm our faith in the ability of men of goodwill to sit down at the conference table and resolve those problems which threaten world peace.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 28th day of July in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

1938

CHAPTER 503
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

Whereas, I find that an emergency exists in the City of Wilmington, State of Delaware, due to public disorder or threat of public disorder which threatens or affects life, property and the public peace, Now, Therefore,

Pursuant to the provisions of Section 3125, Title 20, Delaware Code, I hereby proclaim that a State of Emergency exists in the City of Wilmington, State of Delaware.

APPROVED this 4th day of August, A.D., 1967 (5:50 P.M.)

CHARLES L. TERRY, JR.
By the Governor

(GREAT SEAL)

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 504

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, in Delaware, we are signally blessed with one of the Nation's highest per capita incomes indicative of a thriving economy; and

Whereas, the skill, ingenuity and courage of the American worker and his determination to raise the standard of living for himself and his associates have been major factors in providing the high standards of living which we presently enjoy; and

Whereas, the generally good labor-management relationship in our State assures continuation of our economic growth and eventual attainment of new highs in employments and personal income; and

Whereas, it is fitting that the contributions of working men and women to the economy and welfare of our State should be suitably recognized; and

Whereas, the first Monday in September is traditionally set aside to honor the workers of America :

Now, Therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Monday, September 4, 1967, as

LABOR DAY

and urge the observance of this day by all our citizens with appropriate ceremonies and the display on all state and public buildings of the flags of the United States and the State of Delaware.

Further, I invite everyone to join me in saluting those whose daily work makes possible the abundant life we all enjoy.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 29th day of August in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 505

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, on October 12, citizens of South American countries and our neighbors of North America will join all Americans in honoring the memory and accomplishments of the courageous men, led by Christopher Columbus, who sailed previously uncharted seas to discover a "new world"; and

Whereas, the discovery of America on October 12, 1492, opened a new and brighter era in the history of mankind; and

Whereas, the fine Italian hand of earlier craftsmen is reflected in our civilization and culture; and

Whereas, Delawareans of Italian descent are daily making outstanding contributions to this great Nation in every conceivable field of endeavor; and

Whereas, even today, new discoveries—on land, under the seas and in outer space—are being made by courageous men and women following the example set 475 years ago by Christopher Columbus; and

Whereas, this annual observance serves to remind us of the courage and contributions made by Christopher Columbus and other great explorers, and of the many blessings that are ours by virtue of living in this great Nation; and

Whereas, Title 1, Section 501 of the Delaware Code sets aside the 12th of October as a legal holiday in the State of Delaware:

Now, Therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do proclaim Thursday, October 12, 1967, as

COLUMBUS DAY

and I urge all Delawareans, and particularly those who are connected with our schools and colleges, to mark with appropriate ceremonies this 475th anniversary of the discovery of America.

I also request that the American Flag and the Flag of the State of Delaware be flown on all public buildings on this significant occasion.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 4th day of October in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 506
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

Whereas, it has long been a national custom to commemorate November 11, the anniversary of the ending of World War II, by paying tribute to the heroes of that and other tragic struggles in which this Nation has become involved and by rededicating ourselves to the causes of peace; and

Whereas, the Congress passed a Concurrent Resolution June 4, 1926, calling for the observance of November 11 with appropriate ceremonies, and later provided in an Act approved May 31, 1938, that the eleventh of November should be a legal holiday and should be known as Armistice Day; and

Whereas, in the intervening years the United States has been involved in other great military conflicts, which have added millions of veterans to the honor rolls of this Nation; and

Whereas, even today this Nation is involved in a bitter struggle to insure that the principles of freedom and independence on which this Nation was founded may thrive throughout the world; and

Whereas, in order to expend the significance of the November 11 observance so that a grateful Nation might pay appropriate homage to all those veterans who have contributed so much to the preservation of this Nation, the Congress, by an Act approved June 1, 1954, officially changed the name of this national holiday to Veterans Day; and

Whereas, it is appropriate that we give our heartfelt thanks to those veterans who, banded together in various organizations, are leaders in proclaiming the American Way of Life and who continue to work for peace in the world; and

Whereas, Title 1, Section 501 of the Delaware Code sets aside the 11th of November as a legal holiday in Delaware:

Now, Therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby set aside and proclaim November 11, 1967, as

VETERANS DAY

in Delaware, an occasion for remembering the sacrifices of all those who have fought so valiantly on the seas, in the air, and on foreign shores, to preserve our heritage of freedom, and for re-consecrating ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain.

I call upon all state officials to provide for proper display of the national and state flags upon all state buildings and institutions on this day, and urge all patriotic groups, schools, veterans and civic associations to participate in ceremonies and observances which will point up the invaluable services of those who wore their country's uniforms, those who died in its defense and those who, today, as citizens, keep up the good fight for a strong and free United States of America.

Further, I urge the attendance of Delawareans and our good friends from the neighboring State of New Jersey at the traditional Veterans Day exercises to be held at the Delaware Memorial Bridge Plaza the afternoon of Sunday, November 12 at 2 p.m.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 1st day of November in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 507

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, Almighty God has seen fit to bless our land with abundance in all things; and

Whereas, it has been customary since the days of the Plymouth Colony to set aside one day as an annual occasion to give thanks for the many blessings which have been bestowed upon us; and

Whereas, we should continuously strive for the unit that joins us in a common effort to establish goodwill among men, through the acknowledgement of our Lord's graciousness to all of us; and

Whereas, there are in other lands those less fortunate who can barely earn their daily bread and who need the assistance of those who have an abundance; and

Whereas, our three major faiths are again demonstrating the meaning of being our brother's keeper by sponsoring Share-Our-Supplies programs; and

Whereas, support of these programs shows our own appreciation of the blessings we have received and provide an outstanding example of brotherhood; and

Whereas, Paragraph 501, Chapter 5, Title 1 of the Delaware Code, as amended, states that the fourth Thursday in each November shall be proclaimed as Thanksgiving Day and shall be observed as a legal holiday in this state:

Now, Therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware do hereby proclaim Thursday, November 23, 1967, as

THANKSGIVING DAY

in Delaware, a day when with our families and friends we shall give thanks for our abundance. Let us share our good fortune

with others and carry into positive action the spirit of brotherhood.

Further, I urge our citizens to display our national and state flags, close our places of business and together pray for that day when there shall be no famine, no bloodshed in a world united in praising the Almighty for this great Goodness to us all.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 20th day of November in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 508

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, our Federal Constitution has its roots in the very earliest struggles of mankind for liberty; and

Whereas, the wisdom and foresight of our founding fathers has provided a strong, yet flexible, foundation on which this great Nation has grown and prospered; and

Whereas, Richard Bassett, Gunning Bedford, Jr., Jacob Broom, John Dickinson and George Read represented Delaware at the Federal Constitutional Convention which drafted our Constitution; and

Whereas, following the adoption of this Constitution by this convention on September 17, 1787, this document was submitted to each of the thirteen colonies for approval; and

Whereas, recognizing the need for a strong, stable central government, ten delegates from each of Delaware's three counties unanimously ratified the Constitution on December 7, 1787, at a special convention in Dover; and

Whereas, in 1939, the General Assembly of the State of Delaware officially designated each December 7th as "Delaware Day" in commemoration of this historic event; and

Whereas, on this December 7th, the State of Delaware will observe the 180th anniversary of this brave and foresighted action which has given our State its proud title of the "First State":

Now, Therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Thursday, December 7, 1967, as

DELAWARE DAY

and urge our schools, churches, civic and fraternal organizations to participate in appropriate observances of this proud event.

Further, I direct that, on this day, our national and state flags be flown from all public buildings and I urge all our citizens to join in this display of the colors.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 22nd day of November in the year of our Lord, one thousand nine hundred and sixty-seven, and of the Independence of the United States of America, the one hundred and ninety-second.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 509

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, Elisha C. Dukes, Secretary of State, on behalf of the State of Delaware, has reported to me a list of corporations which for two years preceding such report have failed to pay the taxes assessed against them and due by them under the laws of this State.

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby issue this proclamation according to the provisions of Section 511 and 512 of Title 8 of the Delaware Code of 1953, as amended, and do hereby declare under this act of the Legislature that the charters of the following corporations, reported as aforesaid, are repealed:

A. B. C. Industries, Inc.; A. B. M. Realty Corp.; A & C Realty Corporation; A. I. Jarrett, Inc.; A. I. Smith & Co., Inc.; A. J. B. Theatres, Inc.; A. & M. Service Inc.; A. N. Marquis Company, The; A-OK Company, The; Ace Engineering Co., Inc.; Acoustiguide, Inc.; Action, Inc.; Actuation Systems & Manufacturing, Inc.; Adams Distributing Company, Inc.; Adams Funeral Home, Inc.; Aden Corporation; Administrative Management Society; Adrian Enterprises, Incorporated; Adult Service Foundation, Inc.; Advance Tree Service, Inc.; Advanced Industry Technology Int., Inc.; Advent Systems, Incorporated; Aero Associates, Inc.; Aerosal Filling Co.; Aerospace Associates, Inc.; Afcorp Inc.; Air-Way Electric Appliance Corporation; Aladdin Publishing Company, Inc.; Alao Valley Mining and Timber Corporation; Alarco, Inc.; Albee Rolligon Company, Inc.; Albert Stirlith, Inc.; Alcan U. S. Corp.; Aldo Corporation; Aldon Construction Company; Alexander Edwards Co.; Alexander Vardaro Fireworks Mfg. Corporation; Alfonso's Restaurant, Inc.; Alj Corporation; All American Building Materials Corp.; All-American Fund Distributors, Inc.; Allegheny Land Company; Allegheny Sales Corporation; Allegheny Steel Corporation; Allegheny Steel Corporation of New Jersey; Allendale Builders, Inc.;

Allied Florists Association of Greater Washington; Allied Insurance, Inc.; Allied Inventory Associates, Inc.; Alma Gold Corporation; Am. International Corporation; Amco Plumbing and Heating Co.; America Corporation; American Beauty Salons Cooperative, Inc.; American Board of Allergy, Inc.; American Business Funds International, Inc.; American Carpet Company; American Coin Machine Service & Sales Inc.; American Dehydrating, Inc.; American Development Corporation of Texas, Inc.; American Dynamic Development, Inc.; American Dynamics Corporation; American Electro Metal Corporation; American Employees' Finance Company; American Energy Corporation; American Equities Fund, Inc.; American-Hawaiian Steamship Company, Inc.; American & Hellenic Club, Inc.; American Home--Service Association; American International Housing Corporation; American Liquid Fertilizer Corporation; American National Motor Inns, of Delaware, Inc.; American Products Corporation of Michigan; American Training Service, Inc.; American Tube & Steel Co.; American Weapons Corporation; American Window Company, Inc.; Americantenna Microwave, Inc.; Americas Eastern Oil Co.; Ames Investments, Inc.; Amy Joy Cottage Grove, Inc.; Amy Joy Donuts of America, Inc.; Amy Joy Donuts, Inc.; Amy Joy Harlem, Inc.; Amy Joy Kimball, Inc.; Amy Joy Nanette, Inc.; Anaf Educational Services, Inc.; Anconco, Inc.; Anderson Die Casting and Engineering Corporation; Andrew Steiner Enterprises, Inc.; Andrews & Andrews, Inc.; Anglo American Electronics Corp.; Angus Corporation; Annkor Import Export Company; Antenna Systems, Inc.; Anthony F. Disabating Co., Inc.; Anthony M. Reinach Foundation, Inc.; Apartment & Home Builders, Inc.; Apex Air Conditioning, Inc.; Apli-Pats, Inc.; Appalachian Oil Company; Appalacian Mushroom Farms, Inc.; Applied Systems Corporation; Aquarium Philadelphia Foundation; Aquatex Industries, Inc.; Ardeana Imprinting, Inc.; Argonaut Offshore Loading, Inc.; Argonne Gas Co., Inc.; Arista Development Corp.; Arizona 13 Corporation; Armed Forces Retired Men's Accepting Corporation; Armor Trimon Elevator Corporation; Armstrong Vending Company; Arnold Knitwear Mills, Inc.; Art Alter Clothier, Inc.; Art-Craft Builders, Inc.; Art Floor, Inc.; Artec Productions, Inc.; Arthur C. Gluckman Co.; Artos Safety Equipment Corporation; Asbury Development Corporation; Ash Park, Inc.; Atina Chemical Inc.; Atlantic Coast Tank Cleaning Corporation; Atlantic General Corporation; Atlantic International Films, Inc.;

Atlantic Marineland, Inc.; Atmos-Pak, Inc.; Attalla Industries, Inc.; Australasian Metals and Ores Corporation; Automatic File & Index Company; Aviation Finance Corp.; Axel G. Rosengren, Inc.; American Rail and Steel Co.

