

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 63

(By Mr. Ames)

PASSED Mar 5 1955

In Effect 90 Days from Passage

Filed In the Office of the Secretary of State
of West Virginia **MAR 11 1955**
D. PITT O'BRIEN
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 63

(Originating in the Committee on Insurance.)

[Passed March 5, 1955; in effect ninety days from passage.]

AN ACT to amend article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding five new sections to be designated as sections four-a, four-b, four-c, four-d, and four-e to provide authority to subpoena witnesses and tax the cost of hearings.

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 amended, be amended by enacting five new sections to be designated sections four-a, four-b, four-c, four-d, and four-e to read as follows:

Section 4-a. *Authority to Subpoena.*—The commis-

2 sioner or any person conducting a hearing or investiga-
3 tion by his authority shall have power to take depositions,
4 to subpoena witnesses, compel their attendance, admin-
5 ister oaths, examine any person under oath, and to compel
6 any person to subscribe to his testimony after it has been
7 correctly reduced to writing, and in connection therewith,
8 to require the production of any books, papers, records,
9 correspondence, or other documents which he deems
10 relevant to the inquiry.

Sec. 4-b. *Witness Fees.*—No person shall be excused
2 from attending and testifying in obedience to a subpoena
3 issued hereunder on the ground of failure of tender or
4 payment of a witness fee or mileage fee unless the wit-
5 ness makes demand for such payment as a condition prece-
6 dent to the giving of testimony or the production of docu-
7 ments required by the subpoena, and unless such payment
8 is not thereupon made. No insurer, insurance agent, in-
9 surance broker or other person subject to the provisions
10 of this chapter whose conduct, condition or practices are
11 being investigated, and no officer, director or employee
12 of any such person, shall be entitled to witness or mile-

13 age fees. In the event that witness or mileage fees are
14 demanded and paid, the amount of same shall be de-
15 termined as ten dollars for each day of attendance and
16 ten cents per mile for each mile necessarily traveled to
17 the place of attendance, and the same for returning. The
18 sum to which a witness is entitled shall be paid out of
19 the treasury in any case in which the attendance is for
20 the commissioner. In all other cases, it shall be paid by
21 the party at whose instance the summons is issued.

Sec. 4-c. *Service of Subpoena.*—The subpoena shall be
2 served in the same manner as if issued from a circuit
3 court unless otherwise provided. In case a person re-
4 fuses to obey any subpoena issued hereunder or to testify
5 with respect to any matter concerning which he may be
6 lawfully interrogated, the commissioner or his representa-
7 tive may invoke the aid of any circuit court in order that
8 the testimony or evidence be produced. Upon proper
9 showing, such court shall issue a subpoena or order re-
10 quiring such person to appear before the commissioner or
11 his representative and produce all evidence and give all
12 testimony touching the matter in question. A person

13 failing to obey such order may be punished by such court
14 as for contempt.

2 Sec. 4-d. *Immunity from Prosecution.*—If any person
3 shall ask to be excused from attending and testifying or
4 from producing any books, papers, records, correspon-
5 dence or other documents at any hearing conducted pur-
6 suant to this chapter or in any cause or proceeding in-
7 stituted by the commissioner pursuant to this chapter on
8 the ground that the testimony or evidence required of
9 him may tend to incriminate him or subject him to a
10 penalty or forfeiture, and shall notwithstanding be di-
11 rected by the insurance commissioner to give such testi-
12 mony or produce such evidence, he must none the less
13 comply with such direction, but he shall not thereafter be
14 prosecuted or subjected to any penalty or forfeiture for
15 or on account of any matter or thing concerning which he
16 may testify or produce evidence, pursuant thereto, and
17 no testimony so given or evidence produced shall be re-
18 ceived against him upon any criminal action, investigation
19 or proceeding: *Provided, however,* That no such individual
so testifying shall be exempt from prosecution or punish-


20 ment for any perjury or false swearing, committed by
21 him while so testifying and the testimony or evidence so
22 given or produced shall be admissible against him upon
23 any criminal action, investigation or proceeding con-
24 cerning such perjury or false swearing, nor shall he be
25 exempt from the refusal, revocation or suspension of any
26 license, permission or authority conferred, or to be con-
27 ferred, pursuant to this chapter. Any such individual
28 may execute, acknowledge and file in the office of the
29 commissioner a statement expressly waiving such im-
30 munity or privilege in respect to any transaction, matter
31 or thing specified in such statement and thereupon the
32 testimony of such person or such evidence in relation to
33 such transaction, matter or thing may be received or
34 produced before any judge or justice, court, tribunal,
35 grand jury or otherwise, and if so received or produced
36 such individual shall not be entitled to any immunity or
37 privilege on account of any testimony he may so give or
38 evidence so produced.

Sec. 4-e. *Hearing and Costs.*—The insurance commis-
2 sioner shall fix the time and place of hearing or trial.

3 The commissioner may cause to be made a stenographic
4 record of all evidence and all the proceedings had at such
5 hearing. The costs and fees paid by the state for the at-
6 tendance of witnesses, service of subpoena, and steno-
7 graphic report may be taxed against and paid by the
8 party or parties against whom the insurance commissioner
9 shall find; which costs may be recovered in a civil action.

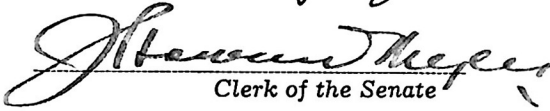
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

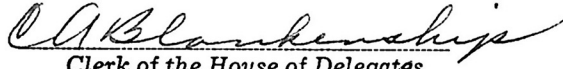

Chairman Senate Committee

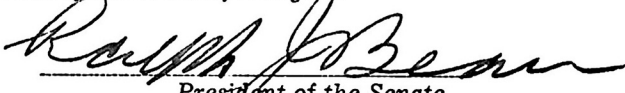

Chairman House Committee


Originated in the House of Delegates

Takes effect 90 days from passage.

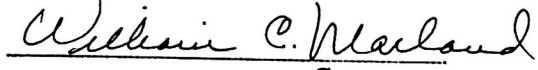

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the 10
day of March, 1955.


Governor



Filed in the Office of the Secretary of State
West Virginia MAR 11 1955
D. PITT O'BRIEN
SECRETARY OF STATE