

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

Committee Substitute for

SENATE BILL No. 224

(By Mr.)



PASSED March 4, 1947

In Effect July 1, 1947 **Passage**

224



ENROLLED

COMMITTEE SUBSTITUTE FOR

Senate Bill No. 224

(By MR. JOHNSTON)

[Passed March 4, 1947; in effect July 1, 1947.]

AN ACT to amend article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, creating and establishing a state agency to be called the "Insurance Commissioner of West Virginia," who shall be known and designated as the "Insurance Commissioner," and who shall be appointed and designated by the governor, by and with the advice and consent of the senate; prescribing the rights, powers, privileges and compensation of said insurance commissioner; transferring the rights, powers, duties and privileges heretofore vested in the auditor as ex officio insurance commissioner to said insurance commissioner, appointed hereunder; and fixing the term of office of said insurance commissioner.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

Article 1. Insurance Commissioner of West Virginia.

Section 1. *General Purposes; Creation of Office of Insurance Commissioner; Appointment and Term of Office of Commissioner.*—There is hereby created and established on July first, one thousand nine hundred forty-seven a state agency to be known as the “Insurance Commissioner of West Virginia” which shall consist of an insurance commissioner and such employees as may be authorized by law. The commissioner shall be a citizen and resident of this state. He shall, on or before July first, one thousand nine hundred forty-seven, be appointed and designated as the “Insurance Commissioner” by the governor, by and with the advice and consent of the senate, to serve for a period of six years. All appointments to said office made thereafter shall be for a period of six years, excepting that in a case of a vacancy the appointment shall be made to fill the unexpired term.

17 Before taking the oath of office said insurance commis-
18 sioner shall sever any and all connection either direct or
19 indirect with any or all companies subject to supervision
20 by the insurance commissioner and with any person,
21 firm, corporation or agency representing any such com-
22 pany or companies. He shall devote his entire time to the
23 discharge of the duties of the office of insurance com-
24 missioner, and shall engage in no other form of work,
25 business endeavor or business occupation.

Sec. 2. *Compensation of Commissioner; Expenses.*—

2 The insurance commissioner shall receive an annual sal-
3 ary of six thousand dollars and actual expenses incurred
4 in the performance of official business which compensa-
5 tion shall be in full for all services. The office of the com-
6 missioner shall be established and maintained in the cap-
7 itol or other suitable place in Charleston. The commis-
8 sioner may establish such rules and regulations as may
9 be necessary or convenient for the discharge of his duties,
10 and may employ such persons and incur such expenses
11 as may be necessary in the discharge of his duties as
12 imposed by law, and shall fix the compensation of such

13 employees, but such compensation shall not exceed the
14 appropriation therefor. All compensation for salaries of
15 the commissioner, for salaries and wages of employees of
16 the commissioner and for expenses of the commissioner
17 as herein authorized shall be paid monthly out of the
18 state treasury by requisition upon the auditor, properly
19 certified by the insurance commissioner.

Sec. 3. *Transfer of Rights, Powers, Duties and Priv-*
2 *ileges, Vested in the Auditor as Insurance Commissioner*
3 *to the Insurance Commissioner.*—All rights, powers, du-
4 ties and privileges vested in, exercised, or enjoyed by the
5 auditor of this state as insurance commissioner, shall, on
6 and after the first day of July, one thousand nine hundred
7 forty-seven, be vested in, exercised, and enjoyed by the
8 insurance commissioner appointed hereunder, and his
9 successors in office. All papers, blanks, reports, docu-
10 ments and records heretofore in the possession, custody,
11 or control of the auditor of this state as insurance com-
12 missioner shall be, and are hereby, transferred to, and
13 shall remain in, the possession, custody and control, of
14 the insurance commissioner appointed hereunder.

Sec. 3-a. *Definition of Term "Insurance Company."*—

2 "Insurance company" as used in this article means all
3 insurers or insurance carriers, including, but not limited
4 to, stock insurance companies, mutual insurance com-
5 panies, reciprocal and inter-insurance exchanges, and all
6 other types of insurers and insurance carriers.

Sec. 4. *General Duties of Commissioner.*—The com-
2 missioner shall see that all laws respecting insurance
3 companies are faithfully executed; shall furnish to each
4 insurance company doing business in this state printed
5 forms of the statements required by law; shall on or be-
6 fore the tenth day of each month pay into the state treas-
7 ury all the fees which he may have received during the
8 month previous; and may administer oaths in the dis-
9 charge of his duties. He shall report to the governor
10 changes which, in the opinion of the commissioner, should
11 be made in the laws relating to insurance.

Sec. 5. *Examination of Resident Insurance Companies.*

2 --The commissioner or his accredited examiners shall, at
3 least once in four years, visit each company or associ-
4 ation under the jurisdiction and supervision of the com-

5 missioner and thoroughly examine its financial condition
6 and ascertain whether it has complied with all provi-
7 sions of the laws of this state. All the expenses of such
8 examination shall be borne by the company or associ-
9 ation examined.