B B T Corporation; B. D. M. Corporation, Inc.; B. I. G. Inc.; B. Rubin Research, Inc.; Bagasse Overseas, Ltd.; Bankers Bond Co., The; Barnes & Associates, Inc.; Barone Sunoco Service, Inc.; Barq's Bottling Company of Los Angeles Inc.; Barrie Corporation, The; Barrier Paper Manufacturers' Association Inc.; Barsi & Co., Inc.; Barton Equipment Corp.; Batchelder Equipment & Engineering, Inc.; Baxter Operations, Inc.; Bay Bridge Container Corporation; Bay Side, Inc.; Bay-Stevenson English Muffin, Corp.; Bayshore Club, Inc., The; Bayshore Realty Inc.; Beachwold Pictures, Inc.; Bear Concrete Company, Inc.; Beckol, Inc.; Beco American Corporation; Bede Manufacturing Corporation; Bedell Store, Inc., The; Beechmont Securities Corporation; Beldode Recording Corp.; Bellarmine Book Distributors, Inc.; Bellas Hess Superstores, Inc. of Mobile; Belle-Valley Homes, Inc.; Ben Franklin Corporation, The; Benson Hotel Corporation; Benson, Kittredge & Gregory Associates, Inc.; Bernard Smith Foundation, Inc.; Besser Poultry Corporation; Best Buy Foods, Inc.; Best Mold Company, The; Bethesda Progress Corporation; Better-Care Bed Company; Beverly Distributors, Inc.; Bewo Metal Corporation; Bianchini Gallery, Inc.; Bible Covenant Baptist Church, Inc.; Big Four Trucking Corporation; Bill Binko, Inc.; Bill Chaffee Buick, Inc.; Bill Elsey Leasing Service, Inc.; Billiards, Inc.; Bilmor Construction Co.; Biochemical Reduction Corporation; Birchwood Construction Co.; Bird 'N' Burger System, Inc.; Blackwell Realty Company; Blasters, Inc.; Blinker, Inc., The; Bloomfield Building Industries, Inc.; Blue Head Machine Corporation; Blue Hen Ramblers, Inc.; Blue Ribbon Beef Co.; Blue Vista, Inc.; Bob Turley's Newark Bowl, Inc.; Bobley Publishing Southern Corporation; Bocjl Corporation; Bolivar Productions, Inc.; Bon Marche, Inc.; Bond Managers, Inc.; Bon-sall and Banks, Inc.; Bonus Rent-A-Car System, Inc.; Bouhof Corporation, The; Bow Wow Cosmetic Co.; Bowlero-Lemon Grove, Inc.; Boxwood Cleaners, Inc.; Boyce & Williams, Inc.; Bradbury Village, Inc.; Bradec Corporation; Braeger Chevrolet, Inc.; Brandywine Hundred Realty, Inc.; Brandywine Investment Corporation; Brandywine Optimist Club, Inc.; Braunstein's Spe-

cialty, Inc.; Briar Knoll Corporation; Bristol Electronics, Inc.; Bristol International Corporation; British Convertible Furniture Corporation; British Lands, Inc.; Broadcast Development Corporation; Broadcast Imports Inc.; Bronze, Inc.; Brookline Hotel Corporation; Brooks Furniture Co., Inc.; Brown Enterprises, Inc.; Brown-Jordan Corp'n; Browntown Outing Club; Brubaker Studio, Inc.; Brush-Tone Corporation; Buckeye Manufacturing Company; Bugliani, Corn-Cob King, Inc.; Brunswick New Castle Corp.; Building Products of Los Angeles, Inc.; Bulk Navigation & Towing, Inc.; Bulletin Board, Inc., The; Burbank Apartments, Inc.; Bureau Properties, Inc.; Business Research Company; Buttonwood Civic Association, Inc.; Byrne Organization, Inc.; Byron Musser, Inc.

C. & B. Development Co.; C. B. M. Industries, Inc.; C. C. McCurley, Inc.; C-L Processes, Incorporated; C-T Instrument Co.; C. T. Sherer Incorporated; California Imperial Contractors, Inc.; Campanelli Construction Company; Candore International, Inc.; Cannon Aluminum, Inc.; Cantrell & Cochrane-Blue Ridge Corporation; Capital Camera, Inc.; Capital Food Mart, Inc.; Capital Sewing Machine Company, Inc.; Capital Theatres, Inc.; Capitol Development Co.; Capitol Insurance Underwriters, Inc.; Capn's Galley, Inc.; Capro's Inc.; Car-Stop, Inc.; Caravan Travelers Club; Cardinal School, Inc.; Caribbean Agencies, Inc.; Caribbean American Corporation; Caribbean Operations Corporation; Carlmin Productions, Ltd.; Carpet Crafters of Delaware, Inc.; Carpet Crafters, Inc.; Carrier Services International, Inc.; Cars, Inc.; Castle Television Tuner Service, Inc.; Catherine Story, Inc.; Causeway Auto Co.; CBS Corporation; Cee Tee Cee, Inc. of Delaware; Cenampa Investments Corporation; Center Diner, Inc.; Center For International Economic Growth, Inc.; Central Acceptance Corp. of Delaware; Central Airport, Incorporated; Central Development Company, Inc.; Central Rehabilitation Referral Service, Inc., The; Century, Inc. of New York; Century Industries, Inc.; Cersolsun Research Corporation; Chad, Inc.; Chamberlin Service, Inc.; Chaplin Street Apartments, Inc.; Charles Buick, Inc.; Charles F. Vardeman Corporation; Charles Spiegel Company, Inc.; Chatham Crystal Corporation; Chavannes Synthetic Fibres, Inc.; Chefmaster Products, Inc.; Chelsea Estates Land Co.; Chemical Toilets, Inc.; Chester E. Smith & Sons, Inc.; Chester P. Vendetti Production Corporation; Chestnut Run

Liquors, Inc.; Child Help-Mate Foundation, Inc.; China Boy Restaurant, Inc.; Chrispens Rentals, Inc.; Christiana Insurance Company; Christiana Mortgage and Finance Co.; Circle Corporation, The; Citation Corporation, The; Citizens Investments, Inc.; Citizens Protective Association; Citro & Sons, Inc.; Clark Brothers, Inc.; Clark Chevrolet Corp.; Clarkpix Corporation; Claymont Commuters, Inc.; Clayton Development Co. Inc.; Clearview Development Company, Inc.; Cleveland Industrial Tires, Inc.; Climax Municipal Supply Co.; Cline Electric Manufacturing Company; Club 61; Co-Op. Organizers, Inc.; Coffee Shop, Inc., The; Coleman Enterprises, Inc.; Collieries Realty & Equipment Co., Inc.; Collins Tuttle Investment Corporation; Colomax, Inc.; Colombian American Mining Corporation; Colonial Kitchens, Inc.; Color-Lock Corp.; Comar, Inc.; Combined Investing Company, Inc.; Commerce Chemical Corporation; Commerce Corner, Inc.; Commerce Investment Corporation; Commercial International Corporation; Commoditly Wire Advices, Inc.; Common Market Fund, Inc., The; Communications, Inc.; Community Broadcasting Corporation; Community Capital Funds of Northern Delaware, Inc.; Comval Corporation; Concord Social Club; Concrete Maintenance Products, Inc.; Confab Corporation; Confederate State Scramblers, Inc.; Connor Studio Sales, Inc.; Consad Corporation; Consolidated Chemonics Corporation; Consolidated Conte Corp.; Consolidated Data-Com. Systems, Inc.; Consolidated Manufacturers, Inc.; Consolidated Publishing Company, Inc.; Consolidated Sand & Materials Corporation; Consultants, Inc.; Consumer Marketing Association, Inc.; Continental Construction Corporation; Continental Reserve Corporation; Continental Sales, Inc.; Cool Spring Community, Inc.; Coordinating Committee For Fundamental American Freedoms, Inc.; Copley Securities Corporation; Copy Research Company; Coral Harbour Association of Washington, D. C., Inc.; Corbate Co., Inc.; Corbetta Contractors, Inc.; Corbit Graveyard Association; Cord Automobile Company; Coret Corporation; Cormorant Corporation, The; Cornie Freight Lines, Inc.; Corporate Funding Corporation; Corporate Option Company, Inc.; Corporation Suppliers, Inc.; Cottonwood Corporation; Country Kindergarten, Inc.; Country Wide Offices Corporation; Covington Home Furnishings Company, Inc.; Craftsman Corporation; Crandall Corporation, The; Creative Plastic Packaging, Inc.; Credit Bureau of Douglas County, Inc.; Crescent Exploration Company; Crest Research,

Inc.; Crestline Builders of Delaware, Inc.; Crestwood Carpet Mills of Arizona, Inc.; Cropper and Thomas, Inc.; Crystalon Industries, Inc.; Crystocolor Decorations, Inc.; Culver Raieco, Inc.; Custom Delivery Service, Inc.; Cycle Products of USA Inc.

D. A. F. D. Associates, Inc.; D. and D. Liquors, Inc.; D & J Steel Erection Co., Inc.; D & W Service Center, Inc.; Daggett & Ramsdell, Inc.; Dalite Company of Delaware, Ltd.; Dallas Builders, Inc.; Dana Vending Co., Inc.; Daniel D. Rappa Fuel Oil, Inc.; D'Aprile Brothers Co.; Darien Construction Co.; Darling Operating Corporation; Darling Retail Shops Corporation; Darling Roanoke Corporation; Darling Shop of Macon, Inc.; Darling Shops of Butte, Inc.; Darling Shops Delaware Corp.; Darling Shops of Oklahoma, Inc.; Darling Shops Operating Corporation; Darling Stores Corporation, The; Darling Stores, Inc.; Darling Stores Operating Corporation; Darling Utah Corp.; Darman Corporation; Datamatic Systems, Inc.; Datascope Corporation; Davalda, Inc.; Davette, Inc.; Davis Enterprises, Inc.; Davohn Corporation; De La Roza Corporation; Deanpat Childrens Productions, Limited; Deepdale Fabrics Corporation; Del. Com. Enterprises, Inc.; Del-Penn Construction Co.; Delapeake Building Supplies, Inc.; Delaware Advertising & Management Agency, Inc.; Delaware Agricultural Marketing Association, Inc.; Delaware-American Oil Corp.; Delaware Avenue Customers Parking, Inc.; Delaware Chesapeake Corporation; Delaware First State Fireworks Mfg. Corp.; Delaware Foundation For Accounting Education; Delaware Home Furnishings, Inc.; Delaware Home Products Corporation; Delaware-Montreal Garage Corporation; Delaware-Montreal Leasing Corporation; Delaware National Insurance Company; Delaware Music & Sound Corp.; Delaware Press Club, Ltd.; Delaware Prestressed Corporation; Delaware Sales & Service Co.; Delaware Society of Clinical Laboratory Directors; Delaware Truck Center Inc.; Delaware Underwriters Management Corporation; Delaware Valley Realty Corporation; Delawareans For Orderly Development, Inc.; Delcarib Ventures, Inc.; Delleary Enterprises, Inc.; Delmarva Hydraulics, Inc.; Deluxe Builders, Inc.; Densewood Corporation; Denyes Retail Stores, Inc.; Dependable Service Store, Inc.; Derbigny Restaurant, Inc.; Design Originals, Inc.; Detroit Tractors, Ltd.; Developments International Corporation; Dever Industries, Inc.; Devon Industries, Inc.; Dewey & Grady Incorporated; Diamond River Mines, Inc.; Diamond State Building Corporation; Diane Pro-

ductions, Inc.; Dick Walters Ford, Inc.; Diner's Acceptance Corp.; Dinwiddie Management, Inc.; Direct Methods Corporation; Dispenser Sales Corporation; Diversified Management Corporation; Diversified Projects, Inc.; Dixon Mills, Inc.; Do-Ri Food Products, Inc.; Dob Oil Properties, Inc.; Dolph Radio & Television Productions, Inc.; Don Rose Associates, Inc.; Donald F. Duncan Inc.; Donovan & Black, Inc.; Dover Bakery, Inc.; Dover Banana Company, Inc.; Dover Bowling Lanes, Inc.; Dover Instrument Company; Drake Motor Sales, Inc.; Drexel Crest, Inc.; Drug Products Incorporated, Dugger Dry Kiln Corp.; Dunbar Building Co.; Dunbar & Co.; Dundee Properties, Inc.; Dunham & Chalfant International Incorporated; Duo-Matic Corporation; Durasol Drug & Chemical Co.; Dutch Court Rest Home, Inc.; Douglas Campbell, Inc.

E. A. Pessagno, Inc.; E. C. Babounis and Associates, Ltd.; E. D. Shaffer, Inc.; E. H. & M. Co.; E-Z Mobile Homes Sales of Wilmington, Inc.; East Campus Supply Co.; East Coast Erection Co.; Eastern Fire Warning Systems, Inc.; Eastlawn Civic Association of Wilmington, Delaware Inc.; Easy Publishing Co., Inc., The; Edco Water Conditioning Incorporated; Edray, Incorporated; Educational Enterprises of Washington, D. C., Inc.; Educational Facilities Planning, Inc.; Edward J. Brady Foundation; Edwin K. Williams & Co.; Ego Dynamics Institute, Inc.; Eimco Inter-American, Inc.; Eisenman Laboratory, Inc.; El Rancho Corporation; Elemar Construction Co.; Elite Theatrical Productions Ltd.; Ellern's Corporation; Elliot H. Kapstein, Inc.; Ellis Corporation, The; Elmar Foundation, Inc.; Eltana Corporation; Embassy-Kentmere, Inc.; Emeritus Medical Research Association, The; Emkay, Inc.; Engle Flying Service, Inc.; Ensign Leasing Financial Corporation; Enterprise Realty Co.; Equipment Leasing Corporation; Equitable Financial Corporation; Equities Management Corporation; Equity International Company; Erco Industries, Inc.; Erie Corp.; Escott Brothers, Inc.; Esteroy Corp.; Estey Electronics, Inc.; Eugene Davidson, Incorporated; Euramas Corporation; Evans Aircraft Engine, Corp.; Executive Pharmacy, Inc.; Executive Hall of Fame, Inc.; Exporters Freight Forwarding Services, Inc.

F. A. McKenna, Inc.; F. L. Cooke Electronic Engineering Corp.; Fabrecolor Corporation; Fabulous Formulas, Inc.; Fair of Puerto Rico, Inc., The; Fairmay, Inc.; Faith and Truth Tem-

ple of God of the Apostolic Faith, Incorporated; Family Credit Management, Inc.; Family Shoes, Inc.; Farlan Construction Co., Inc.; Farmers Investment Company; Federal Development Corporation; Federal Home Finance, Inc.; Federal Realty Corp.; Fen-Mar Corporation; Ferro's Inc.; Fidelitron Corporation; Fieldquarters International, Inc.; Fifty-Forty Kenmore Ave. Corporation; Fifty Front Corporation; Films Research Corporation; Financial Commercial Investment Corporation of Maryland; Financial Group Distributors, Inc.; Financial Management Company, Inc.; Financial Security Systems, Inc.; Fintec International, Inc.; First International Company; First Reserve Loan and Discount Company; First State Distributors, Inc.; First State Floor Covering, Inc.; First State Safety Company, Inc.; 1st United States Ltd.; First Wilmington Corporation, The; Fisher Lyons/Associates, Inc.; 519 Philadelphia Pike, Inc.; Fixtures Akron, Inc.; Fixtures Beaumont, Inc.; Fixtures Colonie, Inc.; Fixtures Fremont, Inc.; Fixtures Montgomery, Inc.; Fixtures Tuscaloosa, Inc.; Flavor Lok, Inc.; Fleetway System, Inc.; Flexiboom Corporation; Flight Safety, Inc.; Florida-Patsand Corp.; Floseal Corporation; Fluid Controls, Inc.; FlynnHarris-Bullard Company, Foamcore Corporation, Fonda Industries, Inc.; Forbes Mortgage Company; Formigli Corporation of Delaware; Fort Knox Publishing, Inc.; Foss-Hughes Realty Company; Foster Bayou Corp.; Foundation For Advancement Management, The; Founders' Discounting Corporation; Four Hundred Construction Company; Four Season's Club, Inc.; Franchise Aid Unlimited, Inc.; Franchises Unlimited, Inc.; Franco-American Research Corporation; Frank Vassallo and Sons, Inc.; Franklin Acidizing Company, Inc.; Franklin Equipment & Supply Co., Inc.; Franklin Paving Company, Inc.; Freund Dredging, Inc.; Frontenac Realty Corporation; Frontier Field Service, Inc.; Frontier Pipeline Corporation; Frostop of Delaware, Inc.; Fruit Importers, Inc.; Fuller Graham Corporation; Fund Trustors, Inc., The; Funded Security Corporation; Furniture Services, Inc.; Furniture Storage Ltd.; Future Homes of America Incorporated.

