

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-28-79

Time 9:30 p.m.

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979

ENROLLED

SENATE BILL NO. 408

(By Mr. Rogers)

PASSED March 8, 1979

In Effect July 1, 1979 Passage

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(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 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
- 2 shall, at such times as he deems necessary, but at least
- 3 once each three years, visit each domestic insurer and
- 4 thoroughly examine its financial condition and methods
- 5 of doing business and ascertain whether it has complied
- 6 with all the laws and regulations of this state. The com-

7 missioner at such times as he deems necessary may
8 cause an examination to be conducted of any foreign or
9 alien insurer licensed to transact insurance in this state;
10 personnel conducting an examination of either a domestic
11 or foreign insurer shall be compensated for each day
12 worked at a rate set by the commissioner. Such personnel
13 shall also be reimbursed for their travel and living ex-
14 penses at the rate set by the commissioner. Personnel
15 who are appointed by the commissioner, but are not
16 employees of the department of insurance, shall be com-
17 pensated for their work and travel and living expenses
18 at rates approved by the commissioner, or as other-
19 wise provided by law. If the laws of another state
20 require or permit the insurance department or other
21 authority thereof to make examinations of insurance
22 companies of this state at the expense of such companies,
23 the expenses of the commissioner in making an examina-
24 tion of an insurance company of such other state shall be
25 charged to and collected from such company in the man-
26 ner prescribed by the commissioner. The commissioner
27 shall provide each company with an itemized statement
28 of the expenses incurred in conducting the examination
29 and shall certify a copy of such statement to the trea-
30 surer of the state. Upon receipt of the commissioner's
31 statement, the company shall remit the amount thereof
32 to the commissioner who shall remit that amount to the
33 treasurer of the state for deposit in the general fund of
34 the state of West Virginia. As used in this section "ex-
35 penses" means: (1) The entire compensation for each
36 day worked by all personnel, including those who are
37 not employees of the department of insurance, the con-
38 duct of such examination calculated as hereinbefore pro-
39 vided; (2) travel and living expenses of all personnel,
40 including those who are not employees of the department
41 of insurance, directly engaged in the conduct of such
42 examination, calculated at the rates as hereinbefore pro-
43 vided for; (3) all other incidental expenses incurred by
44 or on behalf of such personnel in the conduct of such
45 authorized examination. The commissioner shall make
46 a full written report of each such examination of an
47 insurer, certified to by the commissioner or the examiner

48 in charge of such examination. The commissioner shall
49 furnish a copy of the report to the insurer examined not
50 less than ten days prior to filing the same in his office.
51 If such insurer so requests in writing, within such ten-
52 day period, the commissioner shall consider the objec-
53 tions of such insurer to the report as proposed, and shall
54 not so file the report until after such modifications, if
55 any, have been made therein as the commissioner deems
56 proper. The report, when filed, shall be admissible in
57 evidence in any action or proceeding brought by the
58 commissioner against the insurer examined, or its offi-
59 cers or agents, and shall be prima facie evidence of the
60 facts stated therein. The commissioner or his examiners
61 may at any time testify and offer proper evidence as to
62 information secured during the course of an examina-
63 tion, whether or not a written report of the examination
64 has at that time been either made, served, or filed in the
65 commissioner's office. The examination of an alien in-
66 surer shall be limited to its United States business. In
67 lieu of making his own examination, the commissioner
68 may accept a full report of the last recent examination
69 of a foreign or alien insurer, certified to by the insurance
70 supervisory official of the state of domicile of a foreign
71 insurer or the state of entry into the United States of an
72 insurer.

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

78 (c) For such purposes the commissioner, his deputies
79 and employees shall have free access to all books, records,
80 papers, documents and correspondence of all such in-
81 surers (whether domestic, foreign or alien), agents,
82 brokers and solicitors wherever such books, records,
83 papers, documents and records are situate.

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

87 (e) The commissioner may withhold from public in-
88 spection any examination or investigation report for such

89 time as he may deem prudent, but no such report shall
90 be withheld from public inspection for longer than ninety
91 days after the same has been filed.

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

1 Any insurance company which qualifies for a credit
2 against the premium tax levied by section fourteen-
3 a, article three, of this chapter shall be allowed an ad-
4 ditional credit against such premium tax for the cost of
5 any examination incurred pursuant to the previous sec-
6 tion. Such credit for the cost of the examination shall
7 be taken during the taxable year immediately following
8 payment for the cost of examination unless the commis-
9 sioner orders a pro-rata credit over a period not to exceed
10 five taxable years. For purposes of this section, "insur-
11 ance company" includes any domestic or foreign stock
12 company, mutual company, mutual protective association,
13 farmers mutual fire companies, fraternal benefit society,
14 reciprocal or inter-insurance exchange, nonprofit medical
15 care corporation, nonprofit health care corporation, non-
16 profit hospital service association, and nonprofit dental
17 care corporation, regardless of the type of coverage writ-
18 ten, 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 C. Chestnut Jr.
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1979.

J. C. Willson, Jr.
Clerk of the Senate

V. Blankenship
Clerk of the House of Delegates

M. T. Bullock
President of the Senate

Lytle H. Lee, Jr.
Speaker House of Delegates

The within inspected this the 28
day of March, 1979.

John F. Ralston IV
Governor

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OFFICE OF THE GOVERNOR

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