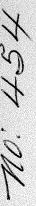
Date 3-26-80
Time 9:00 A.m.

WEST VIRGINIA LEGISLATURE REGULAR SESSION, 1980

ENROLLED

SENATE BILL NO. 454

PASSED March 8, 1980
In Effect July 7, 1980 Pessege



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
- 2 shall, at such times as he deems necessary, but at least
- 3 once every 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
- B 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
- 14 expenses at the rate set by the commissioner. Personnel
- in the late by the commissioner. I elbonic
- 15 who are appointed by the commissioner, but are not em-
- 16 ployees of the department of insurance, shall be compen-17 sated for their work, and travel and living expenses at
- 18 rates approved by the commissioner, or as otherwise
- 19 provided by law. If the laws of another state require
- 20 or permit the insurance department or other authority

21 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 24 of an insurance company of such other state shall be 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 and shall certify a copy of such statement to the treasurer 30 of the state. Upon receipt of the commissioner's state-31 ment, the company shall remit the amount thereof to 32 the commissioner who shall remit that amount to the 33 treasurer of the state for deposit in the commissioner's examination revolving fund. As used in this section 35 "expenses" 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 conduct of such examination calculated as hereinbefore 39 provided; (2) travel and living expenses of all personnel, 40 including those who are not employees of the depart-41 ment of insurance, directly engaged in the conduct of 42 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 45 authorized examination. All moneys collected by the 46 commissioner of insurance for expenses incurred by him 47 in conducting examinations of the financial affairs of any 48 insurance company doing business in this state for 49 which such insurance company examined is required to 50 pay the costs, shall be paid to the commissioner and by 51 him paid to the treasurer of the state to the credit of a 52 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 55 should such fund contain a sum of money in excess of 56 one hundred thousand dollars then the amount of such **57** excess shall revert to and be placed in the general revenue fund of this state. The Legislature may appropri-59 ate moneys to start such rotary fund. Any funds ex-60 pended or obligated therefrom by the commissioner shall be expended or obligated solely for defrayment of the

62 costs of examinations of the financial affairs of insurance 63 companies made by the commissioner pursuant to this 64 section. For purposes of this section, "insurance company" includes any domestic or foreign stock company, 65 66 mutual company, mutual protective association, farmers 67 mutual fire companies, fraternal benefit society, reciprocal 68 or inter-insurance exchange, nonprofit medical care 69 corporation, nonprofit health care corporation, nonprofit 70 hospital service association, nonprofit dental care corpor-71 ation, health maintenance organization, or other insurer. regardless of the type of coverage written, benefits pro-72 vided, or guarantees made by each. The commissioner 73 shall make a full written report of each such examina-74 75 tion of an insurer, certified to by the commissioner or 76 the examiner in charge of such examination. The com-77 missioner shall furnish a copy of the report to the insurer examined not less than ten days prior to filing the 78 79 same in his office. If such insurer so requests in writing, 80 within such ten-day period, the commissioner shall con-81 sider the objections of such insurer to the report as 82 proposed, and shall not so file the report until after such 83 modifications, if any, have been made therein as the commissioner deems proper. The report, when filed, shall 84 85 be admissible in evidence in any action or proceeding 86 brought by the commissioner against the insurer examined, or its officers or agents, and shall be prima 87 facie evidence of the facts stated therein. The commis-88 89 sioner or his examiners may at any time testify and 90 offer other proper evidence as to information secured 91 during the course of an examination, whether or not a written report of the examination has at that time been 92 93 either made, served or filed in the commissioner's office. The examination of an alien insurer shall be limited 94 95 to its United States business. In lieu of making his own 96 examination, the commissioner may accept a full report 97 of the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory official 98 99 of the state of domicile of a foreign insurer or the state 100 of entry into the United States of an alien insurer.

101 (b) The commissioner may also cause to be examined 102 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.
- 106 (c) For such purposes the commissioner, his deputies 107 and employees shall have free access to all books, records, 108 papers, documents and correspondence of all such in-109 surers (whether domestic, foreign or alien), agents, 110 brokers and solicitors wherever such books, records, 111 papers, documents and records are situate.
- 112 (d) The commissioner may revoke the license of any 113 such insurer, agent, broker or solicitor who refuses to 114 submit to such examination.
- 115 (e) The commissioner may withhold from public in-116 spection any examination or investigation report for such 117 time as he may deem prudent, but no such report shall 118 be withheld from public inspection for longer than ninety 119 days after the same has been filed.

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

Chairman Senate Committee Chairman House Committee Originated in the Senate. To take effect July 1, 1980. (alblanken Speaker House of Delegates The within Maffleward this the 26 day of.

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