G. M. & J. Transport, Inc.; G & M Waste Paper Products Company;; G & T Associates, Inc.; G-Marine Enterprises, Inc.; Gade Manufacturing Co.; Galaxy Engineering and Manufacturing, Inc.; Gallant Fashions, Inc.; Gamma Leather Goods Corporation; Garment News Network, Inc.; Gary Corporation;

Gas Corporation of America; Gato Ridge Oil Company; Gemex Precision Metals, Inc.; General Engineering & Sales Company; General Granite, Inc.; General Research Foundation and Institute; George-Co Mfg. Co. Inc.; George O'Toole, Inc.; Geo. W. Kerford Quarry Co.; Gerber Petroleum Corporation; Gerell Society, Inc.; Germany Company; Gib Bergstrom, Inc.; Gibbs Charter Service, Inc.; Gilbert Wheel, Inc.; Gizzi Concrete Co., Inc.; Glacial Commercial Corporation; Glass Corporation of America, Inc.; Glen Hazel Bottling Co., Inc.; Glidol Supply Corporation; Global Entertainment Corporation; Globor Inc.; Gold-Hill Prepared Foods, Inc.; Gold Manufacturing, Inc.; Golden Jewelers, Inc.; Gollightly Construction Corporation; Goodhall Studios, Inc.; Goodwin Laboratories, Inc.; Gotham Rhodes Ltd.; Government Services Assistance, Inc.; Grand Union Hotel Company; Granite City Pur-Gas, Inc.; Grayslake Paint and Glass Co., Inc.; Grayson's Incorporated, Illinois; Grayson's Incorporated, Michigan; Graysons-Texas Corp.; Graytex Corp.; Great Divide Explorations, Inc.; Great Protector Co.; Great Western Service Corporation; Greatest Records Inc.; Green Thumb Oil Company; Greenville Enterprises, Inc.; Greenwood Properties, Inc.; Ground, Land and Development Corporation; Group Shippers and Receivers Association; Guaranty Holding Corporation; Guinea American International Corporation; Gulf States Industries, Inc.; Gulick Drilling Company; Gusbil, Inc.; Guy's Enterprises, Inc.

H. W. Ulmer Co.; Hall Enterprises, Inc.; Hamer Products Company; Hammond Homes, Inc.; Hamore, Inc.; Hanover Financial Corporation; Hanover Housing Corporation; Hansa, Inc.; Harbert, Inc.; Harco Oil Recovery Corp.; Hardex-Columbus, Inc.; Hardgoods Akron, Inc.; Hardgoods Beaumont, Inc.; Hardgoods Birmingham, Inc.; Hardgoods Buffalo, Inc.; Hardgoods Colonie, Inc.; Hardgoods Florence, Inc.; Hardgoods Fremont, Inc.; Hardgoods Hertel, Inc.; Hardgoods Montgomery, Inc.; Hardgoods Niagara, Inc.; Hardgoods Seneca, Inc.; Hardgoods Tuscaloosa, Inc.; Hardwick Construction Co., Inc.; Harmantics Corporation; Harmony Applicators, Inc.; Harold Surrey Company, Inc.; Haron, Incorporated; Harrisburg Fuel and Construction Company, A Corporation; Harry Wismer Associates, Inc.; Hask, Inc.; Hawthorn Television Company; Hazel Plumbing & Heating Co., Inc.; Healing Life Inc.; Health Industries

Growth Fund, Inc.; Heffernan Builders, Inc.; Helicopter Sales and Service Corporation; Herald, Inc., The; Heritage Coin Company, Inc., The; Herb Migliocco, Mechanical Contractor, Inc.; Hermsmeyer Oil, Inc.; Herson Auto Parts and Glass, Inc.; Heyer Industries Incorporated; Hi-Roc Dispensary, Inc.; Hibriten Foundation; Hibriten Industries, Inc.; Hickory Ridge Water & Sanitation Co.; Highway Sleeper Corporation; Highways of the World, Inc.; Hill Aviation, Inc.; Hill-Welch Corporation; Hillsboro Trucking Co.; Hirgold Mazel Corp.; HKS Inc.; H. J. T. Corporation; H and R Enterprises, Inc.; H & S Kosher Poultry Corporation; H & S Manufacturing Co.; Hoffman Machinery Credit Corporation; Holden's Beauty Salon, Inc.; Holly Oak Construction Co., Inc.; Holman and Montgomery Oil Company; Holomb and Ireland, Inc.; Home Modernization Incorporated; Homecraft, Inc.; Hope Realty Company, Inc.; Hotel Sherman, Inc.; House of Edin, Ltd.; Houston Industrial Tires, Inc.; Hub, Inc., The; Hutchison Corporation, The; Hydramotive, Ltd.; Hydro-Swarf, Inc.; Hypodermic Needle Valve Corporation.

I. J. Realty Co.; I. V. Publishing Co.; Ice Control Equipment Company, Inc.; ICX, Inc.; Illinois Slurry Seal Co.; Imperiana Corporation; Improvement Services, Inc.; Independent Carton Company; Independent Telephone Equipment Corporation; Industrial and Business Association of America, Inc.; Industrial Corporation of America; Industrial Development Corporation of Iran; Industrial Minerals Corporation; Innovations, Inc.; Institutional Associates, Inc.; Integrated Graphic Processing, Inc.; Inter-Continental Development Corporation; Intercon Building Products Corporation; Intercontinental Corp.; Intercontinental Reification Company; Intercontinental Sales Ltd.; Intercontinental Service, Inc.; Intermodal, Inc.; International Bituminous Research & Development Corporation; International Cold Storage Associates, Inc.; International Commerce & Finance Corporation; International Duro-Box Corporation; International Educational Services, Inc.; International Export-Import Corp.; International Fiberglass Corporation; International Hermetics, Inc.; International Hotel Services, Inc.; International Marketing, Ltd.; International Motion Pictures Ltd.; International Quarter Horse Bloodstock Sales Corporation; International Research & Development Corp.; International Ski & See Club, Inc.; International Superior Engineering Corp.; In-

ternational Technical Drilling Services, Inc.; International Teaching Machine Corporation; International Tele-Service, Inc.; Interstate Bowling Corp.; Interstate Commodities Express, Inc.; Investment Fund Associates, Inc.; Investment Life Company, The; Investor Service Fund, Inc.; Iranian Shipping Services, Inc.; Iron Art Industries, Inc.; Isabell's, Inc.; Island Van & Storage, Inc.; Israel Gem Corporation.

J. & F. Motor Vehicles, Inc.; J. & H. Trading Corporation; J. H. Wilkerson & Son, Inc.; J & L Corporation; J & L Marine Co.; J. L. Sarnier Company; J. Lauritzen, Inc.; J. M. Warren Inc.; J. P. Associates, Inc.; J. R. Baker, Jr. Co.; J. S. Gissel & Company; Jake's Market, Inc.; James Brand Inc.; James E. Murray, Inc.; Jane Ann Corporation, The; Janlyn Oil Company, Inc.; Jard, Inc.; Jay-Dor Amusement Corp.; Jay Investment Corporation; Jeff's Chicago, Inc.; Jefferson Diversified Industries, Inc.; Jefferson Enterprises, Inc.; Jefferson Liquors, Inc.; Jefferson Sponsors, Inc.; Jersey Sales & Supply, Inc.; Jesco International Corporation; Jesse P. Greenstein Memorial Foundation; Jest Corporation; Jetwell, Inc.; Joesting & Schilling Company, The; John B. Crosby Construction Co.; John B. Crosby & Son, Inc.; John Cantrell Associates, Inc.; John F. Houtman, Jr., Inc.; John Jacobson Associates, Inc.; Johnson-Dunn Construction Co.; Joiner Furniture House, Inc.; Joint Projects, Inc.; Jones Bros., Inc.; Jordan Paint Factory of Wilmington, Inc.; Joseph Digiaccinto, Inc.; Joseph K. Walters Co.; Joseph V. Brunozzi & Son, Inc.; Julian Iron Corporation; Just Corporation.

K.P.I., Inc.; Kane Advertising, Inc.; Kapak, Inc.; Kari-Hi, Inc.; Keblok Corporation; Kelley Realty Corporation; Kennel Corporation of America, The; Kenney Systems, Inc.; Kent-Sussex Athletic Association; Kent & Sussex Oil Co.; Kentucky Sun Coal Company; Kenzar, Inc. (Okinawa); Keystone Foundation Incorporated; Keystone House & Window Cleaning Company, Inc.; Kilroy's, Inc.; Kinco Eastern Constructors, Inc.; King Christophe's Mines, Inc.; King Midas Enterprises, Inc.; King Real Estate Co.; King Street Social Club, Inc.; Kirkpatrick Construction Co., Inc.; Kirkwood Development, Inc.; Klair Estates Civic Association, Section B, Inc.; Klamon Furniture Mart, Inc.; Kleber Laboratories, Inc.; Klein International, Ltd.; Kloker Chemical Development Company; Kolyba Corp.; Kragor

Corporation; Krausz-Draper Agency, Inc.; Kronish Hydrocarbons Corporation; Krueger Products Company, Inc.; Kumlon Crafts, Inc.; Kuschen's, Inc.

L and K, Inc.; Labor Management Employee Benefit Plans, Inc.; Ladders, Incorporated; Lake States Imports, Inc.; Lakeshore Motel, Inc.; Lakeview Manufacturing Company; Lally Fire Appliance Co.; Lambert-Forte Corp.; Lamiss Corporation; Lamitex Products, Inc.; Land Values, Inc.; Land Yacht Harbors, Inc.; Laurel Poultry Farms, Inc.; Laurens Corporation; Lavell Electronics Company; Leadville Utilities Company; Lease Associates, Inc.; Lee-Acheson Associates, Incorporated; Legatees Funding Corporation; Leonard Building Specialty Co., Inc.; Leumas Beauty Products, Inc.; Lexa Oil Corp.; Liberty Auto Body Company; Life Capital, Inc.; Life Insurance Stock Corporation; Lighthouse Diner, Inc., The; Lighthouse Restaurant, Inc.; Lincoln Printing Company; Link System, Inc.; Liquiproducs Co.; Literary Enterprises, Inc.; Liverant Brothers Corp.; Living Arts Foundation, Inc.; Livingstone Securities Corporation; Locksley Corporation; Loftis-Lee Foundation, The; Logan County Coal Mine, Inc.; Logan Manor, Inc.; Lone Star Mercantile and Investment Co.; Lowell Engineering Associates, Inc.; Luby Datsun Distributors, Ltd.; Lucky Horse, Inc.

M & C Corporation; M Corporation; M. D. M., Inc.; M. V. Hardy L. Roberts, Inc.; M Z Incorporated; Madison Associates, Inc.; Magna Sales Corporation; Magnaform, Inc.; Magness Development Co.; Magness Shopping Mart, Inc.; Magnolia Furniture Store, Inc.; Management Consultants, Inc.; Mancup Corporation; Manor Construction Co.; Manspeed Corporation; Manufacturers Service Corporation; Manufacturing Industries, Inc.; Mapco, Inc.; Mar-Ann Holding Co.; Mar-Vet Corporation, The; Marbeth Corporation; Marina Motel, Inc.; Marine Facilities, Inc.; Marjan Management Corp.; Mark Manse Corp.; Mark Snyder, Inc.; Market Center Systems International, Inc.; Marketing Enterprises, Inc.; Marlene Corporation; Marness Corporation; Marsan Corporation; Marshall Industries, Inc.; Maryland Commercial Finance Company, Inc.; Mascagni Corporation; Mason-Dixon Citizens' Band Radio Club of Lower Delaware and Maryland, Incorporated, The; Master Auto Body & Paint Shop, Inc.; Master Development Company; Matthes Sporting Goods, Inc.; Mattress Specialists Warehouse, Inc.; Maury Corporation;

Maxam Beaumont, Inc.; Maxam Birmingham, Inc.; Maxam Buffalo, Inc.; Maxam Colonie, Inc.; Maxam Florence, Inc.; Maxam Fremont, Inc.; Maxam Hertel, Inc.; Maxam, Inc.; Maxam Montgomery, Inc.; Maxam Newport News Inc.; Maxam Niagara, Inc.; Maxam Norfolk, Inc.; Maxam Richmond, Inc.; Maxam Seneca, Inc.; Maxam Tuscaloosa, Inc.; Maxco Corp.; Maxwell Sales & Engineering Company; Maydole Tool Company, Inc.; Maykut Construction Co., Inc.; McAtee-Durbin Dodge, Inc.; McCann Real Estate and Insurance, Inc.; McCann Realty Co.; McClatchy New Castle Corporation; McFarland Apartments, Inc.; McShain Construction Company; Mc-W Construction International, S. C.; Med Electronics, Incorporated; Medic Opticians, Inc.; Medical Care Investments Corporation; Medical Radio Network, Inc.; Mercury Mining and Milling Corp.; Meridian Resources, Inc.; Meridional Overseas Ferry Navigation Corporation; Michini's Stockyard Inn, Inc.; Mid American Corporation of Puerto Rico; Mid-Atlantic Construction Company, Inc.; Middletown Junior Chamber of Commerce, Inc.; Midesat-Gammon, Inc.; Midland Mining Company; Midtown Cafe, Inc.; Midway Contracting Company; Migliocco Brothers, Inc.; Milbury Credit Corporation; Milroc, Inc.; Minerals Sales Corporation; Misco, Inc.; Mittas, Inc.; Modern Petroleum Corporation; Modernizers, Inc.; Mohawk Realty and Equipment Corp.; Monterey Construction Company; Moore's Mobile Home Park, Inc.; Mooresfield Farm, Inc.; Morningside Dance Center, Inc.; Morris Poultry Farm, Inc.; Morstors, Inc.; Mortgage and Financing Services of Delaware, Inc.; Mortgage Funds of America, Inc.; Mortgage Mart, Inc.; Mosher Steel Company; Motel Operations International, Inc.; Motor Parts and Service, Inc.; Movie-Tune International, Ltd.; Mundus, Inc.; Murdale Hamburgers, Inc.; Murray Levine Real Estate Co., Inc.; Music Dealers Acceptance Corp.; Mutual Employees Trademart Inc.

