WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

ENROLLED

SENATE BILL NO. 954

(By Mr. Susman)

PASSED March 5, 1980
In Effect July 1, 1980
ENROLLED
Senate Bill No. 454
(By Mr. Susman)

[Passed March 8, 1980; in effect July 1, 1980.]

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, relating to the state insurance commissioner; creating a commissioner's examination revolving fund; and provision for the Legislature to appropriate money to start the fund.

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 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 every 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 commissioner 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 commissioner's examination revolving fund. 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. All moneys collected by the commissioner of insurance for expenses incurred by him in conducting examinations of the financial affairs of any insurance company doing business in this state for which such insurance company examined is required to pay the costs, shall be paid to the commissioner and by him paid to the treasurer of the state to the credit of a special revolving fund to be known as the "commissioner's examination revolving fund" which is hereby established: Provided, That at the end of each fiscal year should such fund contain a sum of money in excess of one hundred thousand dollars then the amount of such excess shall revert to and be placed in the general revenue fund of this state. The Legislature may appropriate moneys to start such rotary fund. Any funds expended or obligated therefrom by the commissioner shall be expended or obligated solely for defrayment of the
costs of examinations of the financial affairs of insurance
companies made by the commissioner pursuant to this
section. For purposes of this section, "insurance com-
pany" 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, nonprofit dental care corpor-
ation, health maintenance organization, or other insurer,
regardless of the type of coverage written, benefits pro-
vided, or guarantees made by each. The commissioner
shall make a full written report of each such examina-
tion of an insurer, certified to by the commissioner or
the examiner in charge of such examination. The com-
missioner shall furnish a copy of the report to the in-
surer 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 con-
sider 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 ex-
amined, or its officers or agents, and shall be prima
facie evidence of the facts stated therein. The commis-
sioner or his examiners may at any time testify and
offer other 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 in-
surer, 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 alien 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 in-
surers (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 in-
spection 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Leroy E. Christian Jr.  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1980.

Toll E. Wells  
Clerk of the Senate

C. A. Brooks  
Clerk of the House of Delegates

C. J. Brickyard  
President of the Senate

C. N. Dever  
Speaker House of Delegates

The within _________ approved _______ this the ______ day of March, 1980

Governor