WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

ENROLLED

SENATE BILL NO. 440

(By Senator [Senator's Name])

PASSED [April 6, 1989]

In Effect [To delay 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
broker if, after notice to the licensed person and
hearing, the commissioner determines such person
has:

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

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

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

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

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

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

(7) Been convicted of or pleaded nolo contendre to
any felony;

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

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

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

(11) Not demonstrated trustworthiness and compe-
tency in his activities as an agent, solicitor, broker or
(12) Obtained the license through misrepresentation, fraud, or any other act for which issuance of the license could have been refused had it been known to the commissioner at the time of issuance.

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

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

(a) An insurer shall give to the commissioner and the agent, on a form prescribed by the commissioner, written notice of the termination of an agent's authority to represent the insurer within five working days of the termination. The notice of termination shall state the cause and circumstances of such termination.

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

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 25th day of April, 1939.

Gaston Caperton
Governor