N. P. Story, Inc.; N. V., Inc.; Nabex-Mobile Finance Corp.; Nabob Apartments, Inc.; Nanticoke Rocket Society, Inc., The; National Assoc. Negro Business & Professional Men & Women; National Baby Care Council; National Billard Service Corporation; National Capital Fund, Inc.; National City Development Co., Inc.; National Claims Adjusters, Inc.; National Encyclopedia of Chicago, Inc.; National Health Foundation and Research Institute, The; National Housing Corporation; National

Independent Sales Company; National Organic Corporation of Delaware; National Publishers, Inc.; National Uni-Prem Company; Nationwide Loan Company, Incorporated; Nationwide Management, Inc.; Nationwide Newspaper Services, Inc.; NCP Investing Company, Inc.; Ned L. Painter, Inc.; Needham Research and Development Corp.; Nelco, Incorporated; Nelson Farms, Inc.; Nelson Investment Co., Inc.; New Castle Club; New Castle County Volunteer Firemen's Association; New Chevy Chase, Ltd., The; New Orient Motor Corporation; Newark Sandwich Shop, Inc.; Newark Weekly, Inc.; Newbank Limited; Newmax, Inc.; Nicatone Corporation; Nielson Publishing Company, Inc.; 906 Broad St. of Augusta, Inc.; 91312 Corporation; Ninth Ward Club; Norhaven Builders, Inc.; Norse Enterprises, Inc.; North American Cigarette Manufacturers Inc.; North American Hotels, Inc.; North American Hydrofoils, Inc.; North American Merchandising Co.; North Brandywine Baseball League, Inc.; Northern Maintenance Co.; Northern Realty, Inc.; Northern Virginia Fabrications, Inc.; Norwalk Strawberry Hill Drug Corporation; NRM Trucking Co.; Nu-Way Industrial Burner Corporation; Nugget Production Company.

O. Duggan Co.; O. E. M. Supply, Inc.; O.V.P. Corporation, The; Oak Lane Manor Community Association; Oakdale Tavern, Inc.; Oasis Tavern, Inc., The; Oceanic Systems Corporation; O'Fallon Concrete Supply Company; Oil Drill Corporation of North America; Old King Mining Company; Olympic Refining Company; 100 East Flagler Street, Incorporated; 111 Cadillac Square Corporation; 120 Corporation, The; 188 Virginia Corp.; One-To-One Corporation; One Prospect Corporation, The; 1050 Woodward Corporation; 1101 Restaurant Company; 1217 King Street Corporation; 1218-11th Street, Incorporated; 1441 Harvard Street, Incorporated; 1737 De Sales, Inc.; Opera House, Inc., The; Open Shop Counselors, Inc.; Optical Aids and Engineering Co.; Oriental Suppliers, Inc.; Oriole Company, Inc.; Osteopathic Medical and Rehabilitation Foundation; Ott Cigar Corporation; Overaker-Morgan Agency, Inc.; Overseas Surveyors Limited; Ox-Bo Realty Corp., The; Ox-Bo System Franchise Corp., The; Oxford Equipment Co.; Ozymandias International, Ltd.

P. M. & A., Ltd.; P. & R. Coal Company, Inc.; P-T-S Electronics Corp.; Pacific Offshore Co.; Page Construction Co.; Page

Financial Corporation; Palmer Motor Co.; Palomatic Instrument Corp.; Palso Sales, Inc.; Pampac Pipe, Inc.; Pampas Petroleum Company; Pan American Towing Corporation; Pan American Utilities, Incorporated; Pan Globe Realty & Development Corp.; Pan-Hellenic Capital Corporation; Panama Airways, Inc.; Pan-lock Builders, Inc.; Paplascell, Inc.; Paragon Press, Inc.; Pariv Corporation; Parkway Vending, Inc.; Partner's Investment Co.; Pauline Rabins Memorial Foundation, Inc.; Pegasus Corporation; Penbrook Contracting Corporation; Penguin Foods Inc.; Penn-Federal Corporation; Penn Maid Fashions Co.; Penro Inc.; Penthouse Dry Cleaning Company, Inc.; Peoples Settlement Association of Wilmington, Delaware; Peregrine Corporation, The; Perimeter Unlimited, Inc.; Perma-Dwell Industries, Inc.; Personally Yours, Ltd.; Pete Sagers, Inc.; Peter Pan Cermak, Inc.; Peter Pan Harlem, Inc.; Peter Pan Jeffrey, Inc.; Peter Pan Lincoln, Inc.; Peterson-Sharpe Engineering Corporation; Petrol Shipping Corporation; Pharmatronics, Inc.; Phil's Distributors of Wilmington, Inc.; Phila. Pike Corporation; Philenman Corp.; Philip W. Clark, Inc.; Phillip's Amusements, Inc.; Philly Photo, Inc.; Photek, Inc.; Phyl-Mar Investment Corporation; Picni-Cart, Inc.; Pied Piper Farms, Inc.; Pillar Inn, Inc.; Pine Acres, Inc.; Pine Cove, Inc.; Pirates Bay Marina, Inc.; Pizza Palace, Inc.; Planet Engineers, Incorporated; Plaza Delicatessen, Inc.; Pluri-bus, Inc.; Podiatry Society of Delaware, Inc.; Polska Narodowa Kasa Chorych Wilmington, Delaware, Incorporated; Port Arthur Iron Ore Corporation; Portable Lubrication, Inc.; Portable Toilets, Inc.; Potato Chips Association, S.A.; Potomac Leasing Company; Power Gas Corporation; Precious Memories Inc.; Presidential-Ayer-Leasing Corporation, The; Presidential-Ayer-Transport Corporation, The; Primo Enterprises, Inc.; Printz Club, Inc.; Producers Equipment Center, Inc.; Program Publishing Company, Inc.; Public International Housing Corp.; Publishers for Conventions, Inc.; Pullman Couch Company of Pennsylvania, Inc.; Purchase Affiliates International, Inc.; Pyro Piezo Electronics Corporation; Printz Roller Rink, Inc.

Quaker City Flour Mills, Inc.; Quelcor, Inc.; Quik-Chek Corporation; Quiltmaster Corporation, The; Quincy Adams Yachts, Inc.

R B & S Development Corporation; R. E. Broe, Inc.; R. F. Jones, Co.; R. F. Service, Inc.; R. Kipling Corp.; R & L Motors,

Inc.; R. M. Flester, Inc.; R & M Realty and Development Company; R. P. House, Inc.; R. R. G. Corp.; R & W Inc.; Radiotel, Inc.; Rainbow Roller Rink, Inc.; Raken Industrial Corporation; Ramsey Oils, Inc.; Rapid Transit Equipment Company; Rapid Transit Lines, Inc.; Rath Pharmaceuticals Corporation; Ratliff Oil Producers, Inc.; Ravan Products, Inc.; Raymond Development Industries, Inc.; Re-Nu, Inc.; Real Estate Corporation of Europe; Realin Corporation; Realty Exchange, Inc.; Realty Investors of America, Inc.; Recess Room, Inc.; Red Bridge Investment Company, Inc.; Red Carpet Radio Network, Inc.; Redfens Corp.; Redwood Inn, Inc.; Regency Manor, Inc.; Regional Council of Motor Carriers, Inc.; Rehoboth Dairy, Inc.; Rehoboth Kindergarten Association; Reinsurance Managers, Inc.; Reliance Oil Corporation; Reliance Tradewind Company; Rem Charities Foundation; Rem Industries, Inc.; Rem Research and Development Corp.; Remington Chemical & Research Corporation; Rent-A-Honda, Inc.; Rental Corporation of America, Inc.; Republican Victory Committee, Inc.; Resource Development Corporation; Retail Acceptance Corp.; Retail Stores, Inc.; Retirement Insurance Agency, Inc.; Revere Industries Corporation; Richard H. Ullman Associates, Inc.; Richards Ford City, Inc.; Richard's Hayward, Inc.; Richard's Management Service Corp.; Richard's-95th Street Inc.; Richard's-Ogden Inc.; Richard's Visalia, Inc.; Richard's Wilmington, Inc.; Richburger, Inc.; Richmark Corp.; Ricky Ties, Inc.; Ridge View Apts., Inc.; Rio Oil Company; Rittenhouse Corporation, The; River-Chest Inc.; Roach's World-Wide Gifts, Inc.; Robbie Mfg. Co., Inc.; Robert A. Burk & Company; Robert J. Midgely Company; Roberts Canning Co.; Robertson Industries Corporation of America; Robertson's Motor Sales, Inc.; Robilt, Inc.; Rochelle Investment Corporation; Rock Products Manufacturing Corporation; Rockford Park Development Inc.; Rodney Apartments, Inc.; Rodney Fuel Co.; Rodney Street Garage Incorporated; Roger O'Connor, Inc.; Romi Foods, Inc.; Rose Gate Civic Association; Rose Hill Inn, Inc.; Rosenthal Stores, Inc., The; Ross Packing Co., Inc.; Rotex Oil & Minerals, Inc.; Rotomatic, Incorporated; Russwift, Inc.; Ruth B. Kinney, Inc.; Ruth Shopping Centers, Inc.

S. M. S. Corporation; S S C Inc.; S & S Rambler, Inc.; S. S. Steel Erection, Inc.; Safe Harbor Realty Company; Safe Traveler, Inc.; Safeguard Data Corporation; Safety Sake Enterprises, Inc.; Sagman, Inc.; St. James Court, Inc.; Saint Stephenus So-

ciety; Salem Carpet Mills, Inc.; Samuel Bronston Television Corporation; Sandlin Oil and Refining Company; Sandy Motors, Inc.; Sanford Products, Inc.; Satellite Developing Corporation; Sav-On Rentacar Systems, Inc.; Savin of Pittsburg, Inc.; Scandex, Ltd.; Schenuit Tire Service, Inc.; Scheuch, Inc.; Scientific Investors Corporation; Scythian Management Company; Seaboard Leasing of Minnesota, Inc.; Seaford Furniture Company; Seal-Cote, Inc.; Seats Lathing and Plastering Company, Inc., The; Seaways International Corporation; Sebring Equipment Corporation; Securitone Corporation of America; Security Enterprises, Inc.; Sel-O-Min, Inc.; Selbyville Industrial Development Corporation; Select Supply Co., Inc.; Selectra Corporation; Seminole Oil & Gas Corporation; September Corporation, The; Sgt. William Lloyd Nelson Post; Seton Investment Corporation; Seven-Up Bottling Co. of Pittsburgh; Seymour Wilen, Inc.; Shalco Corporation; Shamrock Towing Company, Inc.; Shelleys Incorporated; Serman Associates Consulting Engineers, Inc.; Shipley Road Developers, Inc.; Shuler Coal Company; Shur Zero Mfg., Inc.; Shuva Company; Sidewalk Edging Service, Inc.; Sidney Flashman and Son, Inc.; Silitron Corporation; Simpler Motor Company; Simpson & Company, Inc.; Sisterhood of the Beth Sholom Community Center, Inc.; Sixth Ward Democratic Club, Incorporated, The; Slik-Chik-On-A-Stik, Inc.; Smyrna-Clayton Retail Merchants' Association; Sohler Corporation; Solar Dynamics, Inc.; Somerset Enterprises, Inc.; Sonomedic Corporation; Sonotronics, Inc.; Soracabo Corporation; Soty Corporation; Soundscribe Engineering Corporation; South Side Home Furniture Company; Southeastern Properties, Inc.; South-erland Oil & Gas Company, Inc.; Southern California Cement Company, Inc.; Southern Commuters, Inc.; Southern Crab Co., Inc.; Southern Equipment Company; Southern Sales Service Company; Southern Title & Trust Company; Spatz Shopping Center, Inc.; Spec., Inc. of Delaware; Spencer Rubber Coating Company; Spiritual Assembly of the Baha'is of Wilmington, Delaware; Splendor Supper Clubs, Inc.; Split Vote, Inc.; Spread Associates, Incorporated; Springfield Recreation Center Co.; Stagecoach Leasing Corp.; Stainless Cast Alloys, Inc.; Stanbob, Inc.; Standard Equipment Rental, Inc.; Standard Investment Business, Ltd.; Standard Lumber Company, The; Standard Metals Trading Company; Standard Parking Meter Corporation; Standard Paving Company; Stapleford's, Inc.; Star Investors

Corporation; Starco, Inc.; Starved Rock Marina, Inc.; State Stores, Inc.; State Street Shopping Center, Inc.; States Battery Co., Inc.; Steel Construction Products Co.; Steel Contractors Association of Delaware, Inc.; Stellardyne Laboratories, Inc.; Stellini Brothers, Inc.; Stephen's, Inc.; Stephenson Mfg. Co.; Stonehill Industries, Ltd.; Stores, Inc.; Stowe Optician, Inc.; Strato-Missiles, Inc.; Strine's Rental Company; Stuyvesant Mortgage Corporation; Stuyvesant Mortgage Corporation of South Jersey; Sudbury Investment Corporation; Sudbury Sales Corporation; Sulphur Production Corporation; Sun Coast Development Company, Inc.; Sundri Aid, Inc.; Sunray Manufacturing Co., Inc.; Sunset Haven, Inc.; Sunset Servicing Corporation; Superior Builders, Inc.; Superior Funding Corp.; Superior Sugar Extraction, Inc.; Supreme Displays, Inc.; Survival Foods, Inc.; Sussex Finance Co.; Sussex Shore Transit, Inc.; Sutton Enterprises, Inc.; Swamp Farms, Inc.; Swid, Inc.; Swing Sash Window Hardware, Inc.; Sylfern Corp., The; Syn-Pak Corporation; Systematic Dollar Accumulation Plans, Inc.; Systems & Procedures Association of America, Inc.; Suburban Garbage Collectors Association, Inc.