Sec. 6. *Examination and Supervision of Business Meth-*
2 *ods of Insurance Companies.*—The commissioner may
3 from time to time examine the methods of business of
4 any company, corporation, association, partnership or
5 combination of persons doing any kind or form of insur-
6 ance business in this state, and may order it or them to
7 answer such questions as he may deem necessary for
8 the purpose of such inquiry; and if, in the opinion of the
9 commissioner, after due notice and hearing, any such
10 company, corporation, association, partnership or com-
11 bination of persons is doing business in an illegal, im-
12 proper or unjust manner, or failing to adjust and pay
13 losses and obligations when they become due, excepting
14 claims to which there is a substantial defense, he may
15 order it to discontinue such illegal or improper method

16 of doing business and may order it to adjust and pay its
17 losses and obligations as they become due.

18 And in order to foster and protect the businesses con-
19 ducted under the supervision of said insurance commis-
20 sioner, and to put this legislative policy into effect ,the
21 insurance commissioner is authorized and directed to
22 maintain a continuous investigation of the regulation and
23 control of such businesses generally. When, because of
24 regulations in other states, an emergency arises which
25 endangers the stability of such businesses within this
26 state, the commissioner, after investigation and deter-
27 mination, shall have the authority to make from time to
28 time such temporary regulations as may be necessary to
29 protect such businesses carried on in this state against
30 discrimination because of regulations existiting in other
31 states.

32 The commissioner shall promptly send certified copies
33 of all orders issued under the authority of this section to
34 each company, corporation, association, partnership or
35 combination of persons under his control, supervision or
36 regulation.

Sec. 7. *Enforcement of Orders of Commissioner.*—If

2 any such company, corporation, association, partnership,
3 or combination of persons shall fail or refuse within ten
4 days to obey any such order of the insurance commis-
5 sioner, he may apply to a court or judge having jurisdic-
6 tion for an injunction or for the appointment of a receiver,
7 or for both, and such court or judge may enforce such order
8 of the commissioner by injunction, or by appointing a re-
9 ceiver to take charge of the property and affairs of such
10 company, corporation, association, partnership or com-
11 bination of persons, or both; and may make all such fur-
12 ther orders as may be necessary or proper to carry into
13 effect such an injunction or receivership.

Sec. 8. *Fees Payable to Commissioner.*—Except where

2 it is otherwise specially provided, the commissioner shall
3 demand and receive the following fees from all insurance
4 companies: For annual fee for each license, ten dollars;
5 for receiving and filing annual reports, ten dollars; for
6 valuation of policies of life insurance companies organ-
7 ized under the laws of this state, one and one-half cents
8 for each one thousand dollars of insurance; for valuation

9 of policies of life insurance companies organized under
10 the laws of any other state admitted to transact business
11 in this state, such rate for each one thousand dollars of
12 insurance valued as is imposed by such other state upon
13 any similar insurance company organized under the laws
14 of this state admitted to transact business in such other
15 state; for filing any additional paper required by law,
16 twenty-five cents; for every certificate of valuation, copy
17 of report or certificate of condition of company to be
18 filed in any other state, five dollars; for each agent's cer-
19 tificate of authority and copy of report, five dollars.

Sec. 9. *Report by Commissioner.*—The commissioner
2 shall annually, within sixty days after the first day of
3 January, submit to the governor a report of his official
4 acts, and of the condition of insurance companies doing
5 business in this state, with a condensed statement of their
6 reports made to him, an abstract of all accounts rendered
7 to any court by the receivers of insolvent insurance com-
8 panies, and the reports, or abstracts of the reports, made
9 to the insurance commissioner by such receivers, to-

10 gether with a statement of the fees received from all such
11 companies and paid by him into the state treasury.

Sec. 10. *Repeal of Conflicting Acts.*—All acts or parts
2 of acts in conflict with this article are hereby repealed.

Sec. 11. *Severability.*—The provisions of this act shall
2 be construed to be severable and if any are held uncon-
3 stitutional or otherwise invalid, such invalidity or un-
4 constitutionality shall not affect the operation of the re-
5 maining provisions.

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

Forest L. McKee
Chairman Senate Committee

R. L. Matthews
Chairman House Committee

Originated in the Senate

Takes effect July 1, 1947 ~~passage~~.

Howard Meyer
Clerk of the Senate

J. R. Hill
Clerk of the House of Delegates

Donald S. Vickers
President of the Senate

John E. Almon
Speaker House of Delegates

The within Approved this the 9th
day of March, 1947.

Clarence M. ...
Governor.



Filed in the Office of the Secretary of State
of West Virginia MAR 8 1947
WM. S. O'BRIEN,
SECRETARY OF STATE