

No. 440

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989



ENROLLED

SENATE BILL NO. 440

(By Senator Jacks, Mr. President, et al.)



PASSED April 6, 1989

In Effect 90 days from Passage

ENGROLLED

Senate Bill No. 440

(BY SENATORS TUCKER, MR. PRESIDENT, AND HARMAN, BY
REQUEST OF THE EXECUTIVE)

[Passed April 6, 1989; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-five, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article twelve by adding thereto a new section, designated section twenty-five-a, all relating to insurance; agents, brokers, solicitors and excess line; revocation, suspension or refusal to renew license; civil penalty; and notice of termination to represent insurer.

Be it enacted by the Legislature of West Virginia:

That section twenty-five, article twelve, 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 twenty-five-a, all to read as follows:

ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS LINE.

§33-12-25. Revocation, suspension or refusal to renew license; penalty in lieu thereof.

- 1 (a) The commissioner may revoke or suspend the
- 2 license of any agent, solicitor, broker or excess line

3 broker if, after notice to the licensed person and
4 hearing, the commissioner determines such person
5 has:

6 (1) Violated any insurance law or any lawful rule,
7 regulation, or order of the commissioner;

8 (2) Improperly withheld, misappropriated, or
9 converted to his own use any money received in the
10 course of business and belonging to policyholders,
11 insurers, beneficiaries, or others;

12 (3) Misrepresented the terms of any existing or
13 proposed insurance contract to the detriment of the
14 applicant or insured;

15 (4) Engaged in any pattern of unfair method of
16 competition or unfair or deceptive acts or practices in
17 the business of insurance as defined in article eleven
18 of this chapter;

19 (5) Forged another person's name to an application
20 for insurance or to any other document or
21 fraudulently procured a forged signature to an insur-
22 ance application or any other document, knowing such
23 signature to be forged;

24 (6) Knowingly and willfully made or permitted a
25 false or fraudulent statement or misrepresentation in
26 or relative to an application for a policy of insurance;

27 (7) Been convicted of or pleaded nolo contendere to
28 any felony;

29 (8) Been convicted of or pleaded nolo contendere to a
30 misdemeanor in connection with his activities as an
31 agent, solicitor, broker or excess line broker;

32 (9) Obtained the license for the purpose of writing
33 controlled business, as described in section two (d) of
34 article twelve of this chapter;

35 (10) Had an agent's or broker's license suspended or
36 revoked in any other state, district, or territory of the
37 United States or any province of Canada;

38 (11) Not demonstrated trustworthiness and compe-
39 tency in his activities as an agent, solicitor, broker or

40 excess line broker; or

41 (12) Obtained the license through misrepresentation,
42 fraud, or any other act for which issuance of the
43 license could have been refused had it been known to
44 the commissioner at the time of issuance.

45 (b) In lieu of revoking or suspending such license,
46 the commissioner may in his discretion order such
47 licensee to pay to the state of West Virginia a penalty
48 in a sum not to exceed one thousand dollars and upon
49 the failure of such licensee to pay such penalty by
50 delivery of such sum to the commissioner within
51 thirty days of notice thereof, the commissioner shall
52 revoke or suspend such license.

§33-12-25a. Termination of authority to represent insurer.

1 (a) An insurer shall give to the commissioner and
2 the agent, on a form prescribed by the commissioner,
3 written notice of the termination of an agent's author-
4 ity to represent the insurer within five working days
5 of the termination. The notice of termination shall
6 state the cause and circumstances of such termination.

7 (b) In the absence of fraud or bad faith, there shall
8 be no liability on the part of, and a cause of action of
9 any nature shall not arise against the commissioner or
10 his employees, or an insurer or its employees for any
11 information furnished pursuant to this section.

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

Fredrick L. Baker
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Jed C. White
.....
Clerk of the Senate

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

Paul T. ...
.....
President of the Senate

Bob ...
.....
Speaker House of Delegates

The within *is approved* this the *25th*
day of *April* 1989.

Yastou Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 9/14/89

Time 5:16