T. B. Development Corporation; Tainer Tech Corp.; Tallyho Inns of America, Ltd.; Tanglewood, Inc.; Tanker Parcel Service, Inc.; Tapatco Industries, Inc.; Tasco Developing and Building Corporation; Tatum Construction Co.; Taylor's Potato Chip Co.; Tech-Systems, Inc.; Technical Ventures Corporation; Television Service Dealers of Delaware; Tenney Realty Corporation of Texas; Tensas Petroleum Corporation; Tex N Petroleum Corporation; Tension Structures, Inc.; Texas Louisiana Oil and Gas Corp.; Theatre Management of Massachusetts, Inc.; Thermactor Company; Thermovent Products Corporation; Thermowave Corporation; Thermway Industries, Inc.; Thimot Industries, Inc.; 13 Corporation; Thomas Paint Wallpaper Co.; Thompson Insurance, Inc.; Thomson Equipment Company, Inc.; 3200 Realty Corp.; Thrift Courts of America, Inc.; Thriftprinters, Inc.; Thudium, Inc. a Corporation; Tidewater Development Corporation; Tidewater Wholesale Co., Inc.; Tigrett Industries, Inc.; Titan Research Development of America; TKH Enterprises, Inc.; Togo American Oil Company; Tommills Steel Co.; Tool Engineering Service Co.; Topkis-Ginns Theatre Company; Tower Management, Inc.; Town & Country Construction Co., Inc.; Town & Country Diner, Inc.; Townsend Land Development Cor-

poration; Trade Winds Enterprises, Inc.; Trade Winds International, Ltd.; Trans-A-Matic, Inc.; Trans-Atlantic Corporation, The; Trans World Oil & Gas, Inc.; Transatlantic Highway Express, Inc.; Transit-Mixed Concrete Company, Incorporated; Transport Electronics, Inc.; Trapp Company; Tri-Hills, Inc.; Triangle Royalty Corporation; Triangle Securities Corporation; Trinidad Restaurant, Inc.; Trio-Dynamics, Inc.; Triple A Packing Corp. of California; Triton Ventures, Inc.; Trojan Investment Company; Tropical House Corporation; Trustees of District Parsonage, Incorporated; Tuesday Corporation, The; Tunis Development Co.; Turner-Williams Company, Inc.; Tuttle Enterprises, Inc.; Tyson-Landis Laboratories, Ltd.

U. P. P. Inc.; U. S. Dairy International, Inc.; U. S. Executive Publishers, Inc.; U.S. Hospital Air Conditioning Engineers, Inc.; U. S. Marine Corporation; Underwriters Management, Inc.; Unicel Corporation; Unique Sales & Services, Inc.; United Chemical Company; United Coin-Op Inc.; United International Management Systems, Ltd.; United Pipe and Construction Co., of Delaware, Inc.; United Plywoods Corporation of Montgomery; United Silver Mining, Corp.; United States Factoring Corporation; United States and Foreign Minerals Corp.; United States Surety Corporation; Universal Closures Inc.; Universal Investment Sales Company; Universal Measurement, Inc.; Universal Mutual Funds, Inc.; Universal Petrochem Corporation; Universal Products, Inc.; Universal Rocket Corporation; Universal Systems Associated; University Foundation, Inc.; Unus, Inc.; Urrutia and Company.

Val-Lo-Will Farms, Inc.; Valdor Corporation; Valley Builders, Inc.; Valley Fund, Inc.; Vance-Guy Corporation; Venezuelan Development Corporation; Vault Company of America; Venture Corporation; Veran, Inc.; Verti-Gyro Company; Victoria Cleaning Enterprises, Inc.; Victoria Falls Enterprises, Ltd.; Video Sports Patrol, Inc.; Vied Corporation, The; Viking Diner, Inc.; Village Inc., The; Virden Co. Incorporated, The; Virginia & Nevada Cities Gold Corporation; Vista Corporation; Vitest Laboratories, Inc.; Voice of Truth, Inc., The; Vranich Investment Corporation; Vyland Corp.

W. D. Sales Corp.; W D U L Television Corp.; W. L. Smith Poultry Co., Inc.; W. P. Iverson & Co. Incorporated; W. W. Mac

Company; WAFA Corporation; Wagner Baking Corporation; Walker-Cutler Post 42 American Legion Club; Wallace Development, Inc.; Wallcovering Corporation of America; Warrington-Lowe Corporation, The; Warrington National Corporation, The; Warrior Transport, Inc.; Watman Corporation, The; Waverly Corporation; Wayne Wilson, Inc.; Weave Shed Corporation of America; Webb & Knapp, Inc.; Webb's Paint Center, Inc.; Webster Dormitory Corporation, The; Weekly Times, Inc.; Weghorn, Kendig & O'Malley, Inc.; Weiss Bayram International Corporation; Wellsport Orange, Inc.; Wesafcom International, Ltd.; West Highlands, Inc.; Western Chartering, Inc.; Western Concrete Pile Corporation; Western Earth Movers, Inc.; Western Springs Central Inc.; Westgate Const. Co.; Wheaton Industries, Inc.; White River Natural Gas Co.; White Sail Laundry & Cleaners, Inc.; White Sands Swimming Club; Whitehall-Rand, Inc.; Whitmen Development, Inc.; Wick Funding Corporation; William H. Webb, Inc.; William J. Warwick, Inc.; William S. Scull Co., Inc.; Williams Development Company; Williams Holding Corporation; Williston Basin Land & Exploration Co.; Willow, Inc.; Willowbrook Development Corp.; Willson Brothers Lumber Company; Wilmat, Inc.; Wilmington Amusement Company; Wilmington Brass Company; Wilmington & Chester Motor Sales, Inc.; Wilmington Conference Education Society of the M. E. Church, Inc.; Wilmington Mattress Co.; Wilmington Pet Cemetery, Inc.; Wilson-Jacobi, Inc.; Winder Home for the Aged of the Peninsula Conference of the Methodist Church, Inc., The; Winfield Co., Inc., The; Winston Development Co.; Wire Broadcasting Company; World Wide Finance Corp.; Wonder Building Corporation of America; Woodbrook Builders, Inc.; World's Fair Publication, Inc.; World Mercury Mining Corp.; World News, Inc.; World Television, Inc.; World Trade Information Center, Inc.; World Wide Finance Corp.; Worldwide Golf Inc.; World-Wide Realty and Investing Corporation; WTV II Inc.; Wyoming Leasing & Brokerage Company Inc.; Wyco Development Corporation; Wyoming Leasing Co., Inc.

Xavier Cugat Foods, Incorporated.

Yankee Bowling Centers, Inc.; Yeaton & Company, Incorporated; York County Van Company; Yorkmead, Ltd.; Young Executives, Inc.; Young's Health Institute, Inc.

Zomie Electronics Co., Inc.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 17th day of January in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

1970

CHAPTER 510
STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, the United States District Court for the District of Delaware has ordered that the General Assembly of the State of Delaware be reapportioned; and

Whereas, the Court has set January 10, 1968 as the deadline for the reapportionment to be accomplished by legislation; and

Whereas, a bill to reapportion the General Assembly has been prepared by the Legislative Council and agreed to by the leaders of the two major political parties of this State; and

Whereas, the Senate of the 124th General Assembly has recessed until February 6, 1968, and the House of Representatives of the 124th General Assembly is now in recess; and

Whereas, it is in the best interest of our State that reapportionment of the General Assembly be accomplished by legislation and not by judicial decree;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, pursuant to Article 3, Section 16 of the Constitution of the State of Delaware, do hereby convene the 124th General Assembly into Extraordinary Session on Wednesday, January 10, 1968, at 7:30 p.m., for the purpose of considering a bill reapportioning the General Assembly of the State of Delaware.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 10th day of January in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second at 7:00 p.m.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 511

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, muscular dystrophy is a constant threat to the public health of our Nation; and

Whereas, the Tall Cedars of Lebanon of the United States of America has been among the Nation's leaders in its effort to encourage public response to the needs for medical and scientific research into the causes and possible cure of muscular dystrophy; and

Whereas, research sponsored by the Tall Cedars of Lebanon at the Institute of Muscle Diseases in New York City offers hope that muscular dystrophy may become a disease of the past and many of our stricken citizens can return to normal lives; and

Whereas, the Tall Cedars of Lebanon continues its selfless devotion to the philanthropic principles of its founders through the participation of its members in civic projects throughout the Country; and

Whereas, House Joint Resolution 7, passed by the 122nd General Assembly, provides that in March of each year a week shall be designated as National Tall Cedars of Lebanon Week in the State of Delaware and authorizes the Governor of the State of Delaware to issue an appropriate proclamation marking this occasion;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim the period March 17 to March 23, 1968, as

NATIONAL TALL CEDARS OF LEBANON WEEK

in the State of Delaware, and urge the people of our State to acquaint themselves with the programs of the Tall Cedars of Lebanon and to lend their support to its commendable efforts to combat muscular dystrophy.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 5th day of February in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 512

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, on April 14, 1968, the peoples of the Western Hemisphere will observe the seventy-eighth anniversary of the founding of the organization for inter-American cooperation known as the Organization of American States; and

Whereas, for more than three-fourths of a century this organization has provided a framework for the formulation and implementation of co-operative measures for social improvement and economic development to help meet the desires and needs of those in the Western Hemisphere for a better way of life; and

Whereas, through the O.A.S., free and democratic institutions in the American Republics have been preserved and strengthened; and

Whereas, during the past seven years, the imagination of these neighbors has been stimulated by the Alliance for Progress, which provides additional means by which member-nations of the Organization of American States may draw closer together in cooperative efforts to implement economic, educational and social reforms; and

Whereas, in recognition of the importance and the accomplishments of the Organization of American States the President of the United States of America has proclaimed Sunday, April 14, 1968, as "Pan American Day," and the period from April 14 to April 20, 1968, as "Pan American Week";

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Sunday, April 14, 1968,
as

PAN AMERICAN DAY

and the period April 14 to April 20, 1968, as

PAN AMERICAN WEEK

and request that our schools, churches, patriotic and historical societies and other institutions and organizations commemorate

these occasions with ceremonies that serve to recognize the historical ties and friendly relations which unite us with the citizens of other American Republics.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 11th day of March in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 513

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, Friday, March 29, 1968, will mark the three hundred and thirtieth anniversary of the settlement and establishment of the colony of New Sweden in 1638 at "The Rocks," now enshrined at Fort Christina Monument in the city of Wilmington; and

Whereas, Fort Christina, founded under the leadership of the intrepid Peter Minuit, became the seat of the first permanent settlement in the State of Delaware and in the Delaware River Valley as well, and marked the introduction of government, religion, education, agriculture, commerce and industry in our State; and

Whereas, the General Assembly of the State of Delaware has passed a resolution directing the Governor to proclaim March 29th of each year as "Delaware Swedish Colonial Day" in cognizance of these contributions; and

Whereas, it is fitting and proper that this recurring anniversary of the founding of the first permanent settlement upon soil of Delaware be commemorated by appropriate observances and exercises;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Friday, March 29, 1968, as

DELAWARE SWEDISH COLONIAL DAY

and request that on this day, and in the days following, our schools, churches, patriotic and historical societies and other institutions and organizations commemorate this historic occasion with appropriate ceremonies. I also request state, county, city and town governments to display, on such occasions, the flags of the United States and of the State of Delaware, and that the flags of the United States and of the Kingdom of Sweden be flown at Fort Christina Monument during the period of observance.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 19th day of March in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 514

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, Greek Independence Day is an important event in the life of mankind and the history of nations; and

Whereas, people of Greek origin and descent have made a significant contribution to the principles of freedom and individual liberty which we enjoy in the United States; and

Whereas, the Greek nation throughout this century and before has been a staunch partner of the United States in many projects including two World Wars and Nato; and

Whereas, the culture bequeathed to us by the Greek nation and its people is the foundation of our own Democracy; and

Whereas, the citizens of Greece, inspired by Bishop Germanos of Old Patras, did proclaim their freedom from the Turkish Empire on March 25, 1821, and did thereafter fight valiantly for eight years to secure to themselves and their posterity the blessing of liberty; and

Whereas, after winning freedom they did rebuild their nation into a great economic and cultural center for humanity thereby recapturing the essence of their ancient glory and heritage;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby recognize that historic date and accomplishment by hereby proclaiming March 25, 1968, as the 147th anniversary of

GREEK INDEPENDENCE DAY

and call upon the citizens of the state to observe it with appropriate ceremony and respect and to extend congratulations to those among our number who are the proud possessors of Greek antecedents.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 1st day of April in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 515
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

Whereas, the Reverend Doctor Martin Luther King was a man who devoted his considerable talents and tireless energy to achieve worthwhile ends through peaceful means; and,

Whereas, he was a leader, both spiritual and temporal, in the drive to bring fulfillment to mankind's dream of brotherhood; and

Whereas, he was a man of love and compassion who wanted the best for all people everywhere; and

Whereas, he was treacherously struck down by an assassin while peacefully pursuing his long cherished goals; and

Whereas, he left behind millions upon millions of deeply grieving people who will cherish his memory and mourn his untimely death for generations to come; and

Whereas, the people of this State feel grief and sorrow for his widow, children and other members of his family; and

Whereas, it is entirely fitting and proper that special thanks be extended to God for the gift of this good man during his lifetime;

Now, therefore, I, Charles L. Terry, Jr., by the virtue of the authority vested in me as Governor of Delaware do hereby join President Johnson in proclaiming Sunday, April 7, 1968, a special day of mourning and do call upon the people of Delaware to observe it with memorial services and to render prayers and other appropriate thoughts in commemoration of Dr. King who lived a life of devoted service to the people of America and of the world.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 5th day of April in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

1980

CHAPTER 516
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

Whereas, I find that an emergency exists in the City of Wilmington, New Castle County, State of Delaware, due to public disorder or threat of public disorder which threatens or affects life, property and the public peace;

Now, therefore, pursuant to the provisions of Section 3125, Title 20, Delaware Code, I hereby proclaim that a State of Emergency exists in the City of Wilmington, New Castle County, State of Delaware.

APPROVED this 8th day of April, A.D. 1968.

CHARLES L. TERRY, JR., Governor

(GREAT SEAL)

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 517

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, I find that it is necessary to provide for the protection of the lives or property of the people of this State because of the imminent danger of domestic violence or breach of the public peace or imminent danger to the lives or property of the people of this State;

Now, therefore, pursuant to the provisions of Section 171, Title 20, Delaware Code, I hereby call out such parts of the Delaware National Guard as may be necessary to preserve the public peace or protect the lives and property of the people of this State.

APPROVED this 9th day of April, A.D. 1968.

CHARLES L. TERRY, JR., Governor

(GREAT SEAL)

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 518
STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, by Public Law No. 85-529 of the 85th Congress (House Joint Resolution 479, July 18, 1958, the House of Representatives and the Senate of the United States Concurring), May 1, of every year has been designated as National Loyalty Day; and

Whereas, by Joint House Resolution No. 6, 121st General Assembly, State of Delaware, May 1, has been designated as a "special day" for annual observance in the State of Delaware as Loyalty Day; and

Whereas, throughout the Nation and State, the Veterans of Foreign Wars annually mark this occasion with special and appropriate ceremonies; and

Whereas, such occasions provide an opportunity for all citizens to reaffirm their faith in the United States and to rededicate themselves to the principles upon which our great nation was founded; and

Whereas, there have been varied attempts over the last two centuries to stifle and destroy the hard-won rights of free speech, freedom of press, and the right to worship as one chooses; and

Whereas, each of us should make a personal pledge to uphold these God-given rights in the defense for which thousands of our fighting forces died on battlefields all over the world;

Now, therefore, I, Charles L. Terry, Jr., Governor of Delaware, do hereby proclaim May 1, 1968, as

LOYALTY DAY

in Delaware and urge that all citizens of our state join on this day in reaffirming their undivided allegiance to the government of the United States and the ideals which it defends and pre-

serves. Civic groups are urged to join with our veterans in ceremonies and exercises that will appropriately demonstrate such loyalty, and in display of our National Emblem and Delaware State Flag.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 24th day of April in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

1984

CHAPTER 519
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

Whereas, the need and value of conserving our natural resources must always be foremost in our minds and hearts; and

Whereas, many forests are harvested annually as a part of our economy thereby making it desirable to encourage every citizen to plant trees which in turn will replenish this most necessary resource; and

Whereas, our woodlands, in addition to providing an important source of revenue, also provide the beauty and shade which adds color to our countryside and serves as shelter for our birds and other wildlife; and

Whereas, our forefathers, in recognition of the benefits and influence of such bountiful gifts showered upon the lives and fortunes of future generations, sought to communicate to their successors and understanding and appreciation of our natural assets by providing for the observance of one day each year as Arbor and Bird Day; and

Whereas, Title 1, Section 501, of the Delaware Code, as amended, provides that the last Friday in April of each year shall be proclaimed as Arbor and Bird Day;

Now, therefore, I, Charles L. Terry, Jr., Governor of Delaware, do hereby proclaim Friday, April 26, 1968, as

ARBOR AND BIRD DAY

in the State of Delaware, and urge schools, civic organizations and private citizens to hold appropriate exercises on that day to stimulate widespread awareness and appreciation of the aesthetic, physical and economical values of forest, wildlife and every individual tree that blesses our landscape.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 24th day of April in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 520
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

Whereas, Old Glory has been the emblem of our unity and the symbol of our determination to remain a free people for one hundred and eighty-nine years; and

Whereas, to those less fortunate in other parts of the world, the American Flag, and the proud Nation it represents, stands as a beacon of hope for all those who are oppressed, for all those who desire the freedoms that we, as Americans, enjoy; and

Whereas, this banner, with its thirteen alternate stripes of red and white and its field of blue with a star for each state, was officially adopted by the Continental Congress on June 14, 1777; and

Whereas, tradition has it that this same banner, stitched together by the inspired fingers of Betsy Ross, was first unfurled in land battle at Cooch's Bridge, Delaware, in early September, 1777; and

Whereas, thousands of Delaware's sons through succeeding generations have since followed the emblem of our unity, strength and ideals, and many have perished in the effort to keep it aloft; and

Whereas, the first star of that Flag represents Delaware, symbolizing our position as "The First State"; and

Whereas, National Flag Week, which is being observed from June 12th through 18th, offers us another opportunity to reaffirm our allegiance to the Flag of the United States of America and to the Republic for which it stands and to pledge anew that it shall always proudly wave as the symbol of "one nation, under God, indivisible, with liberty and justice for all";

Now, therefore, I, Charles L. Terry, Jr., Governor of Delaware, do hereby proclaim June 14th as

NATIONAL FLAG DAY

and the week of June 12th through 18th, 1968, as

NATIONAL FLAG WEEK

in Delaware and urge all Delawareans to display the American Flag daily during National Flag Week. This display of our national emblem and the staging of appropriate ceremonies will give visible evidence of our loyalty to this great Nation and to all that the Stars and Stripes symbolizes.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 2nd day of May in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 521
STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, it is appropriate that a specific day be set aside for the purpose of honoring our Mothers; and

Whereas, because of the indefatigable efforts of Miss Anna Jarvis, Mother's Day was officially observed for the first time on May 10, 1908, and subsequently proclaimed by the President of the United States in 1914 for nationwide observance, on the second Sunday in May of each year; and

Whereas, Section 29, Paragraph 2107, Laws of Delaware, provides that the Governor of Delaware may issue a proclamation setting aside the second Sunday in May as Mother's Day; and

Whereas, the unselfish devotion, tenderness, understanding, patience and loving discipline, bestowed upon us by our Mothers, creates a benevolent influence that helps to guide us throughout our lives; and

Whereas, we can best discharge our great debt to our Mothers by living such lives as to reflect only credit upon those who brought us into the world and carefully guided us to maturity;

Now, therefore, I, Charles L. Terry, Jr., Governor of Delaware, do hereby proclaim Sunday, May 12, 1968, as

MOTHER'S DAY

in Delaware, and urge all of our citizens to take this opportunity to honor their Mothers by attending at least one service in the church of their choice in solemn recognition of the sacrifices, love and inspiration given so freely by all Mothers.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 7th day of May in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 522

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, the people of this State desire to express publicly their deep sorrow at the death of those members of the Armed Services killed in South Viet Nam in the defense of freedom; and

Whereas, the displaying of the Flag of the State of Delaware at half-mast is a most suitable method of expressing the sorrow of the people of this State;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby direct that the Flag of the State of Delaware displayed at Legislative Hall be flown at half-staff from May 15 to May 30, 1968, in commemoration of those persons who have been killed in South Viet Nam to date and that, this flag also be flown at half-staff for one day upon such a death occurring in the future.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 10th day of May in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

1990

CHAPTER 523

STATE OF DELAWARE EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, the young, dynamic and flourishing State of Israel is observing its 20th anniversary on May 3, 1968, thus completing two decades of inspiring progress as a Democracy dedicated to the ideals which gave our country birth; and

Whereas, it was my recent privilege to visit this great nation and observe at first hand its resourceful and dedicated citizens; and

Whereas, it was also my honor to speak directly and at length with many of the military and civic leaders of Israel and to learn from them of their total devotion to the cause of freedom and Democracy; and

Whereas, Israel has remained a steadfast bastion of the Free World in a troubled and turbulent area where Communism seeks to subvert and overthrow our defenses; and

Whereas, Israel has manifested its steadfast friendship and community of interest with the United States on numerous occasions; and

Whereas, it continues to fulfill its great and historic role of providing purposeful work, secure homes and abiding hope to hundreds of thousands of refugees from persecution and intolerance; and

Whereas, its people remain not only our staunch friends and allies but creative citizens of the world in all respects from agriculture and industry to the arts and sciences; and

Whereas, they also make a vital contribution to the nobility and stature of mankind in a world where universal progress is badly needed;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim the period from May 3, to June 3, 1968, as

ISRAEL'S TWENTIETH ANNIVERSARY MONTH

in honor of the magnificent and developing nation of Israel, and I bid all citizens to participate joyfully in its celebration in harmony and brotherhood.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 10th day of May in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 524

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, we are entering the season of the year when we have the opportunity to enjoy many forms of outdoor recreation and physical activity; and

Whereas, it is necessary for all of the people of Delaware to be aware of the need to be physically fit; and

Whereas, the Delaware Physical Fitness Committee has formulated programs throughout the year that encourage the maintenance of physical fitness for all ages and both sexes and recommends that increased awareness be given to physical fitness at this time;

Now, therefore, I, Charles L. Terry, Jr., Governor of Delaware, do hereby proclaim the week of May 27, 1968, as

PHYSICAL FITNESS WEEK

and challenge all residents of Delaware to join with all others in activities that foster physical fitness throughout the year.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 16th day of May in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 525
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

Whereas, it is highly appropriate that grateful Americans everywhere should pause on Memorial Day to venerate the hallowed memory of our heroic war dead, and to honor those who served their Nation's cause and have since gone to their reward; and

Whereas, it is our solemn duty to perpetuate this custom, first established one hundred years ago, by gathering in public places, before memorials and in cemeteries to pay tribute to the valor and sacrifices of those who fought and died that America might remain free; and

Whereas, the President of the United States of America, by the authority of the Congress, has set aside May 30, 1968, as a day when we should honor the memory and deeds of our valiant fallen war heroes; and

Whereas, Paragraph 501, Chapter 5, Title 1 of the Delaware Code provides that the Governor may issue a proclamation setting aside the 30th day of May in each year as Memorial Day;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Thursday, May 30, 1968, as

MEMORIAL DAY

and urge the people of our state on this day to participate in exercises, graveside ceremonies and other appropriate memorials in grateful remembrance of the sacrifices of our war dead;

Further, I request that the Flag of the United States of America and of the State of Delaware be properly displayed from all state buildings and institutions on this day, with the national and state colors to be flown at half-mast throughout the day as evidence that we, as loyal, patriotic Americans, remain faithful to the memory of those who fought, suffered and died in defense of freedom; I further request that all motorists drive with their

headlights on from 3 p.m. Wednesday, May 29th, through Sunday, June 2nd, using low beams during the daylight hours, to forcefully remind us of the mounting highway accidents leading to far too many fatalities.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 21st day of May in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 526
STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, it is appropriate we honor our fathers with a special day; and

Whereas, the theme for this American Holiday is "Juvenile Integrity Starts In The Home"; and

Whereas, the fathers of our land have made an essential contribution to this great democracy through their teaching and sturdy devotion to liberty and love of freedom; and

Whereas, we revere the father in the home as the cornerstone in the moulding of tomorrow's citizens; the building of good family life and the foundation of our future; and teacher of our young in the importance of good family life and the foundation of our future; and teacher of our young in the importance of good ethics, fair play, peace and brotherhood throughout the world;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Sunday, June 16, 1968, as
FATHER'S AND GRANDFATHER'S DAY

and I call upon all the citizens of this State to observe it in worship, displaying the American Flag and otherwise commemorating the Father in the home, so that every day may have the blessings which flow from good fatherhood, good citizenship and a strong family life.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 23rd day of May in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 527
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

Whereas, the United States Secret Service having been organized on July 5, 1865, as a division of the United States Treasury Department, and since that time has protected the integrity of the currency and securities of the United States by suppressing counterfeiting and forgery; and

Whereas, in their capacity as the only general investigative agency of the United States, the United States Secret Service conducted investigations of the Western Land Frauds, the Tea Pot Dome Scandal and espionage and sabotage activities in the Spanish-American and World War I; and

Whereas, in 1901 the United States Secret Service was assigned the duty of the protection of the President of the United States, which has since been extended to include the members of the President's family, and the person of the Vice-President of the United States, as well as others as designated by the President; and

Whereas, in their efforts to carry out the directives assigned them by the Congress of the United States and the United States Treasury Department, they have exemplified their aim of perfection in the law-enforcement profession;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim the week of July 5-11, 1968, as

UNITED STATES SECRET SERVICE WEEK

in Delaware and I urge all citizens of the State to join with me in honoring the men and women of the United States Secret Service on their anniversary.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 27th day of June in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 528

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, on July 4, 1776, the Declaration of Independence proclaimed to all the world that this new nation conceived in the Spirit of Freedom under God, guaranteed to all men their inherent right to life, liberty and the pursuit of happiness; and

Whereas, Delaware patriots played important roles in the adaption of this brilliant and inspiring document which helped to pave the way for the establishment of our nation in 1787 with Delaware as its first state; and

Whereas, this Declaration and the great country to which it gave birth stand as a source of hope and promise for Americans and all the peoples of the world; and

Whereas, on this July 4th, patriotic Americans everywhere are being asked to help revive an old form of celebrating the anniversary of American Independence with the ringing of bells—from churches, from government buildings, from commercial buildings—recalling the joyous moments that created news of this great history-making event 192 years ago;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim that Thursday, July 4, 1968, shall be observed in this state as

INDEPENDENCE DAY

Further, I order that the flag of the United States of America and the flag of the State of Delaware shall be properly displayed from all public buildings on this day, and I urge that all our citizens join in this display of our national and state colors in recognition of the significance of this great event in our history.

Further, I request that all churches, government buildings and other edifices possessing bells arrange for the ringing of these bells for five minutes beginning at noon on this Independence Day so that everyone in this great nation may be made fully

aware of the historic significance of this occasion. I also request that all motorists drive with their headlights on from 3 p.m. Wednesday, July 3rd, through Sunday, July 7th, using low beams during the daylight hours, to forcefully remind us of the mounting highway accidents leading to far too many fatalities.

