

4084

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

— ● —

# ENROLLED

Com. Sub. for  
HOUSE BILL No. 4084

(By Mr. Del. Anderson)

— ● —

Passed March 12, 1988

In Effect Ninety Days From Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4084**

(By DELEGATE ANDERSON)

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[Passed March 12, 1988; in effect ninety days from passage.]

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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-b, relating to insurance; requiring insurance adjusters to be licensed; qualifications; fees; applications; renewal of license; violations; and penalties.

*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-b, to read as follows:

**ARTICLE 12B. ADJUSTERS.**

**§33-12B-1. "Adjuster" defined.**

- 1 (a) An "adjuster" is any individual who, for compen-
- 2 sation, fee or commission, investigates and settles claims
- 3 arising under property casualty or surety insurance
- 4 contracts, on behalf solely of either the insurer or
- 5 insured.

6 (b) A licensed attorney who is qualified to practice  
7 law in this state is deemed not to be an adjuster for the  
8 purposes of this article.

**§33-12B-2. "Company" and "public" adjuster defined.**

1 (a) "Company adjuster" means an adjuster represent-  
2 ing the interests of the insurer, including independent  
3 contractors with and salaried employee of the insurer.

4 (b) "Public adjuster" means an independent contrac-  
5 tor representing solely the financial interests of the  
6 insured named in the policy as an adjuster.

**§33-12B-3. Company, public adjusters: concurrency  
direct conflict prohibited.**

1 The commissioner shall license an individual as either  
2 a company adjuster or a public adjuster. An individual  
3 may be licensed concurrently under the same license or  
4 separate licenses as a company adjuster and as a public  
5 adjuster but shall not act as a company adjuster and a  
6 public adjuster with respect to the same claim.

**§33-12B-4. License required.**

1 No person shall in West Virginia act as or hold  
2 himself out to be an adjuster unless then licensed  
3 therefor pursuant to this article.

**§33-12B-5. Qualifications.**

1 For the protection of the people of West Virginia, the  
2 commissioner shall not issue, renew or permit to exist  
3 any adjuster's license except to an individual who:

4 (a) Is eighteen years of age or more.

5 (b) Is a resident of West Virginia, except for nonres-  
6 ident adjusters as provided in section nine of this article.

7 (c) Satisfies the commissioner that he is trustworthy  
8 and competent. The commissioner may, at his discretion,  
9 test the competency of an applicant for a license under  
10 this section by examination. If such examination is  
11 required by the commissioner, each examinee shall pay  
12 a twenty-five dollar examination fee for each examina-

13 tion to the commissioner which fees shall be used for the  
14 purposes set forth in section thirteen, article three of  
15 this chapter. The commissioner may, at his discretion,  
16 designate an independent testing service to prepare and  
17 administer such examination subject to direction and  
18 approval by the commissioner, and examination fees  
19 charged by such service shall be paid by the applicant.

20 (d) Any applicant who is engaged in the practice of  
21 professional insurance adjusting prior to the first day of  
22 July, one thousand nine hundred eighty-nine shall be  
23 exempt from the examination requirement of subdivi-  
24 sion (c) of this section.

**§33-12B-6. Application.**

1 (a) Application for an adjuster's license or renewal  
2 thereof shall be made to the commissioner upon a form  
3 prescribed by him and shall contain such information  
4 and be accompanied by such supporting documents as  
5 the commissioner may require, and the commissioner  
6 may require such application to be made under the  
7 applicant's oath.

8 (b) Wilful misrepresentation of any fact in any such  
9 application or any documents in support thereof is a  
10 violation of this chapter.

**§33-12B-7. Issuance of license.**

1 The commissioner may issue a license to any individ-  
2 ual as an adjuster who complies with the applicable  
3 provisions of this chapter and who in the opinion of the  
4 commissioner is trustworthy and competent.

**§33-12B-8. License fee.**

1 The fee for an adjuster's license shall be twenty-five  
2 dollars as provided in section thirteen, article three of  
3 this chapter, except that when any other state imposes  
4 a tax, bond, fine, penalty, license fee or other obligation  
5 or prohibition on adjusters resident in this state, the  
6 same tax, bond, fine, penalty, license fee or other  
7 obligation or prohibition shall be imposed upon adjus-  
8 ters (where licensing of nonresident adjusters is  
9 permitted under this article) of each other state licensed

10 or seeking a license in this state. All fees and moneys  
11 so collected shall be used for the purposes set forth in  
12 section thirteen, article three of this chapter.

**§33-12B-9. Licensing of nonresident adjusters.**

1 An individual otherwise complying with the provi-  
2 sions of this chapter, who is a resident of another state  
3 and who is a licensed adjuster of such state, may be  
4 licensed as a nonresident adjuster in this state, if the  
5 state of resident of such nonresident has established, by  
6 law or regulation like requirements for the licensing of  
7 a resident of this state as a nonresident adjuster.

**§33-12B-10. Expiration of license; renewal.**

1 All licenses of adjusters shall expire at midnight on  
2 the May thirty-first next following the date issuance.  
3 The commissioner shall renew annually the license of all  
4 such licensee who qualify and make application there-  
5 for.

**§33-12B-11. Revocation, suspension or refusal to renew license; penalty in lieu thereof.**

1 Whenever, after notice and hearing, the commissioner  
2 is satisfied that any adjuster has violated any provision  
3 of this chapter, or is incompetent or untrustworthy, he  
4 shall revoke, suspend, or, if renewal of license is  
5 pending, refuse to renew the license of such adjuster. In  
6 addition to revoking, suspending, refusing to renew such  
7 license, the commissioner may in his discretion order  
8 such licensee to pay to the state of West Virginia, an  
9 administrative penalty in a sum not to exceed one  
10 thousand dollars.

**§33-12B-12. Rules and regulations.**

1 The commissioner is authorized to promulgate such  
2 rules and regulations as are necessary to effectuate the  
3 provisions of this article. Such rules and regulations  
4 shall be promulgated and adopted pursuant to the  
5 provisions of chapter twenty-nine-a of this code.

**§33-12B-13. Effective date.**

1 The provisions of the article shall become effective on

2 the first day of July, one thousand nine hundred eighty-  
3 nine except that the commissioner may on and after the  
4 first day of July, one thousand nine hundred eighty-  
5 eight, promulgate rules and regulations pursuant to  
6 section twelve of this article.

*James A. [unclear]*  
*[unclear]*  
*[unclear]*

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

*Gene O. Allison*  
Chairman Senate Committee

*Bernard V. Kelly*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Todd C. Heltz*  
Clerk of the Senate

*Donald J. Kopp*  
Clerk of the House of Delegates

*Dan Torburn*  
President of the Senate

*Scott Baker*  
Speaker of the House of Delegates

The within *approved* this the *29th*  
*March* day of \_\_\_\_\_, 1988.

*Arch R. Moore Jr.*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/88

Time 3:44 p.m.



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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE