

FILED
2003 MAR 27 P 4: 07
OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



ENROLLED

House Bill No. 2764

(By Delegates H. White, Hrutkay and R. M. Thompson)



Passed March 8, 2003

In Effect Ninety Days from Passage

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E N R O L L E D

H. B. 2764

(BY DELEGATES H. WHITE, HRUTKAY
AND R. M. THOMPSON)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the subpoena power of the insurance commissioner; setting forth requirements for contents of subpoena; providing for subpoenas to be issued to persons and to corporations; providing that pendency of another action does not relieve a person's duty to respond to subpoena of the commissioner; and providing that evidence produced in response to subpoena and interrogatories are exempt from the disclosure requirements of the freedom of information act.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-4. Authority to take depositions, subpoena witnesses, etc.

1 (a) For the purpose of any investigation or proceeding
2 under this chapter, the commissioner or any officer designated
3 by him or her may administer oaths and affirmations, subpoena
4 witnesses, compel their attendance, take evidence and require
5 the production of any books, papers, correspondences, memo-
6 randa, agreements or other documents or records which the
7 commissioner considers relevant or material to the inquiry. The
8 commissioner's authority to subpoena witnesses and documents
9 outside the state shall exist to the maximum extent permissible
10 under federal constitutional law.

11 (b) Subpoenas may be issued to any person and may require
12 that person, among other things, to:

13 (1) Testify under oath;

14 (2) Answer written interrogatories under oath;

15 (3) Produce documents and tangible things; and

16 (4) Permit inspection and copying of documents.

17 (c) Content of subpoena. A subpoena shall:

18 (1) Describe generally the nature of the investigation;

19 (2) If the subpoena requires testimony under oath, specify
20 the date, time and place for the taking of testimony;

21 (3) If the subpoena requires answers to written interroga-
22 tories, contain a copy of the written interrogatories;

23 (4) If the subpoena requires the production of tangible
24 things or documents:

25 (A) Describe the things and documents to be produced with
26 reasonable specificity; and

27 (B) Specify a date, time, and place at which the things and
28 documents are to be produced;

29 (5) Notify the person to whom the subpoena is directed of
30 the obligation to supplement responses;

31 (6) Advise the person to whom the subpoena is directed that
32 the person may be represented by counsel; and

33 (7) Identify a member of the office of the insurance
34 commissioner who may be contacted in reference to the
35 subpoena.

36 (d) For subpoenas to corporations and other entities, the
37 following apply:

38 (1) A subpoena directed to a corporation, partnership or
39 other business entity that requires testimony under oath shall
40 describe with reasonable particularity the subject matter of the
41 testimony;

42 (2) An entity that receives a subpoena to answer written
43 interrogatories or to testify under oath shall designate one or
44 more of its officers, agents, employees or other authorized
45 persons familiar with the subject matter specified in the
46 subpoena to respond to the subpoena on its behalf;

47 (3) The persons designated by an entity to respond to a
48 subpoena on its behalf shall answer the interrogatories or testify
49 as to all matters known or reasonably available to the entity;
50 and

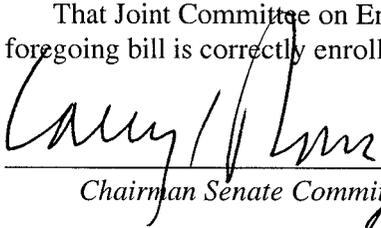
51 (4) A subpoena directed to an entity that requires testimony
52 under oath or answers to written interrogatories shall advise the
53 entity of its obligations under this section.

54 (e) Effect of other proceedings. The institution or pendency
55 of administrative or judicial proceedings against a person by the
56 commissioner does not relieve the person of his or her obliga-
57 tion to respond to a subpoena issued under this section.

58 (f) Subpoenas for interrogatories and answers and requests
59 for production of documents or tangible things and answers
60 propounded and obtained under this section pursuant to an
61 investigation are exempted from disclosure under the provisions
62 of article one, chapter twenty-nine-b of this code, and are not
63 open to public inspection. The commissioner may not disclose
64 facts or information obtained from the investigation except as
65 the official duty of the commissioner requires.

66 (g) Nothing in this section prohibits the commissioner from
67 providing information or receiving information from any local,
68 state, federal or international law-enforcement authorities,
69 including any prosecuting authority; from complying with
70 subpoenas or other lawful process in criminal proceedings or
71 other action by the state; or from taking action as may other-
72 wise be provided in this article.

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



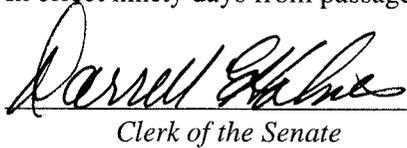
Chairman Senate Committee



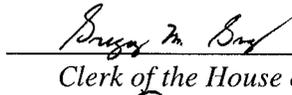
Chairman House Committee

Originating in the House.

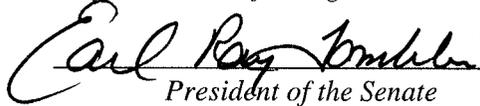
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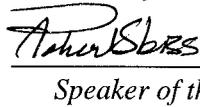
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 24th
day of March 2003.



Governor

PRESENTED TO THE
GOVERNOR

Date 3/25/03

Time 9:45 am