It is my fervent hope that, while our citizens are enjoying this holiday, they will pause to give thanks to Almighty God for the blessings we enjoy as citizens of this Great Republic.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 27th day of June in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-second.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 529

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, in Delaware, we are signally blessed with one of the Nation's highest per capita incomes indicative of a thriving economy; and

Whereas, the skill, ingenuity and courage of the American worker and his determination to raise the standard of living for himself and his associates have been major factors in providing the high standards of living which we presently enjoy; and

Whereas, the generally good labor-management relationship in our State assures continuation of our economic growth and also the attainment of new highs in employment and personal income; and

Whereas, it is fitting that the contributions of working men and women to the economy and welfare of our State should be suitably recognized; and

Whereas, the first Monday in September is traditionally set aside to honor the workers of America;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Monday, September 2, 1968, as

LABOR DAY

and I order that the flag of the United States of America and the flag of the State of Delaware shall be properly displayed from all public buildings on this day, and I urge the observance of this day by all our citizens with appropriate ceremonies.

Further, I invite everyone to join me in saluting those whose daily work makes possible the abundant life we all enjoy. I also request that all motorists drive with their headlights on from 3 p.m. Friday, August 30th through Monday, September 2nd, using low beams during the daylight hours, to forcefully remind us of the mounting highway accidents leading to far too many fatalities.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 30th day of August in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-third.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 530

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, on October 12, our good neighbors of North America and South America will join all Americans in honoring the memory and accomplishments of the courageous men, led by Christopher Columbus, who sailed previously uncharted seas to discover a New World; and

Whereas, the discovery of America on October 12, 1492, opened a new and brighter era in the history of mankind; and

Whereas, the fine Italian hand of earlier craftsmen is reflected in our civilization and culture; and Delawareans of Italian descent are daily making outstanding contributions to this great Nation in every conceivable field of endeavor; and

Whereas, even today, new discoveries—on land, under the seas and in outer space—are being made by courageous men and women following the example set 476 years ago by Christopher Columbus; and

Whereas, this annual observance serves to remind us of the courage and contributions made by Christopher Columbus and other great explorers, and of the many blessings that are ours by virtue of living in this great Nation; and

Whereas, Title 1, Sec. 501 of the Delaware Code sets aside the 12th of October as a legal holiday in the State of Delaware;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do proclaim Saturday, October 12, 1968, as

COLUMBUS DAY

and I urge all citizens of the First State, particularly those associated with our schools and colleges, to mark with appropriate ceremonies this 476th anniversary of the discovery of America. I also request that the American Flag and the Flag of the State of Delaware, be flown on all public buildings on this significant occasion.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 25th day of September in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-third.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 531

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, twenty-three years ago, on October 24, 1945, at San Francisco, California, representatives of this and other sovereign nations met and completed the organization of the United Nations; and

Whereas, this assembly has as its principal purpose the establishment of greater understanding among nations through appropriate and open discussion of world problems at the conference table; and

Whereas, the United States of America entered this organization fully prepared to have its representatives meet those of other nations at all levels in order to bring about greater worldwide understanding over the years. The leaders of our Nation have repeatedly reiterated our faith in the aims of the United Nations as stated at San Francisco; and

Whereas, the United Nations has accomplished much through its many specialized agencies and has provided food for millions of starving people, reduced disease epidemics, raised educational and labor standards, and helped to improve and protect the rights of the individual. Through these activities, the United Nations has brought the people of the world closer together and has prompted better international understanding; and

Whereas, it is vital to the survival of humanity that every avenue of approach be explored in the effort to establish and maintain peace in the world. The effectiveness of the United Nations can be increased through greater public understanding of its aims and accomplishments, and free discussion of those problems that threaten the world peace;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Thursday, October 24, 1968, as

UNITED NATIONS DAY

in Delaware and urge all citizens to join in an observance of the 23rd Anniversary of the founding of the United Nations. We will by this action reaffirm our faith in the ability of men of good will to sit down at the conference table and resolve those problems which threaten world peace.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 17th day of October in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-third.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 532

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, our progress in promoting world and domestic peace and in assuring continual advances in the frontiers of medicine, science, the arts, industry, and the social sciences depends in large part upon the fullest educational opportunities for all; and

Whereas, it has been demonstrated that education pays dividends in better human relations, improved earning power, personal fulfillment, good citizenship, economic growth, better communities, and improved international relations; and

Whereas, the establishment and maintenance of good schools in Delaware is essential to our progress and prosperity, and to assure that our State will make its fullest contribution to a strong national defense and domestic peace; and

Whereas, the Nation's schools and the schools of Delaware continue to be confronted by a constant demand for ever more teachers, classrooms, and financial support, which require public understanding and action; and

Whereas, the State of Delaware established the Educational Television Board and was the First State in the Nation to make ETV available to every school room within its borders; and

Whereas, the State of Delaware has established the Adult High School Extension Program to help combat the school drop-out problem and to aid those Delawareans seeking to up-grade their educational skills; and

Whereas, educational appropriations have increased tremendously during recent years as the government and people of Delaware continue to give it high priority; and

Whereas, Delaware also has a higher education system second to no other in the Country; and

Whereas, under provisions of Chapter 41, Section 4111, Title 14 of the Delaware Code, this office is authorized to issue a proclamation relative to American Education Week;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, hereby proclaim the week of November 3-9, 1968, as

AMERICAN EDUCATION WEEK

and urge all citizens and all organizations of the "First State" interested in education and the welfare of children to become further acquainted with the advancing programs of education and to rededicate themselves to the need for strengthening and improving this essential safeguard of our Nation.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 23rd day of October in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-third.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 533

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, it has long been a national custom to commemorate November 11, the anniversary of the end of World War I, by paying tribute to the valiant men of that and other tragic struggles in which this Nation has become involved, and by rededicating ourselves to the causes of peace; and

Whereas, Congress passed a Concurrent Resolution June 4, 1926, calling for the observance of November 11 with appropriate ceremonies, and later provided in an Act approved May 31, 1938, that the eleventh of November should be a legal holiday and should be known as Armistice Day; and

Whereas, in the intervening years the United States has been involved in other great military conflicts, which have added millions of veterans to the honor rolls of this Nation; and

Whereas, even today this Nation is engaged in a bitter struggle to ensure that the principles of freedom and independence on which this Nation was founded may thrive throughout the world; and

Whereas, in order to expand the significance of the November 11 observance ensuring that a grateful Nation pay appropriate homage to all those veterans who have contributed so much to the preservation of this Nation; Congress, by an Act approved June 1, 1954, officially changed the name of this national holiday to Veterans' Day; and

Whereas, it is appropriate that we express our heartfelt gratitude to those veterans who, banded together in various organizations, are leaders in proclaiming the American Way of Life and who continue to work for peace in the world; and

Whereas, Title 1, Section 501, of the Delaware Code sets aside the eleventh of November as a legal holiday in the State of Delaware;

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do proclaim November 11, 1968, as

VETERANS' DAY

in Delaware as an occasion for remembering the sacrifices of all those who have fought so valiantly—on the seas, in the air, and on foreign shores—to preserve our heritage of freedom, and for reconsecrating ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain. I call upon all State officials to provide for the proper display of the American and Delaware flags upon all State buildings and institutions on this day; and urge all patriotic groups, schools, veteran and civic associations to participate in ceremonies and observances which will point up the invaluable services of those who wore their country's uniform; those who died in its defense; and those who, even today, as citizens, are continually striving for a strong and free United States of America.

Further, I urge the attendance of Delawareans and our good friends from the neighboring State of New Jersey at the traditional Veterans' Day exercises to be held at the Delaware Memorial Bridge Plaza, Sunday afternoon, November 10, at 2 p.m.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 31st day of October in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-third.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 534

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, the United States has been blessed with abundance in all things; and

Whereas, it has been customary since the days of Plymouth Colony to set aside one day each year as an occasion to raise our prayers and Thanksgiving for the plenitude which has been bestowed upon us; and

Whereas, we continually strive for unity that joins us in a common effort to establish good will among all men, through recognition of Almighty God's beneficence to all of us; and

Whereas, our major faiths are again sponsoring "Share Our Surplus" programs to aid those in other lands who are less fortunate than ourselves; and

Whereas, support of these programs shows our own appreciation of the blessings we have received, thus providing an outstanding example of brotherhood; and

Whereas, Paragraph 501, Chapter 5, Title 1 of the Delaware Code, as amended, states that the fourth Thursday in each November shall be proclaimed as Thanksgiving Day and shall be observed as a legal holiday in "The First State";

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Thursday, November 28, 1968, as

THANKSGIVING DAY

in Delaware, a day when with our families and friends we shall give thanks for our abundance, and carry into positive action the spirit of brotherhood, a day also when above all we should give thanks for the blessings of liberty and the spirit of freedom which prevails in our land.

Further, I urge our citizens to display our national and state flags, close our places of business and pray together for that day when there shall be no famine, no bloodshed, in a world united in praising the Almighty for His greatness to all mankind.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this 8th day of November in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-third.

(GREAT SEAL)

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

CHAPTER 535
STATE OF DELAWARE
EXECUTIVE DEPARTMENT
PROCLAMATION

CHARLES L. TERRY, JR.
GOVERNOR OF THE SAID STATE

To all Persons to whom these Presents shall come, Greeting:

Whereas, an election was held in the State of Delaware, on Tuesday, the 5th day of November, in the year of our Lord one thousand nine hundred and sixty-eight that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution of the United States and the Constitution and Laws of the State of Delaware, in that behalf, for the purpose of choosing by ballot three Electors for the election of a President and Vice President of the United States; and

Whereas, the official certificates or returns, of the said election, held in the several counties of the said State, having been duly received and examined by the Governor, it appears from them that the votes in the said counties respectively for such Electors, were cast as follows, to wit:

NEW CASTLE COUNTY

Vincent A. Theisen	70,014
Ruth Concilio	70,014
John R. Hitchens	70,014
Frank J. Gentile, Jr.	68,468
Wilbert Rawley	68,468
Elbert N. Carvel	68,468
Wilbur Meyers	17,931
David P. Hitchcock	17,931
William O. Phillips	17,931

KENT COUNTY

Vincent A. Theisen	11,082
Ruth Concilio	11,082
John R. Hitchens	11,082
Frank J. Gentile, Jr.	9,055
Wilbert Rawley	9,055
Elbert N. Carvel	9,055
Wilbur Meyers	4,751
David P. Hitchcock	4,751
William O. Phillips	4,751

SUSSEX COUNTY

Vincent A. Theisen	15,618
Ruth Concilio	15,618
John R. Hitchens	15,618
Frank J. Gentile, Jr.	11,671
Wilbert Rawley	11,671
Elbert N. Carvel	11,671
William O. Phillips	5,777
David P. Hitchcock	5,777
Wilbur R. Meyers	5,777

And whereas, the said returns of the election as aforesaid, duly made out, signed and executed, having been duly delivered to the Governor by the Superior Court of said counties, and the Governor having examined said returns as aforesaid, and enumerated and ascertained the number of votes for each and every candidate or person voted for, for such Electors, the result appears as follows, to wit:

Whole number of votes for Vincent A. Theisen	96,714
Whole number of votes for Ruth Concilio	96,714
Whole number of votes for John R. Hitchens	96,714
Whole number of votes for Frank J. Gentile, Jr. ...	89,194
Whole number of votes for Wilbert Rawley	89,194
Whole number of votes for Elbert N. Carvel	89,194
Whole number of votes for Wilbur Meyers	28,459
Whole number of votes for David P. Hitchcock	28,459
Whole number of votes for William O. Phillips	28,459

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby declare that Vincent A. Theisen, Ruth Concilio and John R. Hitchens have received the highest vote at the election aforesaid, and therefore have been and are duly and legally elected Electors for the election of a President and Vice President of the United States.

GIVEN UNDER MY HAND and the Great Seal of the said State, at Dover, the 15th day of November in the year of our Lord one thousand nine hundred and sixty-eight and of the Independence of the said State the one hundred and ninety-third.

CHARLES L. TERRY, JR.

By the Governor:

ELISHA C. DUKES, Secretary of State

CHAPTER 536

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

CHARLES L. TERRY, JR.
GOVERNOR OF THE SAID STATE

To all Persons to whom these Presents shall come, Greetings :

Whereas, an election was held in the State of Delaware, on Tuesday, the 5th day of November, in the year of our Lord one thousand nine hundred and sixty-eight that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution of the United States and the Constitution and Laws of the State of Delaware, in that behalf, for the election of a Representative for the people of the said State, in the Ninety-first Congress of the United States; and

Whereas, the official certificates or returns, of the said election, held in the several counties of the said State, having been duly received and examined by the Governor, it appears from them that the votes in the said counties respectively for such Representative were cast as follows, to wit:

NEW CASTLE COUNTY

William V. Roth, Jr.	85,587
Harris B. McDowell, Jr.	60,683

KENT COUNTY

William V. Roth, Jr.	18,648
Harris B. McDowell, Jr.	9,735

SUSSEX COUNTY

William V. Roth, Jr.	18,592
Harris B. McDowell, Jr.	12,575

And whereas, the said returns of the election for the choice of a Representative of and for the said State in the 91st Con-

gress of the United States, as aforesaid, duly made out, signed and executed, having been duly delivered to the Governor by the Superior Court of said counties, and the Governor having examined said returns as aforesaid, and enumerated and ascertained the number of votes for each and every candidate or person voted for, for such Representative, the result appears as follows, to wit:

Whole number of votes for William V. Roth, Jr. . . . 117,827
Whole number of votes for Harris B. McDowell, Jr. . 82,993

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby declare that William V. Roth, Jr., has received the highest vote at the election aforesaid, and therefore has been and is duly and legally elected the Representative of and for the State of Delaware in the Ninety-first Congress of the United States.

GIVEN UNDER MY HAND and the Great Seal of the said State, at Dover, the 15th day of November in the year of our Lord one thousand nine hundred and sixty-eight and of the Independence of the said State the one hundred and ninety-third.

(GREAT SEAL)

CHARLES L. TERRY, JR.

By the Governor:

ELISHA C. DUKES, Secretary of State

CHAPTER 537

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

CHARLES L. TERRY, JR.
GOVERNOR OF THE SAID STATE

To all Persons to whom these Presents shall come, Greetings :

Whereas, an election was held in the State of Delaware, on Tuesday, the 5th day of November, in the year of our Lord one thousand nine hundred and sixty-eight that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution and Laws of the State of Delaware, in that behalf, for the election of an Auditor of Accounts for the State of Delaware.

