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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984



ENROLLED

SENATE BILL NO. 66

(By Mr. Swann)



PASSED March 8, 1984

In Effect ninety days from Passage



ENROLLED
Senate Bill No. 66
(BY MR. TUCKER)

[Passed March 8, 1984; in effect ninety days from passage.]

AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twelve-a, relating to the contractual relationship between insurance companies and agents; declaration of purpose; definitions; termination of contractual relationship; notice; good cause; notice of cancellation void in certain cases; violation of provisions of this article; and providing a statute of limitations.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twelve-a, to read as follows:

ARTICLE 12A. CONTRACTUAL RELATIONSHIP BETWEEN INSURANCE COMPANIES AND AGENTS.

§33-12A-1. Declaration of purpose.

1 It is hereby found and determined by the Legislature
2 that it is essential to the best interests of the citizens
3 of this state that the contractual relationship between
4 insurance agents and insurance companies be established;
5 and that this article is enacted for the purpose of prohibit-
6 ing arbitrary and capricious cancellation of such con-
7 tractual relationships.

§33-12A-2. Definitions.

1 As used in this article:

2 (a) "Insurance company" means any individual, firm
3 or corporation engaged in the business of selling in-
4 surance in this state, excepting only: (1) Clubs or as-
5 sociations organized under the laws of this state which
6 sell insurance to their members and (2) companies en-
7 gaged exclusively in the sale of life or accident and sick-
8 ness insurance.

9 (b) "Insurance agent" means any individual, firm or
10 corporation appointed by an insurance company, as de-
11 fined herein, whose exclusive activity in this field is in
12 behalf of a single insurance company and who is author-
13 ized by that company to solicit insurance or to negotiate
14 insurance on its behalf, and who is authorized by the
15 insurance company to effectuate and countersign insur-
16 ance contracts on its behalf.

**§33-12A-3. Termination of contractual relationship; notice;
good cause.**

1 No insurance company may cancel, refuse to renew or
2 otherwise terminate a written contractual relationship
3 with any insurance agent who has been employed or
4 appointed pursuant to that written contract by such
5 insurance company for a period of more than five years,
6 except for "good cause," as prescribed herein. If an
7 insurance company proposes to cancel, fail to renew or
8 otherwise terminate a contractual relationship with the
9 agent, the company shall so notify the agent by certified
10 mail at least ninety days prior to the date upon which
11 the company proposed to cancel, fail to renew or ter-
12 minate the contractual relationship. Such notice shall
13 include a statement of the grounds upon which the in-
14 surance company bases its decision to cancel, refuse to
15 renew or terminate any contractual relationship.

16 The following matters are "good cause" for an in-
17 surance company to terminate the contractual relation-
18 ship with its agent:

19 (a) Criminal misconduct or gross negligence relating to
20 the business or premises of the insurance agency;

- 21 (b) Fraud or moral turpitude;
- 22 (c) Abandonment or unattendance of the business or
23 premises of the insurance agency for such period of
24 time as may unreasonably interfere with the transacting
25 of business;
- 26 (d) The failure by the agent to pay moneys over to
27 the company for insurance contracts sold by the agency;
- 28 (e) The death or disability of the agent; and
- 29 (f) Upon the company becoming insolvent or discon-
30 tinuing any line of insurance for any business purpose:
31 *Provided*, That the insurance commissioner shall notify or
32 cause to be notified in writing all agents of such insolvent
33 insurance company that they are no longer entitled to
34 any benefit under their contract with the insolvent com-
35 pany.

§33-12A-4. Notice of cancellation void in certain cases.

1 If, upon receipt by the insurance agent of the notice
2 of proposed cancellation provided by the preceding sec-
3 tion, the insurance agent prior to the established can-
4 cellation date as stated in the notice rectifies or eliminates
5 the stated ground constituting "good cause" for cancella-
6 tion of the contract, the notice shall be void.

§33-12A-5. Violation of provisions of this article; statute of limitations.

1 If any insurance company cancels, refuses to renew
2 or otherwise terminates the contractual relationship with
3 any agent in violation of the provisions of this article,
4 the agent who has been damaged thereby has a cause of
5 action against the insurance company for specific per-
6 formance, injunctive relief or for damages sustained by
7 the plaintiff as a result of the termination of the relation-
8 ship, including ascertainable loss of goodwill as a result
9 of the termination of the relationship: *Provided*, That any
10 action brought by an insurance agent against an insur-
11 ance company for wrongful termination of the con-
12 tractual relationship shall be commenced within two
13 years after such wrongful termination.

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

James L. Davis
Chairman Senate Committee

Ronald Aullo
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Josel C. Wick
Clerk of the Senate

Donald L. Goff
Clerk of the House of Delegates

Warren F. McGraw
President of the Senate

Wm. M. Seid Jr.
Speaker House of Delegates

The within is approved this the 30
day of March, 1984.

John. D. [Signature]
Governor



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