WEST VIRGINIA LEGISLATURE
Regular Session 2001

ENROLLED

SENATE BILL NO. 503

(By Senator Minard)

PASSED April 14, 2001

In Effect 90 days from Passage

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AN ACT to amend and reenact sections one, two, four, five, seven and eleven, article thirty-three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to codification of statutory accounting principles to be used in the annual audited financial reports of insurers; and addressing the commissioner's approval of combined or consolidated financial statements.

Be it enacted by the Legislature of West Virginia:

That sections one, two, four, five, seven and eleven, article thirty-three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 33. ANNUAL AUDITED FINANCIAL REPORT.

§33-33-1. Declaration of policy and purpose.

1 (a) The purpose of this article is to improve the insurance commissioner's surveillance of the financial condition of
By requiring annual examination by independent certified public accountants of the financial statements reporting the financial condition and the results of operations of insurers.

(b) Foreign or alien insurers filing audited financial reports in another state, pursuant to the other state’s requirement of audited financial reports which has been found by the commissioner to be substantially similar to the requirements herein, are exempt from this article if:

(1) A copy of the audited financial report, report on significant deficiencies in internal controls and the accountant’s letter of qualifications which are filed with the other state are filed with the commissioner in accordance with the filing dates specified in sections three, ten and ten-a of this article, respectively. Canadian insurers may submit accountants’ reports as filed with the Canadian dominion department of insurance.

(2) A copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in section nine of this article.

(c) This article shall not prohibit or preclude or in any way limit the commissioner from performing examinations of insurers as specified in section nine, article two of this chapter or any other examinations as the commissioner may be authorized by this chapter to perform.

§33-33-2. Definitions.

(a) “Accountant” and “independent certified public accountant” means an independent certified public accountant or accounting firm in good standing with the American institute of certified public accountants and in all states in which the accountant is licensed to practice; for Canadian and British companies, the terms mean a Canadian-chartered or British-chartered accountant.

(b) “Annual statement” means the annual financial statement required to be filed by insurers with the commissioner pursuant to the provisions of this chapter.
(c) “Audited financial report” means and includes those items specified in section four of this article.

(d) “Insurer” for purposes of this article means any domestic insurer as defined in section six, article one of this chapter and includes any domestic stock insurance company, mutual insurance company, reciprocal insurance company, farmers’ mutual fire insurance company, fraternal benefit society, hospital service corporation, medical service corporation, health care corporation, health maintenance organization, captive insurance company or risk retention group and any licensed foreign or alien insurer defined in article one of this chapter.

(e) “Workpapers” means and includes audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the examination of the financial statements of an insurer and which support the opinion thereon.


(a) The annual audited financial report shall report the financial condition of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices for preparation of the annual statement or as otherwise permitted by the commissioner.

(b) The annual audited financial report shall include the following:

(1) Report of independent certified public accountant;

(2) Balance sheet reporting admitted assets, liabilities, capital and surplus;

(3) Statement of gain or loss from operations or statement of revenue and expenses;
(4) Statement of cash flows statement;

(5) Statement of changes in capital and surplus;

(6) Notes to financial statements. These notes shall be those required by the appropriate national association of insurance commissioners annual statement instructions and accounting practices and procedures manual, as amended, including reconciliation differences, if any, between the audited statutory financial statements and the annual statement with a written description of the nature of these differences.

(7) The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner; and:

(A) The financial statement shall be comparative, presenting the amounts as of the thirty-first day of December of the current year and the amounts as of the immediately preceding thirty-first day of December: Provided, That in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

(B) Amounts may be rounded to the nearest thousand dollars;

(8) Supplementary data and information. This shall include any additional clarifying information or data which the commissioner may require to be disclosed.

§33-33-5. Designation of independent certified public accountant.

(a) Each insurer required by this article to file an annual audited financial report must, within sixty days after becoming subject to the requirements, register with the commissioner in writing the name and address of the
accountant retained to conduct the annual audit set forth in this article.

(b) The insurer shall obtain a letter from the accountant, and file a copy with the commissioner stating that the accountant is aware of the provisions of this code and rules that relate to accounting and financial matters and affirming that he or she will express his or her opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the commissioner specifying any exceptions as he or she may believe appropriate.

(c) If an accountant who was not the accountant for the immediately preceding filed audited financial report is engaged to audit the insurer's financial statements, the insurer shall within thirty days of the date the accountant is engaged notify the commissioner of this event.

(d) If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall within five business days notify the commissioner of this event. The insurer shall also furnish the commissioner with a separate letter within ten business days of the above notification stating whether in the twenty-four months preceding the notification there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him or her to make reference to the subject matter of the disagreement in connection with his or her opinion. The disagreements required to be reported in response to this section include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level between personnel of the insurer responsible for presentation of its financial statements and personnel of
the accounting firm responsible for rendering its report. The insurer shall also in writing request the former accountant to furnish it a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which he or she does not agree; and the insurer shall furnish the responsive letter from the former accountant to the commissioner together with its own.

§33-33-7. Consolidated or combined audits.

An insurer may make written application to the commissioner for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies which utilizes a pooling or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer cedes all of its direct and assumed business to the pool. If an approval is granted, a columnar consolidating or combining worksheet shall be filed with the report incorporating the following:

1. Amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet;
2. Amounts for each insurer subject to this section shall be stated separately;
3. Noninsurance operations may be shown on the worksheet on a combined or individual basis;
4. Explanations of consolidating and eliminating entries shall be included; and
5. A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.

§33-33-11. Definition, availability and maintenance of certified public accountant (CPA) workpapers.
(a) Workpapers shall be kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained and the conclusions reached pertinent to the examination of the financial statements of an insurer.

(b) Every insurer required to file an audited financial report pursuant to this article shall require the accountant to make available for review by the commissioner the workpapers prepared in the conduct of the examination. The insurer shall require that the accountant retain the audit workpapers and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the insurance department or at any other reasonable place designated by the commissioner. The insurer shall require that the accountant retain the audit workpapers and communications until the commissioner has filed a report of examination, as required by section nine, article two of this chapter, covering the period of the audit but no longer than seven years from the date of the audit report.

(c) In the conduct of the aforementioned periodic review by the commissioner, it shall be agreed that copies of pertinent audit workpapers may be made and retained by the commissioner. Reviews by the commissioner shall be considered investigations and all workpapers and communications obtained during the course of any investigations shall be afforded the same confidentiality as other examination workpapers generated by the commissioner.
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 is approved this the 2nd Day of May, 2001.

Governor