Whereas, the official certificates or returns, of the said election, held in the several counties of the said State, having been duly received and examined by the Governor, it appears from them that the votes in the said counties respectively for such Auditor of Accounts were cast as follows, to wit:

NEW CASTLE COUNTY

George W. Cripps	80,757
Walter J. Hoey	63,822

KENT COUNTY

George W. Cripps	12,950
Walter J. Hoey	10,188

SUSSEX COUNTY

George W. Cripps	16,840
Walter J. Hoey	13,919

And whereas, the said returns of the election as aforesaid, duly made out, signed and executed, having been duly delivered

to the Governor by the Superior Court of said counties, and the Governor having examined said returns as aforesaid, and enumerated and ascertained the number of votes for each and every candidate or person voted for, for such Auditor of Accounts, the result appears as follows, to wit:

Whole number of votes for George W. Cripps	110,547
Whole number of votes for Walter J. Hoey	87,929

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby declare George W. Cripps has received the highest vote at the election aforesaid, and therefore has been and is duly and legally elected Auditor of Accounts for the State of Delaware.

GIVEN UNDER MY HAND and the Great Seal of the said State, at Dover, the 15th day of November in the year of our Lord one thousand nine hundred and sixty-eight and of the Independence of the said State the one hundred and ninety-third.

(GREAT SEAL)

CHARLES L. TERRY, JR.

By the Governor:

ELISHA C. DUKES, Secretary of State

CHAPTER 538

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

CHARLES L. TERRY, JR.
GOVERNOR OF THE SAID STATE

To all Persons to whom these Presents shall come, Greetings :

Whereas, an election was held in the State of Delaware, on Tuesday, the 5th day of November, in the year of our Lord one thousand nine hundred and sixty-eight that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution and Laws of the State of Delaware, in that behalf, for the election of a State Treasurer of the State of Delaware.

Whereas, the official certificates or returns, of the said election, held in the several counties of the said State, having been duly received and examined by the Governor, it appears from them that the votes in the said counties respectively for such State Treasurer were cast as follows, to wit:

NEW CASTLE COUNTY

Daniel J. Ross	79,065
Mary Etta Gooding	66,360

KENT COUNTY

Daniel J. Ross	12,302
Mary Etta Gooding	10,621

SUSSEX COUNTY

Daniel J. Ross	17,083
Mary Etta Gooding	13,682

And whereas, the said returns of the election as aforesaid, duly made out, signed and executed, having been duly delivered to the Governor by the Superior Court of said counties, and the Governor having examined said returns as aforesaid, and enum-

erated and ascertained the number of votes for each and every candidate or person voted for, for such State Treasurer, the result appears as follows, to wit:

Whole number of votes for Daniel J. Ross	108,450
Whole number of votes for Mary Etta Gooding	90,663

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby declare that Daniel J. Ross has received the highest vote at the election aforesaid, and therefore has been and is duly and legally elected State Treasurer of the State of Delaware.

GIVEN UNDER MY HAND and the Great Seal of the said State, at Dover, the 15th day of November in the year of our Lord one thousand nine hundred and sixty-eight and of the Independence of the said State the one hundred and ninety-third.

(GREAT SEAL)

CHARLES L. TERRY, JR.

By the Governor:

ELISHA C. DUKES, Secretary of State

CHAPTER 539

STATE OF DELAWARE
EXECUTIVE DEPARTMENT

PROCLAMATION

Whereas, our Federal Constitution has its roots in the very earliest struggles of the American people for liberty; and

Whereas, the wisdom and foresight of our founding fathers has provided a strong, yet flexible, foundation on which this great Nation has grown and prospered; and

Whereas, Richard Bassett, Gunning Bedford, Jr., Jacob Broom, John Dickinson and George Read represented Delaware at the Federal Constitutional Convention which drafted our basic charter of national sovereignty; and

Whereas, following the adoption of this Constitution by the Convention on September 17, 1787, this document was submitted to each of the thirteen colonies for their approval; and

Whereas, recognizing the need for a strong, stable central government, ten delegates from each of Delaware's three counties unanimously ratified the Constitution on December 7, 1787, at a special convention in Dover, thereby making Delaware the first of the original thirteen states to do so; and

Whereas, in 1939, the General Assembly of the State of Delaware officially designated each December 7th as "Delaware Day" in commemoration of this historic event; and

Whereas, on this December 7th, the State of Delaware will observe the 181st anniversary of this brave and foresighted action which has given our State its proud title of "The First State."

Now, therefore, I, Charles L. Terry, Jr., Governor of the State of Delaware, do hereby proclaim Saturday, December 7, 1968 as

DELAWARE DAY

and urge all schools, churches, civic and fraternal organizations to participate in appropriate observances of this significant event. I further urge that, in these troubled times, all citizens of "The First State" reflect upon the need to keep alive the aspirations of the men who planned this heritage which is ours.

Further, I direct that, on this day, our national and state flags be flown from all public buildings, and I urge all our citizens to join in this display of our colors.

IN WITNESS WHEREOF, I, Charles L. Terry, Jr., Governor of the State of Delaware, have hereunto set my hand and caused the Great Seal of the said State to be hereunto affixed at Dover this
(GREAT SEAL) 27th day of November in the year of our Lord, one thousand nine hundred and sixty-eight, and of the Independence of the United States of America, the one hundred and ninety-third.

CHARLES L. TERRY, JR., Governor

Attest: ELISHA C. DUKES, Secretary of State

STATE OF DELAWARE
DEPARTMENT OF STATE
DOVER

November 5, 1968

In compliance with the provisions of Section 907, Title 29, Delaware Code, I have caused to be examined the original enrolled bills and resolutions and proclamations of the Governor and other orders of a public nature, and have collated the text of this Volume with the originals on file and corrected any discrepancies and have caused to be published this edition of the Laws of Delaware, passed by the 124th General Assembly at its first regular session which convened on Tuesday, the third day of January, A.D. 1967 and terminated without formal adjournment sine die at the beginning of the second regular Session of the 124th General Assembly and at its second regular session which convened on Tuesday, the sixth day of February, A.D. 1968 and terminated without formal adjournment sine die with the election of the members of the 125th General Assembly.

ELISHA C. DUKES

Secretary of State

CHANGES IN THE DELAWARE CODE

Listed below are the sections of the Delaware Code which have been amended, repealed or added by the 124th General Assembly.

Where a general amendment has been made which involves a change in many sections of the Delaware Code such change has been listed in this table under the sections most directly affected. In a few cases the session law cited purports to amend a different section of the Code than that later assigned by the Delaware Code Revision Committee. In such cases the session law is cited under both the Code section it purports to amend and under the Code section later assigned. When a law did not purport to amend a Code section but has been assigned a section number by the Commission such law is listed herein under the section assigned to it.

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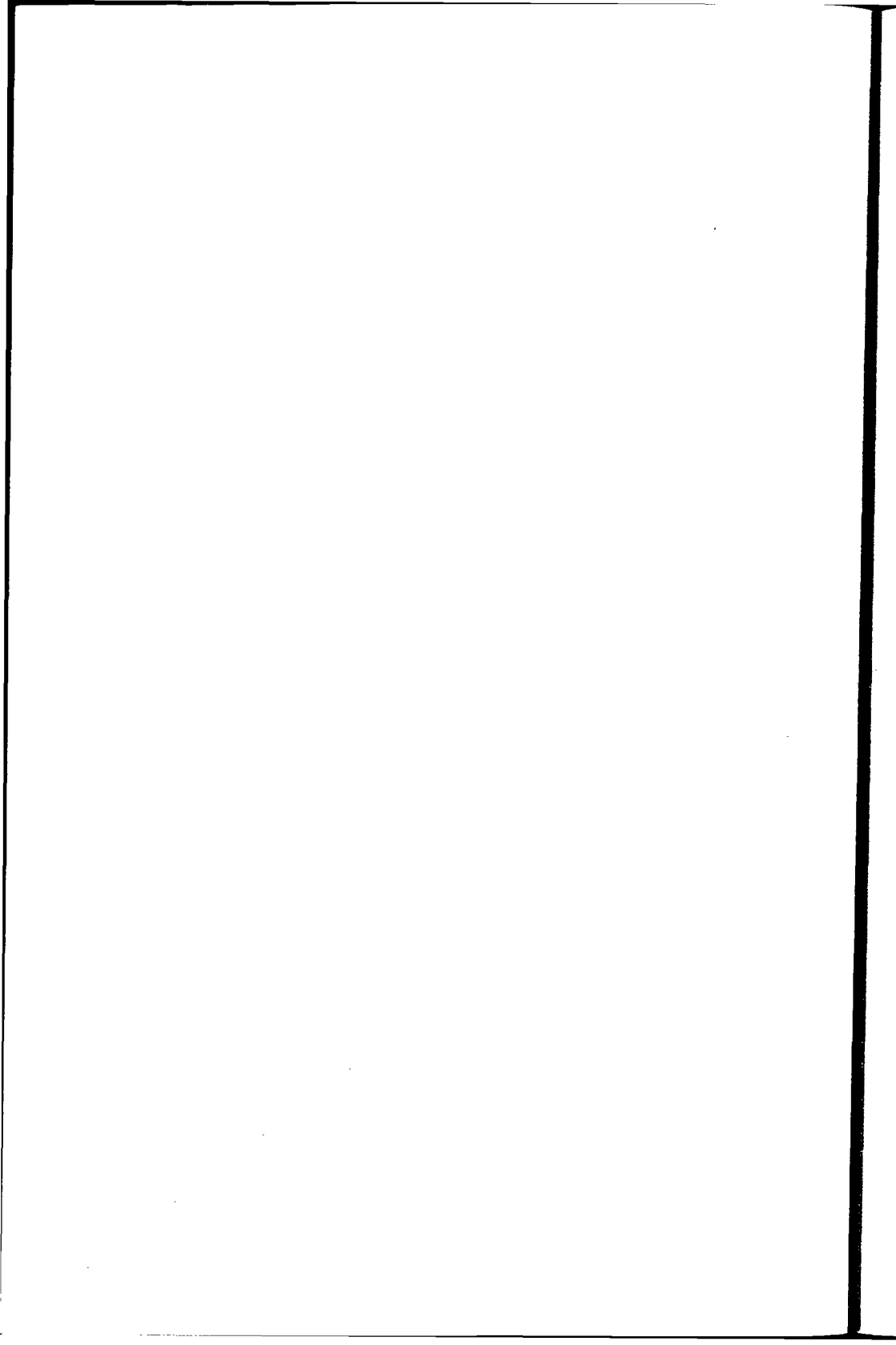
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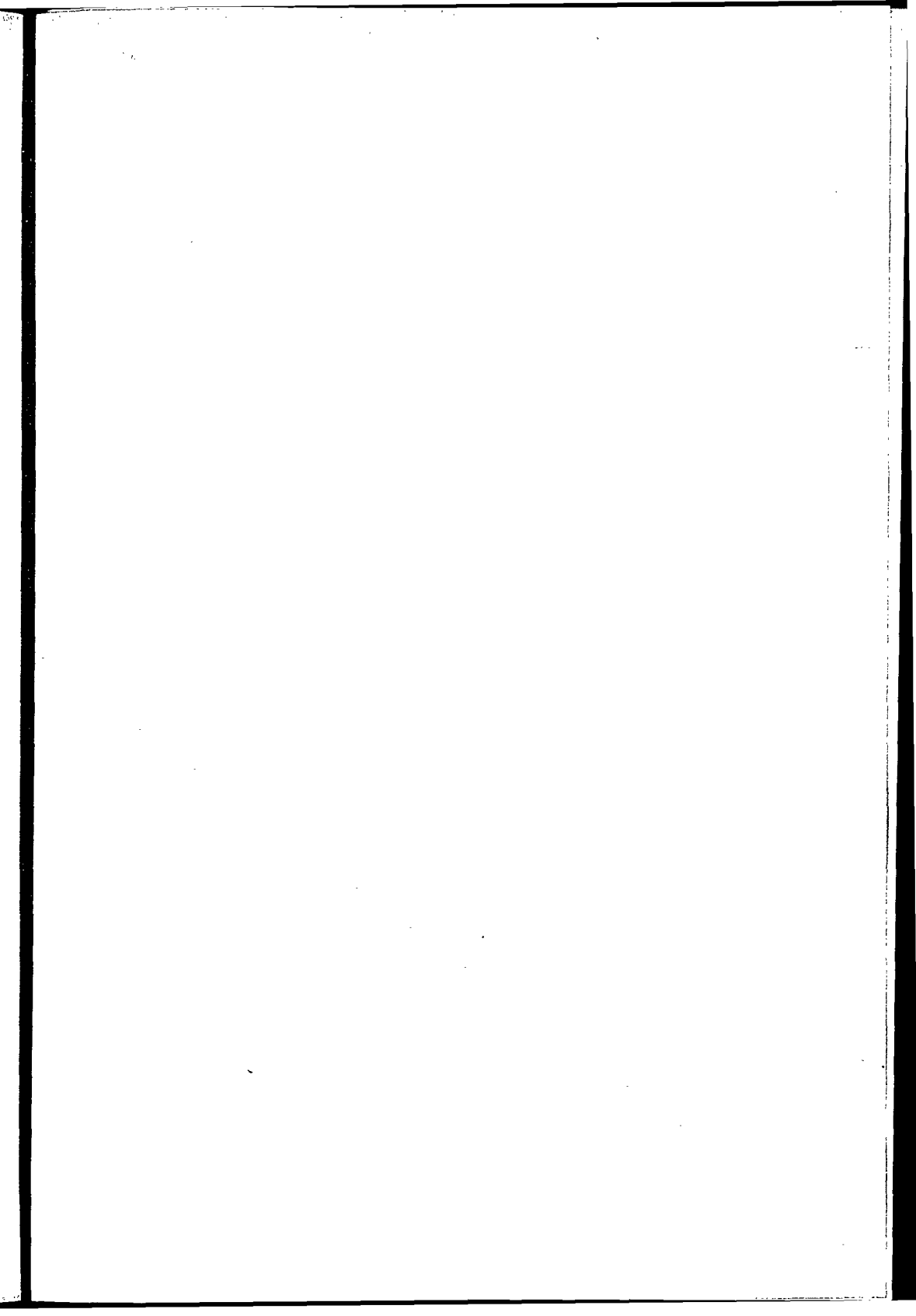
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