

SB 494

FILED

2009 MAY -8 PM 3:41

WEST VIRGINIA LEGISLATURE

OFFICE OF THE CLERK
WEST VIRGINIA
DEPARTMENT OF STATE

**SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009**



ENROLLED

Senate Bill No. 494

(BY SENATOR MINARD)

[Passed April 10, 2009; in effect ninety days from passage.]

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SECRETARY OF STATE

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Senate Bill No. 494

(BY SENATOR MINARD)

[Passed April 10, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §33-2-11 of the Code of West Virginia, 1931, as amended, relating to authorizing the Insurance Commissioner to order restitution in certain cases.

Be it enacted by the Legislature of West Virginia:

That §33-2-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-11. Enforcement of orders; revocation of licenses; court action.

1 In addition to examinations and investigations expressly
2 authorized by this chapter, the commissioner may conduct
3 examinations and investigation of insurance matters he or
4 she considers proper to determine whether any person has
5 violated any provision of this chapter or to secure infor-
6 mation useful in the lawful administration of his or her
7 duties. If the commissioner determines, after notice and

8 hearing, that any person is transacting insurance in an
9 illegal, improper or unjust manner or is failing to pay
10 losses and obligations when they become due, excepting
11 claims to which there is a substantial defense, he or she
12 may order the person to discontinue the illegal, improper
13 or unjust manner of transacting insurance, to adjust and
14 pay his or her obligations as they become due: *Provided*,
15 That in any order issued pursuant to subsection (j), section
16 nine of this article or entered as a result of a regulatory
17 enforcement action initiated and prosecuted by the
18 commissioner pursuant to this section or section eleven,
19 article three of this chapter, the commissioner may, in
20 addition to or in lieu of any other penalties or remedies
21 provided therein, order an insurer to pay restitution to
22 affected persons. If a person fails or refuses within twenty
23 days after notice to obey the order, the commissioner may
24 revoke any license issued by the commissioner and held by
25 the person. In addition, the commissioner may apply to
26 the circuit court, or the judge in vacation, having jurisdic-
27 tion for an injunction or the appointment of a receiver, or
28 for both. The court or judge may enforce the order of the
29 commissioner by injunction or by appointment of a
30 receiver to take charge of the affairs and property of the
31 person, or both, and may make further orders as may be
32 necessary and proper to effectuate the injunction or
33 receivership.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]

.....
Chairman Senate Committee

[Handwritten Signature]

.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature]

.....
Clerk of the Senate

[Handwritten Signature]

.....
Clerk of the House of Delegates

[Handwritten Signature]

.....
President of the Senate

[Handwritten Signature]

.....
Speaker House of Delegates

The within as appended this the 5th
Day of Mar, 2009.

[Handwritten Signature]

.....
Governor

PRESENTED TO THE
GOVERNOR

MAY 6 2009

Time 11:00 am