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OFFICE OF THE PRESIDENT

No. 1162.

5 September 1997

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 31 of 1997: Insurance Amendment Act, 1997.

KANTOOR VAN DIE PRESIDENT

No. 1162.

5 September 1997

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 31 van 1997: Wysigingswet op Versekering, 1997.

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Insurance Act, 1943, so as to preclude **any agent, broker or other person who is not a registered insurer, from receiving on behalf of an insurer any premiums relating to short-term insurance business unless expressly authorized thereto in writing by the insurer concerned; to limit, to one per policy, the number of those that may be so authorized to receive such premiums from an insured who is a natural person; to provide that the security to be furnished by any such agent, broker or person for any such premiums received on behalf of an insurer, be increased; to provide for the protection of policyholders' interests also in the case where they pay their premiums to any such agent, broker or other person who has failed to furnish such security; and to provide for incidental matters.**

(English text signed by the President.)
(Assented to 28 August 1997.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 20bis of Act 27 of 1943, as inserted by section 17 of Act 10 of 1965, substituted by section 13 of Act 54 of 1989 and amended by section 5 of Act 104 of 1993

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1. Section 20bis of the Insurance Act, 1943, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) (a) Subject to the provisions of **[subsections (2), (3) and (4) no registered insurer shall authorize or permit an] this section—**

(i) an agent, broker or other person, not being a registered insurer [to 10 retain or deal with], may not receive any moneys in respect of premiums [received other than in terms of subsection (3)] relating to short-term insurance business on behalf of [such] an insurer [and relating to short-term insurance business carried on by such insurer] who carries on such business in the Republic, 15 unless the insurer, expressly and in writing, has authorized such agent, broker or other person in that regard and the agent, broker or other person has furnished security in accordance with the

- provisions of subsection (2): Provided that **[the provisions of this section are not applicable to a reinsurer or to premiums received in respect of a reinsurance policy]** no insurer may authorize more than one agent, broker or other person to receive any such moneys in respect of the same policy if it is a policy constituting personal lines business; 5
- (ii) no insurer may permit an agent, broker or other person authorized in terms of subparagraph (i), to retain or deal with any such moneys otherwise than in accordance with subsection (3). 10
- (b) The provisions of paragraph (a) shall not apply to a reinsurer or to premiums received in respect of a reinsurance policy.
- (c) For the purposes of paragraph (a), 'personal lines business' means short-term insurance business in the case where the insured is a natural person."; 15
- (b) in subsection (2)— 15
- (i) by the substitution for the expression "20 per cent", wherever it occurs in paragraph (b), of the expression "30 per cent"; and
- (ii) by the substitution for subparagraph (ii) of paragraph (c) of the following subparagraph: 20
- "(ii) accompanied by a report which, in the case of an agent, broker or other person registered as a company under the Companies Act, 1973 (Act No. 61 of 1973), has been prepared, in the form prescribed by regulation, by an auditor registered under the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), [and] or, in the case of any other agent, broker or person, has been so prepared by a person who qualifies as an accounting officer of a close corporation as contemplated in section 60 of the Close Corporations Act, 1984 (Act No. 69 of 1984), and who may not be in the service of the undertaking, but who shall act by special instruction in an independent capacity,"; and 30
- (c) by the substitution for subsection (5) of the following subsection: 35
- "(5) Payment of a premium, by a policyholder in terms of his insurance policy, to an agent, broker or other person **[referred to]** authorized in terms of subsection (1) shall be deemed to be payment in terms of such policy, whether such agent, broker or other person has furnished security in compliance with subsection (2), or not."

Short title and commencement

2. This Act will be called the Insurance Amendment Act, 1997, and will come into operation on a date to be determined by the President by proclamation in the *Gazette*. 40