

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951



ENROLLED

HOUSE BILL No. 225

(By Mr. Meadows)



PASSED March 9, 1951

In Effect from Passage



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House Bill No. 225
(By MR. MEADOWS)

[Passed March 9, 1951; in effect from passage.]

AN ACT to amend and reenact section thirteen, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, providing for suspension of an insurance company's certificate of authority to do business in West Virginia, if condition imperils the interest of policyholders or creditors.

Be it enacted by the Legislature of West Virginia:

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

Section 13. *Refusal to Issue, Suspension or Revocation*
2 of *License*.—The insurance commissioner may refuse to
3 issue a certificate of authority to any domestic or for-
4 eign company if in his judgment, such refusal will best
5 promote the interests of the people of this state. When
6 the insurance commissioner upon investigation is satis-

7 fied that any company acting under his supervision and
8 holding a license, or certificate of authority, from him, is
9 in such a condition that its further transaction of business
10 in this state would be hazardous to policyholders and
11 creditors in this state and to the public, he may proceed
12 to suspend such license or certificate of authority for a
13 period not to exceed twelve months. When the insurance
14 commissioner upon investigation is satisfied that any
15 company acting under his supervision and holding a li-
16 cense, or certificate of authority, from him, is insolvent,
17 or has failed to comply with or is violating the insurance
18 laws of this state, or is conducting business fraudulently,
19 or is not carrying out its contracts in good faith, he shall
20 proceed to revoke such license, or certificate of authority.
21 When the insurance commissioner, on application, shall
22 refuse to issue any license, or certificate of authority, if
23 upon the hearing the commissioner finds that the reasons
24 stated for refusing, suspending or revoking the license
25 are true, he may refuse to issue, may suspend or may
26 revoke, the license or certificate of authority. Such state-
27 ment and notice, when the company has been admitted

28 to do business in this state, may be served in the manner
29 provided for the services of process in section forty-three
30 of this article. If the company has not been admitted
31 to do business in this state, such statement and notice
32 may be served as a notice is served under section one,
33 article two, chapter fifty-six of this code, upon any person
34 in this state who shall be designated by the company
35 for such purpose upon the application for such license,
36 or certificate of authority, or by mailing the same ad-
37 dressed to the company at such place as shall be desig-
38 nated by the company on such application, the posting to
39 be at such a time that the statement and notice should
40 reach its destination by due course of mail not less than
41 thirty days before such hearing. The company may ap-
42 pear with witnesses, and may be heard through its
43 officers or agents, or by counsel, or both. The insurance
44 commissioner may take such oral or written proof, for
45 or against the issuance, suspension or revocation, as he
46 may deem advisable. When the insurance commissioner,
47 on application, shall refuse to issue any license or cer-
48 tificate of authority, whether for any of the reasons afore-

49 said or in pursuance of any other provision of this chapter
50 and article five of chapter thirty-one, the company shall
51 be furnished a statement of the reasons for such failure
52 to issue and shall be given thirty days notice of the time
53 and place of a hearing at which the issuance commissioner
54 will proceed to determine whether such license or cer-
55 tificate shall be finally refused. When the insurance com-
56 missioner upon investigation is satisfied that the license
57 or certificate of authority of any company should be re-
58 voked or suspended, whether for any of the reasons afore-
59 said or in pursuance of any other provision of this chapter
60 and article five of chapter thirty-one, the company shall
61 be furnished a statement for the reasons assigned by the
62 commissioner for such action and shall be ordered to
63 show cause why such suspension or revocation should
64 not be ordered, upon at least thirty days notice of the
65 time and place of a hearing, at which the insurance com-
66 missioner will proceed to determine whether such license
67 or certificate shall be suspended or revoked, as the case
68 may be.

69 Any company, the application of which for a license has

70 been refused, or the license of which has been suspended
71 or revoked, in the manner aforesaid, may, within thirty
72 days after the decision of the insurance commissioner
73 upon the hearing aforesaid, present its petition in writing
74 to the circuit court of the county in which the seat of
75 government of this state is situated, or to the judge of
76 such court in vacation, praying for a review and reversal
77 of such decision. Before presenting its petition to the
78 court or judge, the petitioner shall mail a copy thereof to
79 the insurance commissioner. Upon the receipt of such
80 copy, the insurance commissioner shall forthwith trans-
81 mit to the clerk of such court the record of the proceed-
82 ings before him. The court or judge shall fix a time for
83 the review of said proceedings at his earliest convenience.
84 Notice in writing of the time and place of such hearing
85 shall be given to the insurance commissioner at least ten
86 days before the date set therefor. The court or judge shall,
87 without a jury, hear and determine the case upon the
88 record of the proceedings before the insurance commis-
89 sioner. The court or judge may enter and order revising
90 or reversing the decision of the insurance commissioner,

91 if it appears that the decision was clearly wrong, or may
92 affirm such decision. The judgment of the circuit court
93 or judge may be reviewed upon appeal in the supreme
94 court of appeals: *Provided*, That nothing contained in this
95 section shall be taken or construed as preventing any such
96 company from continuing in good faith all contracts made
97 in this state during the time such company was legally
98 authorized to transact business therein.

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

Robert C. Byrd
Chairman Senate Committee

James M. Loop
Chairman House Committee

Originated in the House of Delegates

Takes effect *from* passage.

Howard Meyer
Clerk of the Senate

J. R. Goff
Clerk of the House of Delegates

Frank B. Rowland
President of the Senate

W. E. Canine
Speaker House of Delegates

The within *approved* this the *16th* day of *March*, 1951.

Chas. S. Pattison
Governor



Filed in the Office of the Secretary of State

of West Virginia

MAR 16 1951

D. PITT O'BRIEN,
SECRETARY OF STATE