WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979

ENROLLED
SENATE BILL NO. 408

(By Mr. Rogers)

PASSED ____________________________ 1979

In Effect ____________________________
ENROLLED

Senate Bill No. 408
(By Mr. Rogers)

[Passed March 8, 1979; in effect July 1, 1979.]

AN ACT to amend and reenact section nine, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section nine-a, all relating to allowing a domestic insurer to be examined; requiring a foreign insurance company which is examined be charged for the costs of the examinations; providing that compensation of employees of the department of insurance shall be at a rate set by the commissioner, and that compensation of other personnel be at a rate approved by the commissioner; providing a credit for a domestic insurance company against its premium tax in the amount of the cost of its examination; definition of insurance company.

Be it enacted by the Legislature of West Virginia:

That section nine, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section nine-a, all to read as follows:

ARTICLE 2. INSURANCE COMMISSIONER.
§33-2-9. Examination of insurers, agents, brokers and solicitors; access to books, records, etc.

1 (a) The commissioner or his accredited examiners shall, at such times as he deems necessary, but at least once each three years, visit each domestic insurer and thoroughly examine its financial condition and methods of doing business and ascertain whether it has complied with all the laws and regulations of this state. The com-
missioner at such times as he deems necessary may cause an examination to be conducted of any foreign or alien insurer licensed to transact insurance in this state; personnel conducting an examination of either a domestic or foreign insurer shall be compensated for each day worked at a rate set by the commissioner. Such personnel shall also be reimbursed for their travel and living expenses at the rate set by the commissioner. Personnel who are appointed by the commissioner, but are not employees of the department of insurance, shall be compensated for their work and travel and living expenses at rates approved by the commissioner, or as otherwise provided by law. If the laws of another state require or permit the insurance department or other authority thereof to make examinations of insurance companies of this state at the expense of such companies, the expenses of the commissioner in making an examination of an insurance company of such other state shall be charged to and collected from such company in the manner prescribed by the commissioner. The commissioner shall provide each company with an itemized statement of the expenses incurred in conducting the examination and shall certify a copy of such statement to the treasurer of the state. Upon receipt of the commissioner's statement, the company shall remit the amount thereof to the commissioner who shall remit that amount to the treasurer of the state for deposit in the general fund of the state of West Virginia. As used in this section "expenses" means: (1) The entire compensation for each day worked by all personnel, including those who are not employees of the department of insurance, the conduct of such examination calculated as hereinbefore provided; (2) travel and living expenses of all personnel, including those who are not employees of the department of insurance, directly engaged in the conduct of such examination, calculated at the rates as hereinbefore provided for; (3) all other incidental expenses incurred by or on behalf of such personnel in the conduct of such authorized examination. The commissioner shall make a full written report of each such examination of an insurer, certified to by the commissioner or the examiner
in charge of such examination. The commissioner shall furnish a copy of the report to the insurer examined not less than ten days prior to filing the same in his office. If such insurer so requests in writing, within such ten-day period, the commissioner shall consider the objections of such insurer to the report as proposed, and shall not so file the report until after such modifications, if any, have been made therein as the commissioner deems proper. The report, when filed, shall be admissible in evidence in any action or proceeding brought by the commissioner against the insurer examined, or its officers or agents, and shall be prima facie evidence of the facts stated therein. The commissioner or his examiners may at any time testify and offer proper evidence as to information secured during the course of an examination, whether or not a written report of the examination has at that time been either made, served, or filed in the commissioner's office. The examination of an alien insurer shall be limited to its United States business. In lieu of making his own examination, the commissioner may accept a full report of the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory official of the state of domicile of a foreign insurer or the state of entry into the United States of an insurer.

(b) The commissioner may also cause to be examined at such times as he deems necessary the books, records, papers, documents, correspondence and methods of doing business of any agent, broker or solicitor licensed by this state.

(c) For such purposes the commissioner, his deputies and employees shall have free access to all books, records, papers, documents and correspondence of all such insurers (whether domestic, foreign or alien), agents, brokers and solicitors wherever such books, records, papers, documents and records are situate.

(d) The commissioner may revoke the license of any such insurer, agent, broker or solicitor who refuses to submit to such examination.

(e) The commissioner may withhold from public inspection any examination or investigation report for such
time as he may deem prudent, but no such report shall be withheld from public inspection for longer than ninety days after the same has been filed.

§33-2-9a. Premium tax credit; insurance company.

Any insurance company which qualifies for a credit against the premium tax levied by section fourteen-a, article three, of this chapter shall be allowed an additional credit against such premium tax for the cost of any examination incurred pursuant to the previous section. Such credit for the cost of the examination shall be taken during the taxable year immediately following payment for the cost of examination unless the commissioner orders a pro-rata credit over a period not to exceed five taxable years. For purposes of this section, "insurance company" includes any domestic or foreign stock company, mutual company, mutual protective association, farmers mutual fire companies, fraternal benefit society, reciprocal or inter-insurance exchange, nonprofit medical care corporation, nonprofit health care corporation, nonprofit hospital service association, and nonprofit dental care corporation, regardless of the type of coverage written, benefits provided, or guarantees made by each.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Clarence E. Christian, Jr.  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1979.

J. Willcutt Jr.  
Clerk of the Senate

A. Bland Lucas  
Clerk of the House of Delegates

W. Lee Ballew, Jr.  
President of the Senate

John H. Lee, Jr.  
Speaker House of Delegates

The within is approved this the 28 day of March, 1979.

John F. Robinson  
Governor